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May 1, 2024

**RICHARD LEIB, CHAIR
UNIVERSITY OF CALIFORNIA BOARD OF REGENTS**

Re: Proposed Board of Regents Policy on Public and Discretionary Statements by Academic Units

Dear Chair Leib:

As requested, I distributed for systemwide Academic Senate review the proposed Regents Policy on Public and Discretionary Statements by Academic Units. All ten Academic Senate divisions and five systemwide Senate committees ([Academic Freedom](#), [Graduate Affairs](#), [Library and Scholarly Communication](#), [Privilege and Tenure](#), and [Affirmative Action, Diversity and Equity](#)) submitted comments. These were discussed at the Academic Council’s April 24 meeting. A summary is below but we encourage you to review the full set of comments [here](#).

We understand the policy mandates that all public and discretionary statements posted on campus academic unit websites be accompanied by a disclaimer indicating the statement should not be construed as a position of the University or the campus. It also requires academic units to post any statements on a separate webpage rather than on the main homepage of their website. Lastly, units intending to create and disseminate statements are required to develop and publish procedures consistent with the rules outlined in the policy, which are based on the 2022 Academic Senate recommendations for department political statements.¹

The policy is a significant improvement over the previously reviewed² Policy on Use of University Administrative Websites. Notably, this version enunciates clearer goals, defines key terms more explicitly, and better specifies the types of statements it covers. The policy also aligns closely with the 2022 Senate recommendations and their safeguards for free speech and academic freedom. We appreciate the more balanced and flexible approach this version of the policy takes. It generally respects the autonomy of departments and units and allows them to post statements with minimal restrictions, while also providing consistent University standards. It aims to ensure space for minority opinions to be voiced without pressure to conform. The Senate

¹ https://senate.universityofcalifornia.edu/_files/reports/rh-senate-divs-recs-for-dept-statements.pdf

² https://senate.universityofcalifornia.edu/_files/reports/senate-comments-regents-policy-on-administrative-websites.pdf

appreciates these clarifications and enhancements made to the policy in response to feedback. We commend the incorporation of guidance the Senate previously issued and other critical feedback from Senate constituents in the spirit of shared governance.

While grateful for this progress, the Senate continues to have several concerns about the proposed policy. Some definitions remain unclear, especially the distinction between “discretionary” and “public” statements, and the meaning of “academic campus unit” and “laboratory” (presumably our affiliated national laboratories is intended). Furthermore, uncertainty remains about how particular phrases, such as “posted to the unit homepage” will apply to various forms of content dissemination like embedded social media feeds. The presumed intent of the homepage policy is to put distance between a discretionary statement and the University, and to make attribution of statements to the University more difficult. However, the lack of clear guidance and a principled rationale may raise questions about what constitutes a homepage, as well as how links and their contents should be interpreted within the context of the overall policy. These ambiguities are likely to contribute to an uneven systemwide implementation.

Similarly, delegating to chancellors the responsibility for implementation, compliance, and enforcement may lead to inconsistent interpretations across campuses. Crucially, the policy definition of “discretionary statements” is sufficiently imprecise that it could be interpreted as touching on research output, given that academic content based on subject matter expertise and academic research may be perceived by some as a “discretionary” statement or “statement of opinion.” Moreover, requiring faculty to vote on statements might inadvertently have the opposite impact of its intent: singling out those with minority opinions within academic units with potentially chilling effects.

Given these concerns, we would welcome a straightforward Regents’ statement endorsing the 2022 Senate recommendations rather than the creation of new and not entirely clear bureaucratic regulations that raise issues of compliance and enforcement. It is important to highlight that the Senate recommendations were advisory, using the verb “should,” whereas the proposed Regents policy is obligatory, using “must.” We believe the UC community at the level of departments and other units of the sort largely governs itself appropriately, and we favor policies that enable successful self-regulation over more restrictive measures.

If a policy is ultimately deemed necessary, we encourage the Regents to minimize remaining ambiguities, as they are likely to present challenges during implementation. We also recommend that consistent with existing protocol, the regental policy, preferably pared back to the essentials, be accompanied by a new presidential policy to ensure clear implementation guidance and systemwide consistency.

We thank the Regents for engaging the Senate on this matter and for the opportunity to opine. Please do not hesitate to contact me if you have additional questions.

Sincerely,



James Steintrager, Chair
Academic Council

Cc: Academic Council
Vice Chair Elliott
Regent Park
Regent Sures
President Drake
Provost and Executive Vice President for Academic Affairs Newman
General Counsel and Senior Vice President Robinson
Secretary and Chief of Staff to Regents Lyall
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