

## UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM

April 21, 2005 Meeting Minutes

**Attending:** Patrick Fox, Chair (UCSF)

Herma Hill Kay, Vice-Chair (UCB), Barbara Epstein (UCSC), Stuart Gansky (UCSF), Jerold Theis (UCD), Lisa Hajjar (UCSB), Phillip Bonacich (UCLA), Marc Deshusses (UCR), Robert Josephson (UCI), Mark Massoud (Student Rep-UCB), George Blumenthal, (Chair, Academic Council), Cliff Brunk (Vice-Chair, Academic Council), Michael LaBriola (Senate Analyst)

## I. Chair's Announcements - *Patrick Fox*

**Action:** The committee approved the minutes of November 18, 2004.

## II. Campus Reports

**Riverside.** The UCR committee criticized an administration memo sent to all faculty around the time of the November election, which asked faculty to clarify in the classroom that their personal political opinions did not reflect the views of the university. The committee is developing a resolution against the USA Patriot Act, and came out firmly against research funding restrictions based on the source of funding. Members are looking at how Institutional Review Boards may be intruding beyond the protection of human subjects into areas outside their expertise, and finally, the committee is considering the academic freedom implications of a decision by UCR to stop granting H1B visas for Post Docs in Science and Engineering.

**Irvine.** Academic Freedom is a subcommittee of Faculty Welfare at UCI. There have been few major issues discussed this year, although the committee submitted a recommendation against restrictions on funding sources.

**San Francisco.** The UCSF committee proposed modifications to the systemwide Resolution on Research Funding Sources, because they felt that restrictions placed on a faculty member's ability to refuse funding could also be viewed as a violation of academic freedom. The committee is planning a symposium to discuss the politicization of science. It is also seeking ways to raise the profile of CAF and to provide more clarity about CAF's role compared to the Committee on Privilege and Tenure.

**Davis.** The Committee on Academic Freedom and Responsibility opposes UCD's new Integrity in Research policy, which was developed in response to a request from the Department of Health and Human Services, which has been asking universities to develop a policy consistent with a specific template. CAFR believes the policy violates academic freedom, by leaving faculty members vulnerable to false accusations of misconduct, as well as shared governance, since it was developed without proper Senate review, and as a policy, does not involve the Senate in a way that is consistent with the Standing Orders of the Regents. (For example, the policy gives the Chancellor the privilege to suspend a faculty member without pay or appoint an investigating committee without Senate consultation). The Executive Council of the Davis Senate has also responded with a resolution opposing the policy. Professor Theis recommended that UCAF members help forestall a Davis-like situation by contacting their Vice Chancellors for Research and insisting on Senate involvement if and when DHHS asks for a new policy, and then making sure their campus policies on integrity and misconduct in research refer matters of investigation and discipline to Academic Senate committees. Members agreed that it would be a good idea for

UC to explore the possibility of developing a uniform, systemwide policy on this issue, perhaps with the involvement of the systemwide Vice Provost for Research.

**Action:** Professor Theis will circulate a memo template from divisional Academic Freedom committees to campus EVC's of Research, asking them to involve the Chair of their campus Academic Senate in any vetting of a new integrity in research policy requested by the DHHS.

**Santa Barbara.** The subcommittee studying campus implications of the Patriot Act and visa restrictions on foreign students and scholars is preparing a final report and resolution, but efforts are somewhat on hold, as the subcommittee waits to see what direction new legislation takes. Committee members have been monitoring the conditions of academic freedom for Middle East Studies colleagues nationwide, including a Columbia University professor who has been the target of organized, disruptive protests from outside groups for his politics. A town meeting is scheduled to discuss the issue of military recruiters on campus.

Members discussed conditions of civility on campus and what is and what is not legitimate speech. UC faculty are occasionally criticized by other faculty members or outside groups for their views or pedagogical approaches to controversial issues. Although it is fair to criticize the work or speech of faculty members according to the ethical standards laid out in the Faculty Code of Conduct and the First Amendment, personal attacks are not conducive to a collegial environment. Moreover, public, organized protests from outside groups can have a chilling effect on students thinking about graduate programs or academic careers in certain disciplines.

**Los Angeles.** The divisional CAF continues to be concerned with the interference of campus Institutional Review Boards into the way faculty conduct research at UCLA, particularly in the Social Sciences. Many faculty feel strongly that IRBs have strayed beyond their main charge—protection of the safety and confidentiality of human subjects—into overzealous evaluation of research methodology and research quality. Moreover, there is no formal procedure set up at UCLA to challenge the decision of an IRBs. CAF believes it is inappropriate, both as a matter of academic freedom and shared governance, for an IRB composed primarily of staff to have the power to penalize or punish a faculty member without additional faculty review. The committee also requested, unsuccessfully, records related to cases in which the IRB has judged a violation. The committee will continue to seek information and study the issue.

The level of IRB power and zeal varies from campus to campus, and the rules under which they operate are primarily a function of local culture and interpretation. The problem appears to be most serious in peer reviewed, funded research in the Social Sciences, although it is not confined to those disciplines. The committee will recommend that new universitywide standards may be necessary, and that the Office of Research at UCOP may be the appropriate entity (with Senate consultation) to develop and administer these standards. A systemwide policy should stipulate precisely the latitude and limits of IRB responsibilities. In addition, due process procedures should be included with provisions for senate involvement and review. It was noted that faculty who work with animal research protocols have also expressed similar complaints about the unreasonable level of difficulty of the IRB approval process.

**Action:** UCAF will draft a letter to Council recommending that UCOP pursue a systemwide standard.

**Berkeley.** The local CAF discussed the issue of tobacco funding and participated in a joint meeting with faculty from other Senate committees as well as representatives from the School of Public Health, which had opposed the Resolution on Funding Sources. CAF was asked to

comment on a draft campus research data sharing policy, which the committee thought was problematic from an academic freedom perspective.

**Santa Cruz.** The UCSC committee has been focusing on the issue of corporate funding, and is concerned about increasing corporate influence in the University, and the implication of corporate funding on research agendas and faculty. The committee believes that all outside funding sources should not be treated as equal.

**Graduate Student Representative.** Many students have been pushing against Senate Bill 5, and the student government of UCSD passed a resolution opposing that legislation. Students have also been discussing broad, politically motivated strings being attached to grants from some foundations, as well as discouragement and fear facing students considering graduate programs or careers in politically controversial disciplines.

### **III. Update from the Academic Senate Chair – *George Blumenthal***

California Senate Bill 5, proposed legislation that would require UC to adopt and implement a “Student Bill of Rights,” was defeated. Many UC faculty and students had condemned SB 5 as an intrusive attempt by the state to impose inappropriate controls on speech and academic freedom. UCAF’s comments about SB 5 were incorporated into a response to UC Legislative Affairs from the systemwide Academic Senate, which has been very active this year in following and commenting on legislation. Part of UC’s response included a promise that the Senate would be involved in crafting a statement on student academic freedom. It is also possible that SB5 could be resurrected in a modified form sometime in the future.

The Academic Council’s Resolution on Research Funding Sources, which states that no special encumbrances should be placed on the freedom of UC faculty to accept or reject research funding from any source, was passed with revisions after some health sciences faculty insisted it be reopened for systemwide review. The main revision was the addition of a preamble, which clarifies that individual faculty can announce that they will not accept money from a certain funding source, and notes that the only group with authority to adopt a policy restricting the University as a whole from accepting grants from certain funding sources is the Board of Regents. The Academic Assembly will act on the Resolution in early May.

The management contracts for two Department of Energy National Laboratories currently administered by UC—Lawrence Livermore and Los Alamos—are out to bid. There are few explicit protections for academic freedom at the labs, as the classified nature of the research precludes many academic freedom rights enjoyed by faculty on the campuses. Although lab employees do have the freedom to express opinions publicly about public policy, the last contract renewal gave the DOE the right to remove individual researchers from projects without prior hearing or due process. One member criticized this agreement as duplicitous, as the university is compelled to defend the free speech and academic freedom rights of faculty employees on and off campus. Even if UC wins the bid, lab employees will no longer be UC employees, but employees of an LLC, which may have academic freedom implications.

The governor has withdrawn a proposal for legislation and/or a ballot initiative that would replace the defined benefit plan with a defined contribution plan for all public employees, including UC faculty and staff.

#### **IV. Academic Freedom and Students**

The 2003 revision of APM 010 did not specifically address academic freedom for students, and some believe there is ambiguity about where students stand in relation to academic freedom that should be addressed in a new University policy or statement. Last year, Student Regent Matt Murray asked UCAF for input into a policy he had proposed, and this year, a Systemwide Policy Workgroup is meeting to discuss the issue. The Workgroup includes students, members of the administration, and as Senate liaisons, UCAF Chair Patrick Fox and UCAF member Barbara Epstein. There are policies in place, both in Student Affairs and in the Faculty Code of Conduct, which protect student freedom of speech and fair treatment inside and outside the classroom, but there is little policy guidance regarding students who serve in faculty-like positions, such as TA's, Post Docs and Research Assistants.

UCAF members reviewed a draft statement that had been produced in the first systemwide workgroup meeting. The draft is modeled on APM 010 and modified to take into account the different status of students compared to faculty. It addresses three classes of student—general classroom learners, teaching assistants, and students in research positions. A range of possible student freedoms can be imagined, depending on the differing levels of competence and expertise of an undergraduate, a graduate student instructor, and a doctoral candidate engaged in a joint research proposal with a faculty member.

The Workgroup will also be drafting a student code of conduct analogous to the faculty code of conduct, which will articulate the responsibilities of both students and the university in fostering academic freedom. And an administrator on the Workgroup is developing a statement related to the adjudication of student grievances connected to this. UCAF will have the opportunity to review both of these documents.

It was suggested that a sentence be added to paragraph three which affirms the faculty's authority in classroom matters and that the language describing freedom of expression in a “classroom” setting be modified to distinguish between the context of lectures vs. discussion sections. The student-professor relationship is by nature, hierarchical. Academic freedom is conferred upon faculty at appointment, but students, as learners or academics in training, do not have AF from this perspective. Student academic freedom is derived from the faculty. The rights of faculty members are not unlimited, but students may not have a “right” to hear certain things in the classroom that the professor does not deem suitable to the course of instruction. Moreover, it is faculty who define the rights and standards under which students are judged on the basis of what constitutes scholarly work.

Other comments touched on the need to make the Faculty of Code of Conduct more visible to students, and for an apprenticeship system that would expose faculty to effective pedagogical methods. UC must strive to create a culture of mutual trust and respect where both academic freedom and respectful discourse can thrive.

**Actions:** Chair Fox will incorporate the committee's recommendations into the draft statement, which members expressed overall supported for. Philip Bonacich will circulate an electronic copy of his “contract on classroom behavior”

## V. Corporate Influences on Research

When 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, the committee also concluded that the Resolution was not sufficiently sensitive to possible adverse influences of corporate funding on research. UCORP has since agreed to work with UCAF on a project to study the issue in more depth. UCORP Chair Max Neiman joined the meeting by phone to discuss the possible charge and membership of the joint workgroup.

Members discussed the scope of the project and how best to proceed. The subcommittee would begin with an analysis phase—performing a thorough review and meta-analysis of the literature and studies already conducted on the issue; identifying the facts regarding levels of corporate funding at UC from a range of sources and how they have changed over time as public funding has decreased—and then move on to examine the role and effect of increased corporate funding on research agendas and research results, including studies showing a predictable connection between funding source and research outcomes; determine how contracts emerge from campus to campus, and what effect funding has on individual faculty, relations among faculty, inequities across disciplines in terms of resources and workload, and the institution as a whole. The subcommittee might later begin to focus on funding from individual entities, including the Pharmaceutical, Energy, and Tobacco industries, the NIH, the Novartis agreement, and Cal ISIS. Finally, the subcommittee would review current University policies and propose changes to UC's Conflict of Interest, Conflict of Commitment, and other related policies, if necessary, and report overall findings and recommendations back to Academic Council. If the discrepancies are shown to have dramatically increased, that leaves questions about the culture of the university.

With state funding decreasing, there is structural pull to seek more revenue from private and corporate sources. Corporate funding may now be a necessity, but members agreed that funding from large corporations carries with it a certainty of transforming the nature of research agendas in the university, along with the potential for pressures to arise on the university that could be harmful to research and academic freedom, particularly if the funding carries with it a distorted or biased effects.

A change in culture is needed in order for faculty to not abandon the principles of the university and academic freedom for financial concerns, a responsibility that also rests on the university to compensate the faculty sufficiently.

UCAF felt that the subcommittee would benefit from members or consultants from outside of UCAF/UCORP. Names of several potential participants came up, and those individuals will be contacted.

**Action:** Chair Fox and UCORP will continue working to identify willing subcommittee members, and the committees will submit a formal proposal for a subcommittee.

The committee gave Chair Fox a round of applause.

The meeting adjourned at 3:15 PM.  
Minutes prepared by Michael LaBriola  
Attest: Patrick Fox