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*Chair of the Assembly of the Academic Senate
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University of California
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March 21, 2016

THE REGENTS WORKING GROUP ON PRINCIPLES AGAINST INTOLERANCE

Re: Faculty concerns about the Final Report of the Regents Working Group on Principles Against Intolerance.

Dear Colleagues:

The Academic Council of the Academic Senate met on March 17 to consider the Final Report of the Regents Working Group on Principles Against Intolerance in Regents Item E-1 and asked me to convey its concerns to the Regents Working Group. Additional details can be found in the attached report from the UC Systemwide Committee on Academic Freedom (UCAAF), that also met on March 17, and in a letter from the Divisional Senate leaders, also attached.

The Academic Council appreciates the efforts of the Working Group to draft a statement on intolerance and appreciates several notable attributes of the statement. For example, the statement recognizes freedom of expression and freedom of inquiry as bedrock values of a public University and pledges that the University will defend them. The statement strongly affirms the first amendment protections for freedom of speech and affirms the right to engage in even impassioned dialogue on issues and to debate those issues on the merits of the speakers' views. The policy also clearly states that actions that attempt to deprive others of their freedom of speech or actions that threaten, intimidate, cause injury or damage property are not protected. The clear separation of protected speech from unprotected acts is a fundamental and extremely important distinction that the Academic Senate greatly appreciates.

The Academic Senate did find several areas of significant concern, however. Most importantly, the Academic Senate objects to the inclusion of "Anti-Zionism" in the first sentence of the second paragraph of the Contextual Statement. Zionism is a nationalist and political movement with specific and well-documented historical roots. Explication, analysis, and critique of that movement, both in all its current and historical manifestations, are legitimate subjects of academic teaching, research and scholarly debate. We fear that an overly broad interpretation of "Anti-Zionism" may have a chilling effect on reasonable and appropriate discourse on this political, social, and historical phenomenon. Thus the condemnation of "Anti-Zionism" in total raises valid concerns for protected speech and academic freedom.

The Academic Council therefore cautions that the retention of “Anti-Zionism” in the first sentence of the second paragraph of the Contextual Statement could lead to needless and expensive litigation, embarrassing to the University, to sort out the difference between intolerance on the one hand, and protected debate and study of Zionism and its alternatives on the other. The Academic Council therefore strongly recommends that “anti-Zionism” be removed from the first sentence of the Second Paragraph of the Contextual Statement.

UCAF also raised similar concerns but suggested a different approach. UCAF suggests that the wording be changed to make a distinction between criticisms of “Zionism” that “are simply statements of disagreement over politics and policy” and others which are “also assertions of prejudice and intolerance toward Jewish people and culture.” UCAF therefore recommends the following change in the first sentence of the second paragraph of the Contextual Statement as follows:

Suggested replacement phrasing (in bold):

“Anti-Semitism, **anti-Semitic forms of** anti-Zionism, and other forms of **unlawful** discrimination have no place at the University of California.”

The change still may not remove all concerns about how the condemnation of “anti-Zionism” might infringe upon free speech and academic freedom (e.g. how different forms of “anti-Zionism” might be differentiated), but the amendment does make the language of the condemnation consistent with the previous paragraph.

Also, as the Working Group was cautioned, the Divisional Senate leaders and the Academic Council do not support the language, “Anti-Semitism and other forms of Intolerance...” in Section c. of the Policy Statement. As the letter from the Divisional Senate leaders notes, “a statement of Principles against intolerance should not privilege some forms of [unlawful] discrimination over others.” A Davis faculty member summarized this viewpoint below, and the viewpoint was endorsed by other Jewish faculty members:

“Speaking as a Jew who abhors any thought of anti-Semitism, I believe that elevating anti-Semitism in any way in a document like this will actually be counterproductive, insofar as it reinforces the perception that those in charge of the university take [unlawful] discrimination against some groups more seriously than [unlawful] discrimination against others.”

The Academic Council therefore endorses the recommendation of the Divisional Senate leaders that this section be changed as follows:

“Unlawful discrimination has no place in the University. The Regents call on University leaders to challenge actively any form of unlawful discrimination.”

Finally, the Divisional Senate leaders note that the statement of the mission of the University is incorrect.

I regret the short amount of time before the Regents Meeting to bring the concerns of the broader faculty to your attention. On the other hand, the full faculty have had only a few days to review the item since its public posting.

Thank you for your assistance, and please do not hesitate to contact me if you have any questions.

Sincerely,



J. Daniel Hare, Chair
Academic Council

Cc: President Napolitano
Chief of Staff Grossman
Academic Council
Executive Director Baxter

Enclosures



UNIVERSITY COMMITTEE ON ACADEMIC FREEDOM (UCAF)
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March 17, 2016

**DAN HARE, CHAIR
ACADEMIC SENATE AND MEMBER, REGENTS WORKING GROUP ON PRINCIPLES
AGAINST INTOLERANCE**

**RE: Brief emendation to the Contextual Statement of the FINAL REPORT OF THE REGENTS
WORKING GROUP ON PRINCIPLES AGAINST INTOLERANCE**

Dear Dan,

At today's UCAF meeting, the committee discussed the Final Report at length. We also noted many of the comments that have arisen since the Final Report was made public, particularly concerns regarding how the concepts of Zionism and anti-Zionism are used in the document. The committee noted that the first sentence of the second paragraph of the "contextual statement," which has been the focus of most of the public condemnation the "Final Report" has received, appears to contradict the preceding sentence, which makes a distinction between criticisms of "Zionism" that "are simply statements of disagreement over politics and policy" and others which are "also assertions of prejudice and intolerance toward Jewish people and culture."

The committee determined that a very brief emendation to the sentence in question might mitigate some of these concerns, and remove this troubling contradiction. We urge that you convey this proposed clarification to those in a position to determine its inclusion.

Current phrasing:

"Anti-Semitism, anti-Zionism and other forms of discrimination have no place at the University of California."

Suggested replacement phrasing (in bold):

"Anti-Semitism, **anti-semitic forms of anti-Zionism**, and other forms of discrimination have no place at the University of California."

Sincerely,

A handwritten signature in cursive script, reading "Kathleen Montgomery". The signature is written in black ink on a white background.

Kathleen Montgomery, Chair
UCAF

Statement regarding Regents' Policy: Principles against Intolerance, to be presented for adoption at the March 23, 2016 Regents' meeting

We, the undersigned, are strongly in support of development of principles regarding intolerance. The nature of political and public discourse today and the directions in which it appears to be evolving make it imperative that the University of California be an institution of tolerance.

We have a number of concerns, however, regarding the content of the proposed Principles of Intolerance (the "Principles") occurring specifically on pages 8, 9, and 10 of the Final Report of the Regents Working Group on Principles Against Intolerance and its revision to the mission of UC. Other issues regarding specific wording and well-recognized concerns within the Academic Senate over process have been omitted from this document for brevity.

1. The Principles Identify only one specific form of discrimination (anti-Semitism).

The specific motivation for the working group and earlier Regents efforts, as described in the Contextual Statement, arose largely from concerns regarding incidents of anti-Semitism. Regardless of this context, a statement of Principles against Intolerance should not privilege some forms of discrimination over others.

At the end of item c, page 8, the Principles state,

Anti-Semitism and other forms of discrimination have no place in the University. The Regents call on University leaders actively to challenge anti-Semitism and other forms of discrimination when and wherever they emerge within the University community.

We, the undersigned, propose that item c, page 8, instead concludes as follows,

Unlawful discrimination has no place in the University. The Regents call on University leaders to challenge actively any form of unlawful discrimination.

In the same vein of not privileging one form of discrimination over another, we also offer the following statement received from a chair of one of our committees, and which is supported by other faculty signers of Jewish origin who also related to the quote:

"Speaking as a Jew who abhors any thought of anti-Semitism, I believe that elevating anti-Semitism in any way in a document like this will actually be counterproductive, insofar as it reinforces the perception that those in charge of the university take discrimination against some groups more seriously than discrimination against others."

2. As written, the Principles restate the official mission of the University of California. Item a, page 8, of the Principles states that “The mission of the University is to promote discovery and create and disseminate knowledge, to expand opportunities for all, and to educate a civil populace and the next generation of leaders.” The official mission of the University of California is

"The distinctive mission of the University is to serve society as a center of higher learning, providing long-term societal benefits through transmitting advanced knowledge, discovering new knowledge, and functioning as an active working repository of organized knowledge. That obligation, more specifically, includes undergraduate education, graduate and professional education, research, and other kinds of public service, which are shaped and bounded by the central pervasive mission of discovering and advancing knowledge."

— Mission statement from the University of California Academic Plan, 1974-1978
<http://www.ucop.edu/uc-mission/index.html>

The difference between the two mission statements is the addition of the phrase and concept “to educate a civil populace.” This addition seems potentially quite significant and, we believe the language requires some thought. The current mission was adopted in the 1970s after a process of extensive consultation undertaken by the Regents. The consultation included (the University Academic Plan states) “hundreds of individuals—faculty members, students, Chancellors, deans and other administrative staff—from the {as it then was} nine campuses of the University of California.” This mission has long been reflected in the UC’s institutions and customs. If the Regent’s new mission is similarly to have force, it must find such expression as well. However, not having been subjected to the same tests and discussions as the mission of the 1970s, and it is impossible to predict how it will manifest in the UC’s daily work.

If the University’s core mission is to be redefined, it should be done so through an extensively consultative process and in a document expressly and separately devoted to that purpose.

We believe there would be little difficulty in quoting the University’s confirmed official mission directly, *with* additional language the Regents believe essential to the established mission. That is, that all members of the UC community observe the norms of discourse that have been long established, if not codified and that the additional language attempts to specify some of the important defining limits to those norms.

Divisional Chairs of the Academic Senate:

UCD: André Knoesen, Professor of Electrical and Computer Engineering

UCSB: Kum-Kum Bhavnani, Professor in Sociology

UCLA: Leo Estrada, Associate Professor of Urban Planning

UCB: Robert Powell, Professor of Political Science

UCI: Alan Terricciano, Professor of Dance

UCR: Jose Wudka, Professor, Department of Physics & Astronomy,

UCM: Cristian Ricci, Professor of Iberian Studies and North African Studies

UCSC: Don Brenneis, Professor of Anthropology

UCSD: Robert E. Continetti, Professor of Chemistry and Biochemistry

UCSF: Ruth Greenblatt, Professor of Clinical Pharmacy, Medicine, Epidemiology and Biostatistics