



construed as adversarial to the faculty from which it derives,” which Professor Fox said was intended to address concerns about the need for a collegial classroom atmosphere and to suggest that students have a responsibility to learn class material regardless of their political or moral beliefs. Some members felt the sentence was ambiguous, although others noted that multiple interpretations are appropriate in a document intended as a statement of aspiration, not formal policy. It was noted that the document was in part a response to the “Academic Bill of Rights” movement, which is introducing academic freedom legislation in several states. It was also noted that taking an opposing position in a classroom can be useful, and that students should be free to criticize a professor and publicize criticisms about errors or politicization of class discussion.

#### **IV. Review of Carry-Over Items**

Chair Zidovetzki reviewed the status of several projects initiated by UCAF last year. He said Council’s slow and/or dismissive treatment of some items was disappointing.

**1. Academic Freedom Paper.** UCAF asked Academic Council to endorse and distribute *Academic Freedom: Its Privilege and Responsibility within the University of California*, an educational paper intended to promote more understanding and awareness of academic freedom issues. Council declined the request, but provided no substantive explanation for its decision, although Senate Chair John Oakley did report at the April UCAF meeting that Council felt its distribution would be awkward during the review of Regents item RE-89.

**2. UC Education Abroad Program.** UCAF asked Council to look into the UC Education Abroad Program’s travel restriction policy and UC’s involvement with the study abroad industry. Council has forwarded UCAF’s request to UCIE and UCEP for review with a request that they provide advice to Council by February 13, 2008.

**3. “Collegiality” in the academic personnel process.** UCAF asked Council to investigate the use of “collegiality” in the evaluation of faculty for merits and promotions and its effect on academic freedom. Council forwarded UCAF’s request to UCAP and UCP&T with a request for comment by March 10, 2008.

**4. Reimbursement of Legal Fees.** UCAF asked Council to recommend the institution of a UC policy to reimburse the legal fees of faculty accused of misconduct in research and subsequently found innocent. UCAF also wanted UC to investigate the viability of a faculty insurance policy covering workplace-related legal fees independent of a legal action. Council forwarded UCAF’s request to the UC Office of General Counsel for an opinion.

The committee analyst noted that UCAF submitted items 2-4 near the end of 2006-07. Council could not act on the requests until the beginning of 2007-08, but all of those items are now being actively considered.

#### **V. Academic Freedom Paper**

UCAF members agreed that the feedback received from Council on the paper was not constructive. They also felt the paper might be received differently by a new Council this year.

Senate Chair Brown, who joined the afternoon session, said the disposition of UCAF’s paper occurred under the previous Council chair. He said he has a responsibility to respect that decision, but that UCAF can also request a new consideration. He advised UCAF to clearly articulate how the paper adds value to the understanding of APM 010 beyond the information presented in President Atkinson’s own [accompanying paper](#). UCAF should ensure that both lawyers and non-

lawyers on Council are left without additional questions of fact and law. Executive Director Bertero-Barceló also suggested that members discuss the paper with divisional chairs before submitting it again to Council

UCAF voted to re-submit the paper after identifying redundancies with the Atkinson paper and making improvements. It was noted that the paper should be seen as an entirely new work supplementary to the Atkinson paper. Written by faculty, it is intended to promote a culture of awareness and conscious exercise of academic freedom on campus. There was a comment that it should try to clarify the dividing line between academic freedom and freedom of speech rights. It should also address intimidation in the context of academic freedom. One member thought the paper should be completely rethought and revised substantially before being submitted again.

**Action:** UCLA representative Volokh will check the UCAF paper against the Atkinson paper for redundancies and will write a description of how UCAF's paper addresses academic freedom differently. Members will review a modified draft and a cover letter over email and will also run the paper by divisional chairs before submitting to Council.

## **VI. Proposals to Increase the Profile and Influence of UCAF**

Chair Zidovetzki proposed that UCAF request a permanent standing seat on Council, pursue a bylaw change increasing the term of the chair to two years, and request additional meetings. He also suggested that UCAF advocate for a change in policy that would allow individual faculty members and Senate entities to communicate directly to The Regents.

The committee analyst noted that UCAF could request additional in-person meeting dates if it has enough business to justify the request. He said it was unlikely Council would agree to add another member this year because UCAAD was just awarded a seat – a process that took several years – and Council already believes it is too large. UCAF would need to make a strong case that its presence would fill a void in Council deliberations and add value to a broad range of issues under consideration. UCAF agreed that a two-year chair could bring more continuity, although it was not clear the change would be approved, and it could also make recruitment more difficult. There was a comment that UCAF's gaining a seat on Council could present a heavy burden to a two-year chair, who would have to attend monthly Council meetings in Oakland.

It was noted that bylaws of both the Senate ([40](#)) and Regents ([16.9](#), [16.10](#), and [SO1052](#)) prohibit direct communication between The Regents and both individual faculty and Senate agencies. There was a comment that restricting faculty from speaking to UC officials about conditions in the university could be considered a hindrance on academic freedom. Ultimately, UCAF decided that the Faculty maximizes its collective power and influence when it speaks in a single coherent voice through the Senate. Shared governance communication protocols can be cumbersome, but allowing individual faculty to formally express a multiplicity of views could dilute that power.

**Action:** UCAF voted to request a seat on Council and to request a change in the committee bylaw requiring the committee to have a two-year chair.

## **VII. RE-89 – Restrictions on Tobacco Company-Funded Research**

UCAF discussed the status of Regents item RE-89, a proposal to ban the acceptance of funding from the tobacco industry for University research. RE-89 was discussed extensively last year and opposed by both UCAF and the Senate. At the September Regents meeting, a [compromise policy](#) was approved, which does not prohibit faculty from accepting funding from tobacco-affiliated companies, but which requires any such funding proposal to be reviewed and approved by a scientific review committee commissioned by the campus Chancellor. The review committee is

required to be drawn from the community of scholars and consist of at least three faculty members with relevant expertise; it advises the Chancellor, who gives final approval. The discussion of the approved policy is detailed in the [minutes](#) of the Regents meeting (pgs. 25-33) and the final action summarized [here](#) (pgs. 3-4).

Chair Zidovetzki said the compromise policy is still offensive from an academic freedom standpoint. The Regents' decision to not fully support the Senate also raises shared governance concerns. He said RE-89 undermines academic freedom by interfering with the authority and autonomy of the faculty to conduct research. Singling out a particular industry establishes a dangerous precedent, and concerns about inappropriate influences in research and research quality are fully addressed in the Faculty Code of Conduct and in the peer review process. Finally, the new review structure will be a costly, bureaucratic burden.

It was suggested that UCAF reiterate its previous points and voice strong opposition to the new review scientific review process structure. UCAF members could also monitor actions by local review panels, identify potential problems with implementation, and report back to UCAF and the Council. UCAF could make suggestions for the composition of local review committees—insisting on, for example, representation (ex-officio) from CAFs. It was also suggested that the chancellor select faculty for the committees only after consultation with COC.

Senate Chair Brown added that RE-89 exhorts faculty to be wary of tobacco industry funding and to exercise good judgment in any research carried out under that funding. He said review committees are supposed to review tobacco-funding proposals on their technical merits. He said implementation of the policy has not yet begun, but that there is a general opposition at all levels of the University to any restrictions on the research enterprise. He suggested that UCAF take a wait-and-see approach. He said he would ask Provost Hume about the status of implementation and report back to UCAF.

**Action:** UCAF members voted to table the issue until its next meeting.

### **VIII. Islamo-Fascist Awareness Week**

UCSB representative Amar summarized the recent controversy over “Islamofascist Awareness Week,” a national campaign that in fall 2007 attempted to raise awareness on college campuses about threats associated with terrorism and radical Islam. The campaign was also seen as an effort to expose and criticize academics deemed insufficiently critical of these threats. Professor Amar said the campaign is part of a larger effort being waged against alleged left-wing bias in academia; supporters have also introduced legislation seeking to impose academic freedom restrictions on universities. Others groups are infiltrating classrooms with the intention of monitoring, recording, and exposing political biases of professors, some of whom have been subsequently harassed. He said such actions have a negative impact on academic freedom and free speech. It is important for faculty to remain vigilant and for UC to remain a transparent system where tenure and promotion decisions are based on academic excellence.

There was a comment that it should be considered fraud or a violation of the code of conduct for a student to infiltrate educational spaces simply to criticize or harass a professor. Being able to teach in a non-hostile environment is part of academic freedom, and placing monitors in classrooms is an attempt to disrupt academic freedom by changing the nature of the classroom. Several other members noted that First Amendment and academic freedom principles protect the campaign. Groups that want to promote a certain political ideology are free to do so; and conservatives and critics of Islam must also be protected. There is no requirement for “balance” in the classroom, but academic freedom protects academic’s claims that there should be balance

as well as efforts to seek balance. There is no way to determine a student's intention in taking a class, and a student critic cannot be held responsible for the later actions of extremists.

UCAF decided there was no action item unless it could identify a specific case where a tenure or promotion decision was affected by politics. If such a case could be found, it would represent an academic freedom violation not on the part of the outside group, but by the university.

#### **IX. Report from Academic Senate Leadership – Senate Chair Michael Brown**

Chair Brown thanked UCAF members for their volunteer service to the Senate. He encouraged members to communicate with their divisional committees and divisional chairs about systemwide issues and perspectives, and in turn, to share local concerns with UCAF. The chair and vice chair are non-voting ex-officio members of the committee and will attend meetings whenever possible. He encouraged the active participation of students in the committee. The chair serves on the Regents' Presidential Selection Committee and chairs the Senate's Academic Advisory Committee, which forwards candidate names to the Selection Committee. He said it is critical that the new UC president be a highly distinguished academic who has also demonstrated the ability to effectively manage a large, complex, public, research university. The state is facing a large budget deficit, and UCOP is restructuring its administrative systems and functions to increase efficiencies and identify opportunities for cost savings.

Chair Brown noted several other topics on the Senate's 2007-08 agenda: a **proposal from BOARS** to reform freshman eligibility policy; a **report** from a joint ad hoc committee on international education; and strategies for increasing support for graduate education, including the elimination of non-resident tuition for academic graduate students.

Executive Director Bertero-Barcelo added that approved committee minutes are public documents posted on the Senate website. Committees are encouraged to propose ideas for stories to include in the [Senate Source](#), the newsletter of the Academic Senate. She said UCOP policy requires Senate travelers to submit expense receipts within 21 days of the travel date.

#### **X. UCSD PPM-510 Section IX: Speech, Advocacy, and Distribution of Literature**

UC San Diego representative Bier reported that the UCSD CAF is concerned about a draft of a campus security plan entitled policy PPM 510-1, Section IX. In particular, CAF is troubled by language requiring reservations for planned public activities on campus to identify at least one person who is legally and financially responsible for the event. Another concern is language requiring that the activity not "unreasonably interfere" with the orderly conduct of University functions. Finally, there are provisions requiring staff and faculty to keep personal political activities separate from their institutional role when using University facilities, and prohibiting the use of University resources for personal political activities.

He said CAF feels these provisions may limit academic freedom and free speech on campus and could even be unconstitutional. He said UC is obligated to provide a secure forum for controversial presentations whenever any legitimate campus organization wants to invite a speaker. If the changes about legal responsibility are enforced, it could mean controversial speakers would never be invited to speak on campus. It is also unclear who decides what is meant by "unreasonable interference." Furthermore, the university should be prepared in certain circumstances – e.g. an anti-war protest, to permit somewhat disruptive gatherings. Due to fierce opposition of this draft proposal on campus from students and faculty this proposal is currently being revised. Nonetheless, since there is concern that some of the key objectionable elements may not be fully addressed, he asked for advice on the following: Is the document necessary - i.e.

are the restrictions covered in a more reasonable way somewhere else, for instance, the code of conduct? What systemwide regulations regarding campus safety, if any, apply and what is happening on other campuses? Can UC General Counsel provide advice?

One member said there is a difference between urban public safety and campus safety. Part of academic freedom is providing an environment where students feel they are able to participate freely in debate. Another thought it was less of an academic freedom issue and more of a freedom of speech issue. Another noted an incident at UCLA in which UC police, before backing down, were requiring a group sponsoring a controversial to pay \$5000 for extra security.

## **XI. Campus Reports**

**Irvine.** CAF has been discussing a situation involving UCI School of Law Founding Dean Erwin Chemerinsky. After being hired as dean, Chemerinsky had his hire rescinded by the UCI chancellor, who noted his “polarizing” commentaries on the death penalty. After widespread criticism, Chemerinsky was reinstated. Many faculty felt politics played a role in the chancellor’s actions and that the dean’s academic freedom had been violated. The incident also raised questions about the influence of naming donors on appointments, and whether Chemerinsky’s removal as dean, but not professor, could be conceived differently in terms of academic freedom. The UCI representative said he believes the naming donor did not play a role in the chancellor’s decision.

**Los Angeles.** A petition was circulated at the law school demanding a professor be removed from teaching because his outside scholarship criticizes race-based affirmative action. The incident is evidence that the academic freedom message has not reached many students, although academic freedom protects the rights of students to take such actions.

**Santa Cruz.** The committee has been asked to consider the climate of harassment on campus after an outside group announced its intention to infiltrate classrooms in order to weed out and expose alleged anti-Israel biases. CAF is also discussing the need for greater protection of electronic records with informational technology faculty and staff. CAF feels it is important to protect the autonomy of individual faculty in deciding how long to archive electronic records.

**Berkeley.** Last year was busy for CAF after a controversy erupted on campus over a proposed research partnership between UCB and BP Oil, which was opposed by a coalition of groups concerned about the intrusion of industry into university research and genetic engineering. CAF released a statement expressing concern about faculty participation in the development and oversight of the agreement but also its belief that academic freedom entitled faculty to participate in the research partnership.

**Davis.** During “Islamofascist Awareness Week,” several departments and student groups organized panels to discuss academic freedom.

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### Distributions

1. Emails from former UCAF Chair Theis
2. UC newsroom: Tobacco funded research policy adopted and RE-89 Regents action item
3. Islam Fascist Awareness Week