

UNIVERSITY OF CALIFORNIA

ACADEMIC SENATE

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

MINUTES OF MEETING

THURSDAY, MARCH 18, 2010

Attending: Raymond Russell, Chair (UCR), Ronald Amundson, Vice Chair (UCB), Gregory Pasternack (UCD), Esteban Dell'Angelica (UCLA), Erik Menke (UCM), Piotr S. Gorecki (UCR), Roberta Rehm (UCSF), Vickie Scott (UCSB), Chris Patti (OGC), Harry Powell (Senate Chair), Dan Simmons (Senate Vice Chair), Brenda Abrams (Policy Analyst)

I. Announcements

Chair Powell will join the meeting to report on the UC Commission on the Future. The work groups' recommendations have not been released yet. Although this is the last scheduled meeting, there may be additional business for the committee to handle in the upcoming months.

II. Consent Calendar

Action: The minutes were approved.

III. Academic Freedom After Garcetti and Hong

The committee has received materials related to the Hong v Regents case. The AAUP paper, Protecting An Independent Faculty Voice, provides recommendations related to language that is needed to protect academic freedom. The AAUP paper states that faculty with more participation at their institution have less protection under the law than faculty with less participation. Faculty handbooks should include policy language to address faculty speech. The AAUP paper includes the language adopted by the University of Minnesota.

Discussion: The AAUP paper suggests that there is no First Amendment protection for faculty speech. UCD's Committee on Academic Freedom advised faculty at that campus about the ramifications of several recent court cases. Vice Chair Simmons indicated that the court should not be involved in academic personnel decisions about merit, so the Hong case should be read carefully.

IV. Proposed Revisions to Definitions of Academic Freedom and Faculty Code of Conduct

Chair Russell noted that it is difficult to revise the APM. A revision must be agreed to by the Academic Council and the President. Senate Chair Powell noted a widespread perception that the academic freedom of faculty is threatened. Both Chair Powell and Vice Chair Simmons agreed that for UCAF to propose revisions to the APM is an appropriate response to this perceived threat. UCAF has a fundamental responsibility to remind UC about the importance of academic freedom, and UC administrators at the campuses need to be educated about the concept. The principles of academic freedom should be reiterated and reaffirmed by the Senate and President Yudof.

Discussion: At the request of the UCD CAF, the AAUP and their counsel reviewed the APM and concluded the APM does not protect faculty when speaking about institutional governance matters. Vice Chair Simmons commented that faculty are constrained by certain confidentiality rules and this needs to be reflected in a proposed revision. Chair Powell encouraged UCAF to submit the proposed revisions to the APM to Council and, if approved, the proposal would be

sent out for systemwide review. The Renken case may be more significant than the Hong case because of how it could impact research. In this case, a faculty member identified problems with the University of Milwaukee administration's handling of grant funds, and after the faculty member complained the administration paid back the National Science Foundation and took away the graduate student paid for by the grant. UC faculty are different from other public employees because faculty participate in shared governance. Chair Russell noted the APM does not address faculty rights in shared governance and this is what UCAF would like to fix. Additional general language that speaks to the need to conform to professional standards or points back to limitations stated in APM 015 may need to be included in the revised APM. Members discussed the meaning of academic freedom, and had a lengthy discussion about the wording in the proposed revision and whether both APM 010 and 015 need to be revised. The committee agreed to submit the proposed revisions as written to Council for its April meeting, with the understanding that if a majority of the members approve one or more amendments between this March 18 UCAF meeting and the agenda deadline for the April meeting of the Council, those amendments would be incorporated into the proposed revisions submitted to the Council. The AAUP paper and the letter of support will be included with the letter to Council.

V. Current Threats to Academic Freedom and Freedom of Speech

Chair Russell explained that there have been incidents involving several UC campuses related to student protests and free speech. The UCI Academic Senate issued a statement about the disruption of the Israeli ambassador's speech and Chair Russell hopes that the UCR Senate will make a similar statement about the involvement of UCR students in that incident.

UCR representative Professor Gorecki introduced for discussion a memo regarding Provost Pitts' August 2009 directive prohibiting faculty from taking furlough days on days of instruction. The UCR Committee on Academic Freedom has considered whether this prohibition is a violation of academic freedom and agreed that the furlough policy was arbitrary and implemented without adequate consultation.

Discussion: The committee agreed there is nothing to add from the systemwide perspective since the relevant campus bodies have responded.

Regarding the UCR memo about the furlough policy, the committee was provided with the background on the Academic Senate's involvement with development of the policy.

VI. Consultation with the Academic Senate Office

- *Harry Powell, Chair, Academic Senate*
- *Dan Simmons, Vice Chair, Academic Senate*

The UC Commission on the Future will meet on March 23rd and the first set of recommendations from the workgroups will be discussed. Chair Powell described the composition of the workgroups. The goal was to work quickly to develop recommendations that can be implemented as soon as possible in order to start saving money. A second set of recommendations will be released later in the spring. The first set of recommendations consists of ideas that UC considered in the early 1990s when faced with budget cuts. Because of the budget situation UC is faced with rethinking its size and shape. Chair Powell commented about the Public Policy Institute's report on the future need for an educated workforce in California. The state is not prepared to take the necessary steps to increase support to public higher education.

Chair Powell also reported on the serious issues related to post employment benefits. Consultation involving the standing committees of Faculty Welfare and Planning and Budget has occurred. The Senate Chair and Vice Chair will conduct town hall meetings at the campuses. The goal is to have any changes reviewed and approved by the current Council and standing committees. There is also an effort to make sure that faculty are well-informed about the retirement benefits.

Discussion: Future employees may have a different benefits package. Union members are not willing to make employee level contributions.

VII. UCAF Goals for 2010-2011

This was discussed with the Committee Priorities item below.

VIII. Campus Reports and Member Items

Santa Barbara: A non-Senate member contacted the Committee on Faculty Welfare and Academic Freedom about complaints from a department of the federal government following her independent expert testimony. Since this faculty person is not a Senate member and since UC is not taking action against her, there is no action the Senate committee can take.

San Francisco: The previously announced symposium on partnerships with corporations and academic freedom was held as scheduled in January. A tape of the symposium will be available via UCTV starting in July.

Los Angeles: The committee has considered how to respond to animal rights activists and the chair of the local committee on Academic Freedom wrote a column in the campus newspaper on the subject. There was a meeting with individuals on both sides of the issue to discuss concerns. Animal rights activists were encouraged to take a different approach. A website has been created, www.reportbias.ucla.edu, that is causing concern. The definition of bias is very broad and may present a threat to academic freedom. Based on feedback from the local committee, the administration agreed to change the wording but this has not been done. Members of UCAF agreed that the website should be taken down and that any reporting should not be anonymous.

Davis: The committee has discussed restructuring or closures of certain programs at the campus. The UCD committee is trying to make sure that the process stipulated by the Compendium is being followed on the UCD campus, and that the academic freedom of affected faculty is adequately protected.

Berkeley: The budget situation has resulted in a problem related to academic freedom after the chancellor was urged to cease spending money on intercollegiate athletics. The local committee on academic freedom issued a memo cautioning faculty about discussions in the classroom about contentious issues. The Chancellor is considering the Senate's non-binding resolution.

Merced: There was a recent issue related to a student art exhibit that the Senate commented upon.

IX. Committee Activities and Priorities

Chair Russell reviewed the goals the committee identified for the current academic year. UCAF has continued monitoring threats to academic freedom. There will be an ongoing focus on the response to animal rights activists. With respect to RE 89, UC faculty appear to have been scared away from research funded by tobacco companies. The analyst will investigate whether there

have been proposals in 2009 for tobacco funding and notify the chair. A member expressed concern that this policy could set a precedent for deans making decisions about appropriate funding sources. Members were asked to suggest any new goals.

Discussion: A member indicated that faculty awareness of the existence of the committee on academic freedom is minimal. The chair of the local committee at each campus can write to all faculty at their campus to inform them about academic freedom.

X. Consultation with the Office of the President

- *Chris Patti, Counsel, Office of General Counsel*

Chair Russell explained that UCAF would like an update on the Hong case and to discuss the proposed revisions to the APM. Counsel Patti agreed that internal university policy is the best way to protect academic freedom. The Hong case is still under appeal and UC is still waiting for the 9th circuit to announce when oral arguments will be heard which may be in the next few months. UC would like the court to not focus on the question of whether participation in administrative decisions is protected by the First Amendment.

Discussion: The concern about the Renken case was expressed to Counsel Patti. Counsel Patti answered questions about some of the wording in the proposed revisions the members discussed earlier in the meeting and indicated there are no apparent legal issues with the proposed revisions.

The committee thanked Chair Russell for his service as chair and Chair Russell thanked the committee members for their participation.

Meeting Adjourned At: 3:20 p.m.

Minutes Prepared By: Brenda Abrams

Attest: Raymond Russell