

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

December 1, 2005 Meeting Minutes

Attending: Herma Hill Kay Chair (UCB)

Jerold Theis, Vice-Chair (UCD), Ronald Amundson (UCB), Patrick Fox (UCSF), Ethan Bier (UCSD), Bruce Cooperstein (UCSC), Lisa Hajjar (UCSB), Hossein Ziai (UCLA), Robert Josephson (UCI), Mark Massoud (Student Rep-UCB), Cliff Brunk, (Chair, Academic Council), John Oakley (Vice-Chair, Academic Council), Maria Bertero-Barcelo (Executive Director, Academic Senate), Michael LaBriola (Senate Analyst)

I. Chair's Announcements – Herma Hill Kay

Chair Kay welcomed members and reviewed the [charge](#) of the committee.

Members can communicate with each other through the UCAF listserv by addressing an email from a registered account to UCAF-L@LISTSERV.UCOP.EDU.

Action: The committee approved the minutes of April 21, 2005 with several changes. The committee analyst will poll members about a future meeting date over email.

II. Message from the Senate Chair and Vice Chair – Cliff Brunk and John Oakley

Academic Senate Chair Cliff Brunk and Vice Chair John Oakley thanked members for their volunteer service to the Academic Senate. Chair Brunk reported on the media controversy over compensation for senior executives at the University and said the Academic Assembly had passed two related [resolutions](#) in November; the first, “On Proper Compensation Priorities for the University of California,” and the second, “In Opposition to the Use of Private Funds for Senior Leadership Salaries.” President Dynes is setting up a Task Force to examine how UC can improve transparency and public accountability with regard to compensation policies and practices. Meanwhile, a group of faculty, unaffiliated with the Academic Senate, is petitioning the Regents to appoint an independent body to conduct an audit and investigation. The Senate is also focusing on implementation of the [California Science and Math Initiative](#).

Vice Chair Oakley said the Faculty voice is most effective when faculty engage the administration and the Regents officially through the shared governance structure of the Senate, which in the long run will preserve the effectiveness of the faculty role. He outlined the structure and process of shared governance and Senate review at UC. The Board of Regents constituted the Academic Senate to represent the Faculty in the governance of the University, and delegated to them principal authority for admissions, curriculum and degrees. The chair and vice chair of the Senate are both non-voting faculty representatives on the Regents. The Senate has opted to forego formal Regental membership for the added influence that comes with participation on every Regents committee. As state support for UC has dwindled and enrollments have increased, UC is struggling to remain accessible to the top 12.5% of a state population that is rapidly increasing and diversifying. Finally, vice chair Oakley recommended UCAF members read *Paradise Lost* by Peter Schrag and Thomas Friedman's *The World is Flat*.

III. Message from the Academic Senate Executive Director – María Bertero-Barceló

Executive Director Bertero-Barceló reported that the administrative goal of her office and staff is to ensure that the academic mission of the Senate and the faculty are met. Systemwide committee

member [Guidelines](#) are posted on the Senate website. The committee analyst is available to prepare agendas, to draft minutes, responses and reports, to share institutional knowledge and help ensure proper protocol. Meeting minutes and Council-approved documents are posted on the Senate's public website, and other committee documents are publicly discoverable, so members should monitor for sensitive content. UCAF members now have access to a new password-protected website, which allows them to post drafts, reports and working documents online. All issues up for review in the Senate are sent to all committee chairs to determine whether their committee should participate in the review. In addition, the Senate's legislative analyst may ask UCAF to comment on proposed federal and state legislation impacting academic freedom. All UCAF members are required to use UCLA Travel to book airline tickets, and committees are encouraged to suggest topics and articles for [The Senate Source](#).

IV. Campus Reports

Santa Barbara. The final report of the UCSB Senate's ad hoc committee on the Patriot Act is pending final approval and will be forwarded to UCAF soon. The report assesses the impact of the Act on the campus, with particular focus on libraries and foreign students and scholars.

The UCSB committee continues to monitor the conditions of academic freedom for colleagues in Middle East Studies nationwide, some of whom—including a Columbia University professor—have been targets of organized protests by outside groups for their politics and scholarship. One particular group has begun a petition campaign asking state and university officials in California to address what the group claims is a rampant anti-Semitic bias in the curricula, in classrooms, and at campus events at California universities. The group asks deans and administrators to monitor and report annually on course content in Middle East studies and to take step to ensure that campus speakers represent a “full range of scholarly views.” Meanwhile, other groups continue their pressure on politicians to address political “balance” at universities through legislation that would monitor speech and limit faculty autonomy and self-governance. If enacted these connected efforts would have a chilling effect on academic freedom, not only for academicians and students in departments that deal with highly charged political topics, but also for the entire professorate.

The committee decided that while racism and prejudice are still serious and legitimate issues for a variety of campus groups, a culture of civility couldn't be legislated. It would be more important to focus on threats to the fundamental right of the faculty to govern themselves. Members agreed that it is extremely problematic for lawmakers or other outside groups to single out faculty from a particular department or departments and force them to submit curricula and syllabi for review, or to limit their ability to make tenure decisions. For lawmakers to impose rules and regulations or definitions of academic freedom on the professorate is a serious threat to the fundamental notion of a self-regulating faculty. Moreover, the campaigns noted are especially troublesome because they have support from faculty members who may be unaware of their academic freedom implications.

Action: Pat Fox will draft a pro-active statement that committee will have ready in anticipation of actions.

Davis. UCD's new Integrity in Research policy, which was developed in response to a request from the NIH, is undergoing revision after the Academic Freedom committee and the Executive Council of the Davis Senate opposed the policy, as implemented at Davis, as a violation of academic freedom and shared governance. The Senate said the policy left faculty members vulnerable to false accusations of misconduct, and did not involve the Senate in a way consistent with the Standing Orders of the Regents. It was recommended that UCAF members contact their Vice Chancellors for Research to check the status of the NIH request and to verify that their campus policies on integrity

and misconduct in research refer matters of investigation and discipline to Academic Senate Privilege and Tenure committees.

Members reiterated their desire for UC to develop a uniform, systemwide policy on Integrity in Research.

Berkeley. The UCB committee has been reviewing claims made by a faculty member that the recent [modifications](#) to APM 210 related to diversity are an infringement of academic freedom. CAF heard from both sides of the issue and concluded that the new wording in APM 210, stating that scholarly activities highlighting inequality should be viewed favorably in appointment, promotion, and appraisal reviews, was contrary to the principles of academic freedom in APM 010. Short of reopening the issue, the committee is asking to be involved in the implementation of APM 210 to ensure that academic freedom is not infringed upon.

Action: The UCB representative will forward the committee's letter of analysis to UCAF when it becomes available.

Santa Cruz. The UCSC committee discussed the possibility of bringing a resolution to the divisional Council in support of a legal action at Harvard regarding military recruiters on campus. However, the committee decided it was not an academic freedom issue, and that another committee or individual faculty member would more appropriately bring such a resolution. The committee also concluded that there was generally very little understanding on campus of academic freedom concepts. In view of that, the committee is planning a campus teach-in on academic freedom to be held in the winter quarter. UCAF members provided a few suggestions for speakers, including Robert Post, Judith Butler and Beshara Doumani.

Los Angeles. CAF has appointed ad hoc committees to look more closely at how the Patriot Act may be affecting academic freedom at UCLA; and at the issue of restrictive clauses—"strings"—in contracts and grants, and tobacco funding. A third ad hoc committee is focusing on reports of interference by human subjects committees into the way faculty conduct research at UCLA and what role, if any, the academic freedom committee should have in this situation.

San Diego. The UCSD committee considered the issue of research funding strings in a specific case that arose on campus.

Irvine. The Academic Freedom committee at UCI is a subcommittee of Faculty Welfare. Faculty in both the social and the biological sciences have reported problems with the practices of some campus Institutional Review Boards that approve research protocols using human and animal subjects. The committee is inviting the faculty representatives from the IRBs to present their views before the committee. UCI believes universitywide guidelines for IRBs would be helpful.

San Francisco. In an effort to raise awareness about academic freedom issues on campus, the CAF is organizing a town hall meeting entitled "Science, Government and Academic Freedom in a Politicized Political Environment" to be held in spring 2006. Several UCSF Senate committees are taking action on behalf of the campus in response to plans by the American Chemical Society to shut down [PubChem](#), a freely accessible database that connects chemical information with biomedical research. Finally, the UCSF Cancer Center has implemented most of the recommendations in CAF's 2004 report regarding IRB research protocols at UCSF. The report stemmed from a 2003 complaint that an IRB was intruding improperly into a faculty member's research.

Riverside. Chair Kay distributed an email from the Riverside representative, who was not in attendance, asking the committee to consider the Governor's line item veto of funding for Labor research and education programs at UC. The letter said the action was a violation of university

autonomy and academic freedom because the programs were created through standard academic procedures. However, Council Chair Brunk noted that the Labor programs were created through funds that had been specially earmarked by the state legislature for a specific purpose and not through standard procedure.

Student Representative. The student representative distributed a *Resolution in Support of Academic Freedom*, passed by the UC Students Association, opposing legislative intervention into academic freedom issues.

A motion was brought for UCAF “to commend the initiative of members of the UC Students Association who undertook the effort to write and pass the Resolution in Support of Academic Freedom. The committee appreciates the intervention of the UCSA in sensitive matters of academic freedom that affect faculty, and applauds and supports appropriate efforts in implementation of the resolution.”

Action: UCAF unanimously endorsed the motion.

V. Restoration of Research and Instruction Funding – UCAF Vice Chair Jerold Theis

Vice Chair Theis reported that at one time, a fixed amount of Research and Instruction (R&I) funds from the Legislature went directly to individual faculty members. At Davis, such funding amounts to \$22,000 per FTE. Over the years, as state support for the University has declined, the administration has taken more R&I money for administrative purposes—\$15,000 at Davis—and very little, if any, now gets to individual faculty. The situation is detrimental to the research and teaching mission of the university and prevents faculty from participating fully in education. The R&I funding situation highlights the failure of California to fund its institutions, but it is inappropriate if money intended for an academic purpose is being routed elsewhere.

Vice Chair Theis noted that academic freedom without fiscal independence is a hollow shell and said the Academic Senate should petition the administration to restore R&I funding. He asked UCAF members to consider the issue with their local academic freedom committees and academic councils. One member noted that the issue does have academic freedom implications but committees on research and budget may be better positioned to address the questions.

Questions to be addressed include:

What was the original intent of the R&I funds and how are they currently being used?

If R&I funds were to come to faculty now, what would they be giving up?

Action: Vice Chair Theis will compile a list of questions for each member to take to their senates.

VI. Academic Freedom and Students – Patrick Fox

Two years ago student regent Matt Murray asked President Atkinson to consider his proposal for a policy or statement that would address academic freedom for students. He said there was a feeling by some that the policies in Student Affairs and the Faculty Code of Conduct protecting student freedom of speech and fair treatment inside and outside the classroom, were ambiguous in their guidance regarding students who also serve in faculty like positions such as TA’s, Post Docs and Research Assistants. Regent Murray also joined UCAF seeking faculty input.

A joint Senate-Administration systemwide work group, which included students, administrators from Student Affairs, UCAF members, and Senate faculty leaders, was established to discuss the issue. The Task Force concluded that students do not have academic freedom in the same sense as faculty, because academic freedom by definition is conferred upon faculty by virtue of their membership in

the Professorate. Professors, not student peers, evaluate students, and most students, including those who serve in faculty-like positions, defer to the authority of a faculty member to make judgments about scholarly performance and course content.

The work group did conclude that students have freedom of scholarly inquiry, which is ultimately derived from, and protected by, faculty academic freedom. The work group produced a statement of principle about the rights and responsibilities of students in this regard, which outlined a wide range of possible student freedoms, according to the differing levels of competence and expertise of an undergraduate, a graduate student, and a doctoral candidate engaged in a joint research proposal with a faculty member.

UCAF members reviewed the draft statement. Some have expressed concern that moving forward with the statement could expose the university to attacks by outside groups, who in the past have sought to introduce legislation that would impose political controls on speech and academic freedom at UC. Others believe it is better to be pro-active in forming a statement now, rather than risk having it imposed from the outside. It was suggested that a preamble be added to the statement that provided background, context, and a summary of its philosophy and relation to student academic freedom.

Action: Each member will bring the draft to his or her local CAF for discussion, preferably at an in-person meeting of the committee. Each UCAF representative will synthesize the comments and send them to the committee analyst and chair by January 30. The committee will meet by conference call in early February to discuss what its final recommendation will be, which will be submitted to Academic Council. Patrick Fox will develop a draft preamble. The student representative will also seek comment and input from the UC Student Association after the divisional CAF review.

Chair Brunk noted that some elements of the [Faculty Code of Conduct](#) might benefit from revision. The faculty code of conduct is what ensures the students an appropriate environment for learning but does not apply to all possible instructors of record, e.g. Lecturers.

Action: The committee analyst will forward a link to the Faculty Code of Conduct.

VII. Institutional Review Boards

In May, UCAF sent a letter to Academic Council recommending the establishment of systemwide standards for Institutional Review Boards (IRB) after hearing reports of interference by IRBs in faculty research. Some faculty feel that IRBs have strayed beyond their charge to protect the safety and confidentiality of human subjects into overzealous evaluation of research methodology and research quality. Academic Council asked the University Committee on Research Policy (UCORP) to take the lead in looking at the operation of IRBs and at human and animal subjects committees' policies and procedures to determine whether systemwide policy guidelines should be established. UCORP will be acting in coordination with UCAF, and will report to Council in July with preliminary comments.

The rules under which IRBs operate are primarily a function of local culture and interpretation and there is no formal procedure set up on some campuses to challenge the decision of an IRB. The problem appears to be more serious in the Social Sciences than Medicine, where it is more clearly defined, although problems are not confined to those disciplines.

Action: Chair Kay will contact UCORP Chair Sensabaugh to check the status of UCORP's draft report.

VIII. Corporate Influences on Research

Last year UCAF endorsed Academic Council's Resolution in support of the right of faculty to pursue research funded by any source deemed legitimate by university policy, but the committee also concluded that the Resolution was not sufficiently sensitive to possible adverse influences of corporate funding on research. At the end of 2004-05 UCAF discussed with the UCORP chair the possibility of forming a joint subcommittee to conduct an in-depth meta-analysis into the scope and effect of corporate funding and its impact on the freedom of research and research integrity. However, UCORP's members were not convinced of the need for this effort and wanted a better sense of how the issue of corporate influence on research was different from or not encompassed by their strings report.

One member noted the collaborative research agreement between Novartis and UC Berkeley from several years ago, which was criticized by some as an inappropriate corporate intrusion into research agendas. The UCB CAF was sensitive to this view, but also found that the extreme opposition to the agreement created an on-campus atmosphere hostile to academic freedom. Moreover, researchers were called before the state legislature to defend their research. One UCAF member said there should be some mechanism by which the University intervenes to shield faculty from such interrogation. Another member noted that there should be no limits on corporate funding as long as the research is conducted in a scholarly way, and UCAF should defend this principle and right.

Chair Brunk noted that the Academic Senate is beginning its review of the multicampus corporate-university research partnerships known as the California Institutes for Science and Innovation (Cal ISI). The Senate will keep UCAF informed about this effort.

IX. Other Upcoming Issues

- UCAF should put together a brochure on the concept of academic freedom, its position in the university and faculty rights, and distribute it to academic senates.
- The proceedings and outcomes of the UCSF and UCSC symposiums should be synthesized into a report.
- The committee should continue to monitor the Scholars for Peace in the Middle East petition.

The meeting adjourned at 2:30 PM

Minutes prepared by Michael LaBriola

Attest: Herma Hill Kay

Distributions:

1. Jonathan Cole: "Academic freedom under fire" from *Academe*
2. UC Davis Committee on Academic Freedom and Responsibility Annual Report.
3. UC Students Association—Resolution in Support of Academic Freedom