

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

MINUTES OF VIDEOCONFERENCE

THURSDAY, NOVEMBER 8, 2012

Attending: Cameron Gundersen, Chair (UCLA), Harold Pashler, Vice Chair (UCSD), David Steigmann (UCB), Jean-Daniel Saphores (UCI), David Teplow (UCLA), Thomas Morton (UCR), Mohana Amirtharajah (UCSF), Celine Parrenas-Shimizu (UCSB), Ron Glass (UCSC), Jessica Rubaii (Graduate Student, UCSC), Eric Nelson (Graduate Student, UCD), (Brenda Abrams (Principal Analyst)

I. Welcome and Introductions

UCAF is asked for input on a variety of topics and the committee can write memos expressing its opinion. Any disagreements will be incorporated into the committee's comments. There is a recommendation from UCAF to change APM 010 and 015 which was initiated four years ago and this process is almost over.

II. APM 210

This issue emerged from concerns at UCSD that current wording in the APM ~~was~~ held the potential for inappropriately rewarding ~~awarding~~ faculty who made research contributions in the area of ~~researching~~ diversity. The concern is that this research has been singled out, possibly to the detriment of those who do not make contributions in this area. Other committees have begun to review this matter ~~made~~ ~~comments~~ and Chair Gundersen has contacted the chairs of those committees. The Vice Chair also indicated that the policy features language that suggests that certain outcomes of research are laudable. Regardless of how this APM is being applied, there is a question about having this language in the APM. People have reported that department chairs have pushed CAPs at some campuses to reward this research. One idea was to send out instructions to CAPs clarifying how the APM should be applied. Chair Gundersen suggested that the better solution was alternative language for the APM.

Discussion: A member asked for more discussion about the current policy before new language is considered by the committee, pointing out that diversity continues to be a problem at UC. Data about how CAPs apply this APM would be useful. Members discussed the language that is problematic and potential revisions, and the committee considered whether the language about diversity should be restricted to the sections on teaching and service. It was pointed out that there is the history that resulted in APM 210 1.d which must not be disregarded. After more discussion, the committee agreed to language that will be presented to UCAP and UCAAD for consideration.

III. Proposed Open Access Policy

UCAF members provided informal feedback about the proposed open access policy. UCSF has already approved and implemented the policy. The UCSF representative shared that several years ago a publisher proposed an egregious increase in the journal contract fees. UC faculty are major contributors to journals but they have to pay for access to their own work. A long term solution would be to publish in open access. The public is not able to access much of the research conducted by UC faculty. ~~has~~ ~~been set by other universities~~. The work should be available to everyone and UC should not have to deal with the monopoly that major commercial publishers have. In the Open Access Policy, ~~the~~ author's final version is placed in a repository and UC is given a non-exclusive license. Meanwhile the author retains the copyright and can license it out. Faculty can ~~easily~~ opt out of the policy if publishers

request it. To date, how compliance will be enforced has not been worked out.

Discussion: Faculty publishing in NIH have already been required to deposit into open access journals. It is not clear why faculty can opt out but still have to deposit. The other issue is that people who have embedded material (especially, embedded copyrighted material) are concerned about placing their work in the repository. UC could investigate how Harvard has handled this matter in their humanities departments, and UC's opt out policy may alleviate the concerns of faculty whose work included embedded work. Open access may grow in importance as online courses are more common at UC. A separate concern is that faculty may have to create two versions of their work which will be a burden. The point was made that faculty create the prestige of a journal. The policy could create a tension in the minds of faculty members when a decision about where to publish has to be made. The policy makes it as technically easy to opt out as possible to address this tension.

Enforcement of the policy has been left to be deliberately vague, so it is not possible to say what will happen to faculty who are chronically non-compliant. A member suggested that the policy could say that your promotion will not be affected by opting out. There are concerns about junior faculty. Members discussed the benefits of an opt in versus an opt out policy. The nature of the differential imposition placed on faculty in different disciplines is a concern. The business model of small publishers could be damaged by publishing in open access. Six members of the committee voted in favor of having an opt in policy and five members voted in favor of the opt out policy currently proposed in the draft policy.

Action: The chair will draft a memo expressing the committee's concerns.

IV. The Electronic Privacy and Information Security Initiative

There is little to report on the initiative. The UCB representative has served on this committee. Breaches at UCLA resulted in the release of patient information which ended up in a newspaper.

Discussion: The UCB representative reported that the initiative's report is near completion.

V. Dual Use Research of Concern

This issue was brought to the attention of the Chair by a UCI faculty member. The global problem is that some kinds of research are going to raise security issues, and from an academic freedom standpoint this will conflict with the academic's desire to make information publicly available. This report attempts to better define this issue. Areas where there are conflicts between security and academic freedom have been identified. This issue is how research like this is made accessible to those who might need it.

Discussion: A member shared his experience where there was an effort to suppress the publication of his work. Committee members have concerns about any effort to suppress publication of faculty research. One question is whether academic freedom allows faculty to publish anything they want. A cost benefit analysis could be used to determine what is good for the public. UC prohibited certain types of research decades ago. It was noted there is a perception that graduate students are being exploited since they cannot publish any of the classified research with which they are involved.

VI. Contentious Issues Forums

In the past, UCAF has discussed issues related to researchers and specifically incidents of violent reprisals have occurred against UC faculty. UCAF prepared a statement indicating that faculty support researchers in controversial areas. UC could be a vehicle to sponsor forums where people from both sides can discuss the issues. The committee should decide if UCAF should move this forward and ask Senate leadership if they will submit this request to UCOP.

Discussion: There is a concern that these forums might be used to try to quell discussion instead of encouraging debate. Individuals who represent all points of view about an issue should be involved. The logistics of how these events would be implemented were discussed. Events would be held at UC campuses but then broadcast to other UC campuses. A model at UCSB was described. The forums could include educational components and opportunities for student participation. These forums should be built into activities involving students and faculty with a structure that extends the conversation beyond the “talking heads.” UCAF should consult with the groups that host these activities on campuses already. Chair Gundersen indicated that at UCLA the format does not bring together individuals representing the polar opposite sides of issues. UCTV could be used to disseminate the work.

Last year's UCI representative suggested that there is innovation in political science that might provide ideas for how UCAF could pursue this. Chair Gundersen reported that two organizations could advise or help sponsor these forums. The committee is invited to send Chair Gundersen ideas and he will submit a memo to Senate Chair Powell.

VII. The Future of Academic Freedom

The graduate student representative from UCD conducted a survey of students' understanding of academic freedom. Two thirds of the elected graduate representatives indicated minimal understanding of academic freedom. A major question is how professors learn about academic freedom. UCAF could ask each CAF to define academic freedom as it applies to professors and separately graduate students on their campus. This definition would be published at each campus. In the future, graduate students might be specifically taught about the issue. One CAF has not responded to cases brought forward because the committee lacked a definition or a fundamental understanding of academic freedom.

Discussion: A UCLA task force has worked on a document that defines academic freedom which will be considered by the campus Senate and it is hoped that this will eventually become a UC wide policy. Having different definitions could be problematic. Academic freedom applies to professors and not instructors which results in two different types of students, and UCAF may want to take up the issue of who is covered or not by academic freedom. It might be difficult to come up with a definition of academic freedom but a list of overarching principles that guide academic freedom could be developed. It is not clear that each campus should have a unique definition. A chart of who is and is not covered by academic freedom would be helpful. Students in a course taught by an instructor are not receiving the same quality education. The Vice Chair reported that case studies are being developed which can be shared with UCAF.

VIII. UC Online Education Copyright Issues

There is a pilot program to use online instruction. UCSD faculty have raised a variety of issues related to the pilot project of online courses including concerns about a number of onerous constraints. Many of these issues go beyond academic freedom but one issue is that the materials developed by an instructor and attributed to that instructor's scholarship can be changed by someone else. The copyright

agreement did not undergo a systemwide review.

Discussion: UCAF can submit a memo to Chair Powell expressing the committee's agreement with the concerns raised in the UCSD memo. The committee could recommend that if the instructor who developed the course stops teaching the course, his/her name should be removed so there is no misrepresentation. UC should consider the contractual arrangements that for-profit companies make with instructors. The contract should recognize the right of the faculty to retain ownership. Chair Gundersen suggested that the committee has minor academic freedom concerns but recommends that a larger issue is that the copyright agreement needs to be vetted more widely through a systemwide review.

IX. FYI Issues

Chair Gundersen compiled a list of issues for the committee to discuss briefly during today's meeting.

Discussion: Academic Personnel met with UCAF last March to discuss the draft APM 700. There is a concern that some faculty might not engage in risky research for fear of being fired. The new version of the policy has reduced the amount of time before a faculty member will be considered to have resigned. Members agreed that the thirty day limit is too short. The issue of academic freedom related to self-supporting programs will be a matter that UCAF may need to consider later. These programs could easily act as independent entities to act autonomously. There is a move by UC medical schools to acquire hospitals. There may be some debate about whether the doctors in these hospitals will be members of the faculty. The UCSF representative explained the status of the decision by that campus to make clinical faculty senate members. Chair Gundersen indicated that a problem is that the hospitals being acquired do not have the same tradition. The UCSF representative stated people who want to do some teaching, they would be given an adjunct title.

X. Campus Reports/Member Items

Berkeley: A professor complained that his right to publish research and attend conferences were impacted because of a technical violation related to human subjects. Compliance with human subjects regulations supersedes academic freedom. CAFs might eventually push back against institutional review boards. The UCR representative shared that recent studies show that IRBs apply rules inconsistently and there are suggestions that IRBs are suppressing certain types of research. Humanities and certain types of social sciences are being considered for exemption from IRB rules.

San Diego: Campus Counsel asked if individual CAFs will look into individual cases and noted that such an investigation could have consequences for an administrator. CAFs should have guidelines and structure for how these investigations will proceed. The committee discussed how the role of CAFs may be evolving and may lead to the committee being involved in mediation.

Riverside: Last year, there was a case where students were convicted of misdemeanors. The representative is uncomfortable with external agencies dealing with students this way after the campus had adequately punished them.

XI. New Business

There was no new business.

XII. Executive Session

There was no Executive Session.

Meeting adjourned at: 3:55 PM

Minutes prepared by: Brenda Abrams

Attest: Cameron Gundersen