



Academic Senate

Office of the President
1111 Franklin Street
Oakland, CA 94607

senate.universityofcalifornia.edu

September 5, 2024

MICHAEL V. DRAKE
PRESIDENT, UNIVERSITY OF CALIFORNIA

Re: Report on the State of Shared Governance at the University of California, 2023-24

Dear President Drake:

In the tradition of several past Academic Senate chairs, I am pleased to conclude my term with a report on the state of shared governance at the University of California.

Over the past year, the Senate has worked closely with the administration on several critical issues, ensuring that the faculty’s voice remains central to decision-making. These collaborations have been largely productive, reinforcing our collective commitment to the principles of shared governance and to the University’s mission and values.

Much of my report focuses on relations between the Academic Senate and the Board of Regents; less directly but certainly by implication on UCOP and the administration. As a Regent yourself, you are in a good position to convey to other members of the Board the Academic Senate’s concerns.

It has been a privilege to work with you in the interest of the University over the past two years. I am confident that the University will continue to thrive under your leadership, with shared governance a key element of its success.

Sincerely,

James Steintrager
2023-24 Chair, Systemwide Academic Senate

Cc: 2023-24 Academic Council
Provost and Executive Vice President Newman
Vice President and Chief of Staff Kao
Secretary and Chief of Staff Lyall
Senate Division Executive Directors
Senate Executive Director Lin

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State of Shared Governance Report (August 31, 2024)
James Steintrager, 2023-24 Systemwide Senate Chair

In 1856—12 years before the University of California was founded—the University of Mississippi revised its statutes to shift oversight of educational policy from the trustees to the faculty. The president of University of Mississippi argued to the trustees: “You have appointed us because we are professional teachers and you believe we understand our business; you have prescribed the broad outlines of our work, and we have undertaken to do the work on those lines. Now, if you are to direct the details of the work at every step, you will succeed no better than you would succeed if you were to direct the engineers of the Mississippi Central in the same way. Our professional knowledge and experience will be set aside and rendered useless, and our whole work will probably be badly botched.”¹ The concept and practice of shared governance has existed for a long time. Its *raison d’être* and principles, as articulated above and with not a little daring and humor, remain the same. Clearly shared governance is not unique to the University of California, although we have developed perhaps the most robust version of this division of labor by expertise and experience.

The bylaws of the Regents of the University of California “recognize that faculty participation in the shared governance of the University through the agency of the Academic Senate ensures the quality of instruction, research and public service at the University and protects academic freedom” ([UC Regents Bylaw 40.1](#)). The Regents delegate authority over educational policy to the Academic Senate, allowing the Senate “...subject to the approval of the Board... [to] determine the conditions for admission and for certificates and degrees,” and to “authorize and supervise all courses and curricula.” The bylaws further empower the Academic Senate to create “committees to advise the President and Chancellors on campus and University budgets,” and to address the Board either through the president or directly by “a formal Memorial” on “any matter pertaining to the conduct and welfare of the University.”

It is worth recalling both these specific delegations to the Academic Senate and the faculty’s broad interest and implication in all aspects of the University’s business, financial and otherwise. It is also worth remarking that nothing in the Regents bylaws suggests that the relationship between the Academic Senate and the Board should be adversarial. This also applies to the Senate’s interactions with campus administrations and the Office of the

¹ Cited in Walter P. Metzger, *Academic Freedom in the Age of the University* (New York: Columbia University Press, 1955), 35.

President. On the contrary, the ideal is a mutual recognition of authorities, appropriate separation of duties with consultation, and collaboration and cooperation in service to the University's various missions. Occasional tensions and differences of opinion are expected and even desirable in an institution that values deliberation, debate, and the often mucky work of consensus-building. Below I briefly lay out three recent examples of shared governance at the University that suggest the concept and practice of it is currently strained, resilient still, and in need of thoughtful reinvigoration.

1. Policy on Affiliations with Healthcare Organizations

In October 2023, the Academic Council, the highest executive body of the systemwide Academic Senate, endorsed a proposed Presidential Policy on Affiliations with Certain Health Care Organizations, a policy that itself implements Regents Policy 4405: Policy on Affiliations with Healthcare Organizations that Have Adopted Policy-Based Restrictions on Care (approved July 22, 2021). The issue involves UC's contractual relationships with non-UC hospitals that impose certain "policy-based restrictions" on patients and providers. These mainly but not exclusively take the form of so-called ethical and religious directives, which restrict certain types of care, including elective abortion and gender-affirming procedures. Academic Council's endorsement was informed by systemwide Senate review of the proposed policy. The vote was also not unanimous, and an [appended list of ongoing concerns](#) was passed along to the executive vice president for UC Health. These concerns reflect the Senate's history with the policy: acknowledging on the one hand that affiliating with hospitals with policy-based restrictions has benefits, such as bringing UC-quality healthcare to patients, particularly in underserved areas, and providing important training opportunities for UC residents; recognizing on the other hand that such affiliations if not properly handled might conflict with both our ethical and professional values (for example, restricting the freedom of our physicians to provide treatment meeting "standard of care" or discriminating against certain types of patients). In the end, the consensus view was a compromise: embrace affiliations, but in ways that maximally protect the rights of patients and the freedom of our physicians and trainees to provide the best care possible. I do not hesitate to say that the final policy was improved by Senate review, vigorous debate, and by the Board of Regents calling on the Senate to provide faculty expertise in the form of panels of UC physicians who presented at the meetings of the Regents Health Services Committee on topics such as emergency standards, the impacts of patient transfer from hospitals with policy-based restrictions to those without, and providing real cases to inform deliberations and policy making. The Academic Senate will also be involved in the ongoing review of policy implementation.

2. Policy on Discretionary Statements

My second example concerns the Board of Regents' interest in controlling statements made by departments and other academic units on political topics. This interest had inspired the Academic Senate to formulate its own recommendations on how departments that wanted to issue such statements might do so appropriately. Among other things, these recommendations indicated that political statements should be clearly labeled as not official positions of the University. They also provided guidelines on how to issue them in ways that respect democratic processes within departments, safeguard academic freedom, and protect faculty holding minority viewpoints. The Senate made these [recommendations](#) after careful study of the issue by faculty experts on the University Committee on Academic Freedom, a systemwide Senate review, and Academic Council endorsement; they were released and circulated in July 2022. In the wake of the October 7, 2023 attacks by Hamas and the Israeli government's response—and with some departments and academic units publishing related statements on University websites—the issue came back in boldface. The Regents were soon considering the peremptory adoption without any Senate review of a policy that (not unambiguously) appeared to seriously restrict the freedom of departments to make political, or what eventually came to be called “discretionary,” statements. In the end, following occasional lively back-and-forth between Academic Senate leadership and Regents, revised versions of the policy were circulated for systemwide Senate review—twice, in fact. The policy eventually adopted was one that the Academic Council could accept, but with ongoing reservations about implementation. To the credit of the Board, the final policy largely incorporated the Senate's prior recommendations wholesale. Let us call this a qualified victory for shared governance. Ironically, while some Regents had voiced disdainfully their concern about the legendarily languid pace of academic discourse—death by deliberation, as it were—the overall proceedings would have been more efficiently handled had Senate review been sought at the outset.

3. Residency Requirements

My third example is the proposed modification of the Academic Senate regulations on undergraduate residency requirements, which would have updated the residency prerequisite for an undergraduate bachelor's degree by introducing a “campus experience requirement” calling for all undergraduates to complete a minimum of six units of in-person courses during a quarter/semester for one year, with “in-person course” defined as having at least 50% of instruction occur face-to-face. It would have changed UC's interpretation of residency as inherent in who is teaching (a course taught by a faculty member from a given campus counts toward residency no matter where that course is

taught on the planet and no matter the mode it is delivered) to one based on completing in-person, on-campus courses. The modification was proposed by the University Committee on Educational Policy, circulated for systemwide review, endorsed by Academic Council, and approved by the Academic Assembly, the Senate's highest legislative body. And that, we thought, was the end of the story. However, certain members of the Board of Regents saw the Senate regulation as an attempt to block the development of fully online undergraduate degree programs, as thwarting the will of campuses—including faculty on those campuses who wanted to create such degrees—and as an affront to the Board's authority over educational policy. Let me assert, perhaps heretically, that they were right, at least in certain respects. The Board does reserve for itself authority over many of the same areas of educational policy—approval of criteria for admissions and conferral of degree—that they [delegate to the Academic Senate](#). It is crucial to note that the Senate's policy recommendations in these areas are just that: recommendations *subject to the approval* of the Board (see both Regents Bylaw [40.1](#), cited above, and [22.2](#)). In my reading of the relevant Regents bylaws, this is the only way to make sense of the interaction of delegation and reservation: the Senate formulates the rules; the Board has veto power. However, once the Board gets into *making* the rules, we risk a de-delegation of the Senate's authorities. That is what happened in 2020, when the Board voted to drop the use of standardized tests in UC undergraduate admissions against the recommendation of the Senate and despite the conclusions of a thoroughly researched Senate task force report—a task force that the Board itself had requested to study the matter.

In other words, although it is or should be unusual for the Board to get involved in this level of educational policy making, they had the right to consider the Senate's modification of the residency requirement as a recommendation to the Board, and to approve it or not. With that understanding, the Senate brought the proposed modification to the Board in February 2024. The Board rejected the modification and also added a hastily articulated motion about campus autonomy (about which we had to [seek further clarity](#)). The problem was not so much the rejection as how it was done, namely, without any serious engagement with the Senate. Here, for example, is something that Board members could have asked but didn't: "You say that the modification is intended primarily to close a loophole by which an undergraduate might construct for themselves a fully online degree. While we might agree that undergraduates are better served when they have a campus community and campus experience—and that fully online undergraduate programs should be intentionally constructed and come with comparable support systems and experiential opportunities—is this modification the best way to close that loophole? And it certainly looks like an attempt to block even intentionally created fully online undergraduate degree programs, even though you say these could be approved through the granting of a variance

to systemwide regulations to campuses seeking to mount such. Is this not your actual motivation?” That was an exchange that never took place. And it was that lack of engagement that led me in my subsequent [remarks to the Board](#) in March 2024 to put forward several principles that I hoped they would embrace, and which I reiterate here:

- That when a regental policy that will impact faculty is to come before the Board, it should first undergo systemwide Academic Senate review.
- That whatever recommendations come out of such a review will be thoroughly addressed by the Board before such a policy is adopted.
- That matters within the delegated authorities of the Academic Senate only rarely and with good cause be brought to the Board as recommendations for approval under the Board’s reserved authorities.
- That whenever a matter within the delegated authorities does come to the Board for approval, there will be a full and thorough discussion of the item and a clear explanation for any variance between the Board and the Senate.

These requests have yet to be explicitly affirmed by the Board, although I have seen an implicit willingness to operate according to them. I hope that I am correct in my assessment of willingness and that Academic Senate leadership will continue to press for explicit endorsement of these principles.

The Future of Shared Governance at UC

The exercise of shared governance by systemwide Senate review is the thread tying these otherwise disparate examples together, enabling faculty to contribute their expertise to policy making. Unsurprisingly and happily, these reviews rarely produce unanimity, but they do tend to produce informed consensus. While the Senate is not infallible, these reviews help ensure quality and the protection of crucial institutional values such as academic freedom. And, of course, meaningful consultation need not always entail such reviews, when much work can be done through the Senate’s committees and councils at the divisional (i.e., campus) and systemwide levels. It is also not mainly about the Regents: the Administration ought to weave review and meaningful consultation into most aspects of University business. Effective shared governance requires collaboration among the Academic Senate, the Administration, and the Board of Regents, ensuring that challenges facing us are handled effectively. These challenges include state legislative incursions on the constitutional autonomy of the University, the disruptive and transformative impacts of new technologies such as generative artificial intelligence, post-pandemic adjustments, navigating the relationship between the University’s traditional missions and its expanding

healthcare enterprise, and figuring out how to enable energetic political discourse and engagement on controversial topics without poisoning campus climate and community. On shared governance relative to the protests and encampments of the previous academic year and the responses to them, as well as the need to enhance Senate engagement in the future, I refer you to my August 14, 2024 [letter](#) on behalf of Academic Council to the president.

We will also need to work through together the new realities of academic labor relations and the unionization of employees who are also—and foremost—our students and fellow researchers. In some ways, the Academic Senate takes the shape of a faculty union, representing the views and interests of its members. But it also and importantly blurs into the Administration of the University, giving the Senate access to information and allowing for consultation in areas that would be off limits in a strict management-labor relationship. This blurring might be seen by some as compromising because it means that the Senate does not merely represent the interests of the faculty but the interests of the institution. Put another way: shared governance entails not only the recognition by the Regents and the Administration of the faculty's right to contribute to the business of the University, but also the faculty's recognition of and broad engagement in carrying out the responsibilities thereof. In this regard, the Academic Senate must also do more to communicate the value of faculty engagement in shared governance and the duty of participation, maintaining its role in representing faculty interests and contributing to the University's governance. Working cooperatively with the Administration and the Board, the Senate can help the University navigate complex issues, uphold its values, and support its missions of teaching, research, and public service.