

UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

MEETING MINUTES

THURSDAY, MARCH 21, 2013

Attending: Cameron Gundersen, Chair (UCLA), David Steigmann (UCB), Jean-Daniel Saphores (UCI), David Teplow (UCLA), Thomas Morton (UCR), Mohana Amirtharajah (UCSF), Stanley Awramik (UCSB), Ron Glass (UCSC), David Woodruff (UCD), Eric Nelson (Graduate Student, UCD), Bob Powell (Chair, Academic Senate), Bill Jacob (Vice Chair, Academic Senate), (Brenda Abrams (Principal Analyst)

I. Welcome and Announcements

Chair Gundersen welcomed the members to the meeting.

II. Consent Calendar

Action: The minutes were approved.

III. APM 210

UCAF began looking at APM 210 after the vice chair was concerned about wording suggesting that individuals would be rewarded for conducting research on diversity and language that potentially dictates the results of research. Two other committees are independently looking at this language and UCAF provided suggestions for how this could be revised.

Discussion: This is an academic freedom issue because one interpretation of the wording seemed to encourage people to draw specific conclusions from research that support diversity. The wording also raised concerns that individuals not conducting research on diversity would be penalized. This matter will probably take some time to resolve. It is not clear how APM 210 has been applied and it may vary across the campuses.

IV. Campus Climate and Harassment of Muslim and Arab Students

Chair Gundersen proposes that UCAF write a letter supporting conclusions in the materials reviewed by the committee about how the campuses are responding to the issues of the harassment of Muslim and Arab students. A study on the campus climate for Jewish students was conducted and different groups responded that the climate was not nearly as intolerant as described in the report. Some things have been interpreted as anti-Semitic when in fact they reflect the impasse in the Middle East. Chair Gundersen reported that there are demonstrations at campuses that include mimicking checkpoints in Palestine to highlight the problems. There have been hostile acts on either side and the university has been asked to take a more balanced approach on this issue.

Discussion: A member indicated that a link has been made between anti-Semitism and criticism of the Israel government.

V. Consultation with the Academic Senate Leadership

- *Bob Powell, Chair, Academic Senate*
- *Bill Jacob, Vice Chair, Academic Senate*

Chair Powell described SB 520 as a disaster and at this point, UC is not negotiating. Another bill was introduced that is similar and an analysis of this bill is underway. The bill is a way to privatize the university and President

Yudof has made it clear to Senator Steinberg that the bill would result in outsourcing. Chair Powell does not think the bill will pass because it is too controversial. Vice Chair Jacob thinks SB 547 is an attempt by the legislature to become involved with the discussion about online education. Chair Powell reported that Council would like to focus on improving student outcomes such as time to degree and graduation rates. The objection to SB 520 is that the university would outsource undergraduate courses based on approvals that have not been made by UC.

Discussion: The Senate leadership has discussed UC research with the governor and the committee on research policy recently met in Sacramento. A member pointed out that the Senate should highlight what UC is already doing with online education. The \$10M will do little to improve the infrastructure at the campuses. Chair Powell remarked that faculty acceptance of online education has been a major positive step. Chair Powell shared that SB 1052 and 1053 have been discussed with Senator Steinberg. UC has three candidates for the nine member body that will identify the online education resources.

Chair Gundersen asked Chair Powell about the Wilkes case at UCD and how UCAF should proceed. Chair Powell indicated that Senate committees do not write to chancellors and such a letter would have to go to President Yudof. UCAF should revise the letter and address it to the chair of the Davis division since the division would monitor any actions taken. There is a concern that more cases will occur. The dean and chief counsel are both leaving UCD which will impact what is happening with Wilkes. It was reported that Professor Wilkes has changed his teaching style and something should be done because of the harm done to this professor. The UCAF letter probably does not need to be endorsed by Council.

The idea of forums on controversial research was discussed at Council. Chair Gundersen indicated that the idea was envisioned on a larger scale. The forums would bring together people to discuss the spectrum of issues and help inform the public. The events would be held at an individual campus but made available as broadly as possible via webcast. Foundations might be sources of funding. Safeguards will be needed to make sure that there is no financial influence on the forums and that the people attending leave their biases at the door. Chair Powell will talk to the Senior Vice President for External Relations about this concept.

Chair Powell reported that the search for a new president is starting off well. The Regents special committee to select the president is advised by a faculty body which includes Chair Powell and Vice Chair Jacob. The academic advisory committee has received input from the advisory committees for alumni and staff. In the interview stage, Chair Powell will be included in the meetings of the special committee. Chair Powell is also participating on the search committee for the new UCR chancellor. The committee discussed the governor's statement that UC faculty should teach more. Large numbers of faculty will retire and it will be challenging to replace them. As a result of proposition 30 passing, UC's budget is in good shape.

VI. The Role of Faculty in Faculty Recruitment

The UCB representative suggested that UCAF should discuss the diminishing role of faculty in faculty recruitment. Faculty at UCB prioritized the areas for recruitment last year but this year the dean has indicated that recruitment needs to be done in other areas. Historically, the dean has deferred to the judgment of the faculty but this has now changed.

Discussion: Members agreed that faculty at their campuses are less involved in recruiting. Although faculty have just an advisory role, at some campuses this advice has been followed. It was reported that at one campus the faculty have been instructed to not assign numbers when rank ordering candidates to hire. UCAF could express concern about the declining role of faculty in areas like recruitment. The degree to which departments have the authority to determine the domains for research is the broader academic freedom issue. There is a concern about the erosion of shared governance. The chair and UCB representatives will work on a letter to the Senate leadership about this matter.

VII. The Special Nature of Universities with Respect to FOIA/PRA Requests

The UCLA representative raised this issue. Filing Freedom of Information Act or Public Records Act requests is a technique used by various political or business factions to punish faculty for conducting work with which they disagree. A letter has been drafted that provides a sense of the academic enterprise with respect to public records acts requests. California's PRA statutes are designed to create transparency for work that is done by people paid by the state. For example, someone could request information from CalTrans about a bidding process. The argument is that the business of academia is different from the state's business and the work is apolitical and designed to find the truth. There is also a vigilant peer review process where the merit of a faculty member's work is assessed. Stanford and other private universities are exempt from PRA requests which are not "doing the state's business." Relationships between UC faculty and faculty at a private institution are chilled, making collaboration difficult because the peers at the private institutions are afraid of information being disclosed. A primer for faculty has been prepared which provides guidance on how to respond to PRAs. UCLA is developing a series of standing operating procedures and the representative thinks that there should be a systemwide policy on responding to these requests.

Discussion: The law applies to UC faculty who can be construed as state employees. It was noted that the PRA law enables individuals to uncover illegal activity. There are offices at some campuses that assist faculty with responding to requests. A member commented that UC is developing a systemwide privacy and security policy and the group that worked on this policy is aware of issues related to PRA requests. Providing formal guidance to faculty so they understand what support the university will provide is important. At UCLA, each request is handled on an ad hoc basis. Members agreed that providing something general to faculty will be helpful. The UCLA representative invited committee members to provide feedback on the guidelines.

VIII. External Interference in Academic Matters at UC

This topic was discussed during consultation with the Academic Senate leadership.

IX. Permissible Instruction versus Political Indoctrination

The UCSC representative reported that the campus CAF was asked to provide criteria used to determine if a course is political indoctrination. A letter was written about a particular course claiming that anti-Zionist materials were used in a course and that one Jewish student felt particularly uncomfortable. It is questionable whether someone could state that one course constitutes political indoctrination. There is also no evidence that students are being prevented from disagreeing and it is inadequate to point to readings for a course when it is not known exactly how the materials are being used. Bad teaching might be mistaken for indoctrination.

Discussion: Last year, UCAF looked at a report sent, unsolicited, to the Regents which claimed that UC campuses are being used for political indoctrination by leftists. If a faculty member presents a personal opinion as fact, this might be considered indoctrination. The standing orders of the Regents and the APM use the word indoctrination. Without evidence that a student has been penalized for not subscribing to the positions held by a faculty member, it is not clear that political indoctrination has occurred. It is questionable whether indoctrination can occur in one instance. UCSC's CAF will consider the specific complaint that has been filed in May. This particular case may be an academic freedom issue or a curriculum issue.

X. The Electronic Privacy and Information Security Initiative

The UCB representative shared a letter from the Privacy and Security workgroup to the president outlining the group's recommendations. The recommendations will help address the concerns related to the freedom of information act or public records act requests discussed earlier during today's meeting. This policy is expected to be submitted to the Senate for a systemwide review.

XI. APMs 010 and 015

Three years ago the effort began to revise the APM to include language to protect faculty when speaking on

matters of institutional significance without fear of reprisal. There has been a great deal of effort on the part of faculty and administrators to achieve the right balance in the policy. The new wording will be added to APM 015 but not APM 010.

Discussion: The committee briefly discussed the Hong case, in which the court ruled that the administration is a sovereign entity and therefore cannot be held liable. Faculty are promoted based on the evaluation of their peers, not on seniority which is an important legal distinction. Faculty can be lulled into a false sense of security if the standard practice has been to express one's opinion but later faculty learn that they can be punished for doing so.

XII. Guidelines for Investigating Alleged Violations of Academic Freedom

A set of guidelines for investigating alleged violations of academic freedom has been drafted by the UCD graduate student representative for the committee's review. This information may be helpful for those faculty members who are unfamiliar with investigative procedures.

Discussion: The UCR representative indicated that the chair of the committee on privilege and tenure reviewed the guidelines and indicated that the P&T has guidelines that are sufficient. Chair Gundersen commented that it would be good to have a body independent from P&T to investigate issues unrelated to tenure that can more openly broadcast information to the faculty as a whole. To one committee member, the guidelines suggest that the CAF become investigative bodies and make legal pronouncements which would not be desirable. The guidelines also focus on a specific act whereas violations of academic freedom can occur in a way that is difficult to specifically name. An issue with P&T is that their deliberations are extremely confidential. A member suggested that the guidelines might be posted on the UCAF website rather than at the individual campus websites. If there is a case that seems to require the level of investigation described in the guidelines, there should be a different, broader Senate body that has the expertise needed to investigate allegations and adjudicate.

XIII. Senate Bill 520

The UCR representative reported on the recently introduced Senate Bill 520 which would require UC to give credit for online courses including those offered by commercial providers. The representative prepared a letter which addresses the implications for academic freedom related to SB 520.

Discussion: The academic control over the curriculum should be more strongly emphasized in the letter. Another concern is related to who completes the work, although members note that this is a problem for traditional courses. The letter should note that faculty recognize the current economic situation and that faculty do not object to online education. A member suggested that the letter should stress the reasons that the bill may be constitutionally invalid. SB 520 might raise problems for accreditation. The committee will ask Chair Powell about the UCAF letter. The Berkeley Faculty Association is circulating a letter about the bill. The committee will provide specific feedback on the draft letter by the listserv. A member suggested that UCAF could write one letter to the legislature and another letter to the administration asking them to vehemently defend the university against this bill.

The committee discussed the importance of faculty involvement in ensuring that online courses meet UC standards. The articulation agreements with the CSUs currently in place may need to be reviewed, and one question is whether online courses are covered by these agreements. The articulation agreements need to maintain UC quality. Members agreed to draft a letter stating the principles important to UCAF. UCAF can submit a letter to Chair Powell in support of SB 547. SB 547 only applies to UC if the Regents make it a UC policy. UC could require that students who want to transfer would be required to take exams to prove how well they have done in the online courses. UCAF might suggest that the bill limits the universities involved. A member pointed out that the bill is likely to be amended so this is something the Senate will want to monitor.

XIV. Campus Reports and Member Items

Davis: Regarding the Wilkes case, the dean and counsel have left the medical school. The provost has not responded to the resolutions passed by the Academic Assembly as a result of this case and the CAF has asked the provost to indicate whether or not action will be taken. The chair of the division asked the provost to follow through on all of the actions. UCAF will wait to see what the provost does before sending a letter.

Meeting adjourned at: 3:15 PM

Minutes prepared by: Brenda Abrams

Attest: Cameron Gundersen