



Remarks to the UC Board of Regents

Steven W. Cheung, Chair of the Academic Senate

January 22, 2025

Good morning, Regents, President Drake, faculty, students, staff, and other members of the University of California community. In the immediate aftermath of divisive expressive activities last spring that balkanized our community as never before, the University recommitted to enforcement of longstanding time, place, and manner policies to ensure safety of community members; integrity of physical assets; and unfettered access to instruction by our students. Summer anxieties about fall disruptions never materialized, much to the relief of planners at the campuses and Office of the President. This is not to say the University will be returning to the halcyon days of yesteryear and all perpetrators of misconduct—alleged and substantiated—will be released from accountability or pardoned en masse. To the contrary, there has been crescendo interest in re-examining University faculty misconduct policies and processes, with the objectives of respectively exonerating the innocent and disciplining the guilty more quickly.

There is a natural desire for rapid closure of faculty misconduct cases where factual evidence points to manifestly offensive or seemingly incriminating action attributable to the accused. Yet satisfactory closure of all cases, sensational and otherwise, must be tempered by our collective American credence that the accused is innocent until proven guilty.

This belief requires fair, equal, and just treatment of the accused and adherence to transparent procedures that are compliant with applicable state and federal laws. Failure to comply with internal procedures can result in a wide range of potential consequences, including dismissal in whole or in part of a case, reputational damage to the University, and financial penalties beyond the recovery of forgone earnings. Along this vein, U.S. criminal jurisprudence provides many examples of individuals who have been accused of committing crimes, but a new trial followed because proper procedures were not followed.

The well-known *Miranda* rights came from a case where Ernesto Miranda was charged and convicted of rape and kidnapping. His initial conviction was overturned, however, because law

enforcement interrogated him in custody without advising him of certain rights he had, for example, to remain silent and consult a lawyer. The corruption case against the late long-serving U.S. Senator Ted Stevens of Alaska is another example of why process matters. He was convicted of seven felony charges. Those convictions, however, were all set aside because law enforcement and prosecutors had violated criminal procedures. The government in the Stevens case ultimately moved to set aside the conviction, and the presiding judge not only granted the motion to set aside Senator Stevens's conviction but also held some of the prosecutors in contempt for prosecutorial misconduct.

Yet another example that highlights the importance of fair and transparent process—a case with clear and convincing evidence of egregious criminal wrongdoing—is the kidnapping of billionaire Ka-Shing Li's elder son in Hong Kong in 1996. Hong Kong gangster “Big Spender” engineered the audacious crime and boarded at Li's home while the \$1B HKD ransom money was being raised. With the handover of Hong Kong sovereignty to the People's Republic of China in July 1997, Ka-Shing Li was rumored to have filed a grievance with the new controlling government. Big Spender was found, arrested, tried, and executed in mainland China within a 60-day time window. Some may find the highly efficient process laudatory, but one wonders whether rudimentary appeal rights were accorded to Big Spender. Certainly, British Hong Kongers applying an American lens to the affair could reasonably question whether the abridgement of process in favor of expeditious case closure is worth the price of cashiering freedoms protected by civil liberties and rights.

The aforementioned cases of process improprieties have bearing on the faculty discipline and dismissal policies and process item that will be presented to the Board's Academic and Student Affairs Committee later this afternoon. They represent cautionary tales of serious consequences arising from process inattention and circumvention. With that in mind, the Academic Senate welcomes this opportunity to review procedures surrounding faculty misconduct cases and to revise those practices that are inadequately responsive to current needs. The Academic Senate will do so anchored to the shared, institutional commitment to fair, equal, and just treatment of the accused, whether they are faculty, staff, or student. Comprehensive investigations leading to hearings, and prolonged hearings in complex cases, may require time beyond any predetermined targets for elements of the process. This inevitable reality would be well served by granting additional time for good cause. As the University moves in the direction of more rapid closure of

faculty misconduct cases, it must do so by adopting process steps that foster trust, and by upholding our core values of fairness and transparency.