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OFFICE OF THE PROVOST AND
EXECUTIVE VICE PRESIDENT FOR ACADEMIC AFFAIRS

OFFICE OF THE PRESIDENT
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October 16, 2026

CHANCELLORS
ACADEMIC COUNCIL CHAIR SUSANNAH SCOTT
LABORATORY DIRECTOR KATHERINE YELICK
ANR VICE PRESIDENT GLENDA HUMISTON

RE: SYSTEMWIDE REVIEW OF PROPOSED GUIDELINES ON EXTRAMURAL SPEECH AND SIGNIFICANT INTRUSION OF MATERIAL UNRELATED TO THE COURSE UNDER APM - 015

Dear Colleagues:

Enclosed for systemwide review are proposed guidelines on extramural speech and APM - 015, The Faculty Code of Conduct, Section II.A.1(b) in relation to what may or may not constitute "significant intrusion of material unrelated to the course."

These proposed systemwide guidelines were developed by a Joint Senate-Administration Taskforce on Expressive Activities, the successor to a Joint Senate-Administration Workgroup that was charged in 2024 with developing recommendations to help the University comply with California's Budget Act of 2024 (SB 108). Specifically, the 2024 Joint Senate-Administration Workgroup was asked to determine whether University policies (a) needed to be revised to cover expressive activities, and (b) could be designed to provide greater systemwide consistency in response to policy violations. The 2024 Joint Senate-Administration Workgroup concluded that existing University policies already address expressive activities, but recommended issuing systemwide guidelines to help calibrate disciplinary actions and promote greater consistency across campuses following a finding of a policy violation in relation to expressive activities. Interim systemwide guidelines were issued in June 2025, followed by systemwide review of the interim guidelines between August and November 2025. During systemwide review, faculty expressed a need for systemwide guidance on what may or may not constitute an APM - 015 policy violation related to expressive activities.

Following issuance of the final systemwide guidelines to help calibrate disciplinary actions following a finding of a policy violation related to expressive activities in February 2026, then-Provost and Executive Vice President Katherine Newman and then-Academic Council Chair Ahmet Palazoglu charged a Joint Senate-Administration Taskforce on Expressive Activities with developing systemwide guidance on what may or may not constitute a policy violation related to extramural speech and "significant intrusion of material unrelated to the course." The Taskforce was co-chaired by University Committee on Privilege and Tenure Chair Michael Robinson-Dorn and Vice Provost Monica Varsanyi.

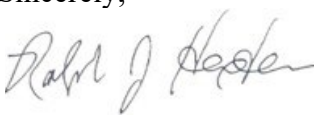
The Taskforce met on nine occasions between February and June 2026 and developed draft systemwide guidelines consisting of 16 FAQs and an appendix of relevant policy provisions. The FAQs build upon prior work developed by Professor Brian Soucek and Professor Seana Shiffrin during the University's 2024 systemwide review and are organized into two sections: extramural speech and significant intrusion of material unrelated to the course. The FAQs are intended to provide guidance to faculty and administrators on how existing University policies may apply in common situations involving extramural speech and courses. Both sections of the FAQs address illustrative scenarios, explain how existing University policy may apply in those circumstances, and identify when the conduct may or may not provide the basis for potential discipline under APM - 015. The Appendix to the FAQs includes excerpts from relevant University policies, including APM - 010, Academic Freedom; APM - 015, The Faculty Code of Conduct; and Regents Policy 2301, Policy on Course Content. These FAQs provide interpretive guidance regarding the application of existing University policies; they do not establish new policy requirements or standards.

Systemwide Review
Systemwide review is a public review distributed to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community, especially affected employees, about policy proposals. Systemwide review also includes a mandatory, 90-day full Senate review.

Although this is not a policy proposal, employees should be afforded the opportunity to review and comment on the draft guidelines, available on the Systemwide Academic Personnel website. Attached is a Model Communication which may be used to inform non-exclusively represented employees about the draft guidelines. Systemwide Labor Relations at the Office of the President is responsible for informing the bargaining units representing union membership.

We would appreciate receiving your comments no later than January 29, 2027. Please submit your comments to SystemwideAP-PolicyReviewComments@ucop.edu. Please indicate "FAQs" in the subject line. If you have any questions, please contact Rebecca Woolston, Associate Director, Academic Policy and Policy Exceptions, at Rebecca.Woolston@ucop.edu.

Sincerely,



Ralph J. Hexter
Interim Provost and
Executive Vice President for Academic Affairs

Enclosures:
(1) Draft Systemwide Guidelines on Extramural Speech and Significant Intrusion of Material Unrelated to the Course
(2) Model Communication

cc: President Milliken
Executive Vice Chancellors/Provosts
Executive Vice President and Chief Operating Officer Nava
Executive Vice President Rubin
Senior Vice President and Chief Compliance & Audit Officer Bustamante
Vice President Brown
Vice President Gullatt
Vice President Henderson
Vice President and Chief of Staff Kao
Vice President Maldonado
Vice Provost Varsanyi
Academic Council Vice Chair Nuru-Jeter
Vice Provosts/Vice Chancellors for Academic Affairs/Academic Personnel
Deputy Provost Lee
Deputy General Counsel Woodall
Assistant Vice Provosts/Assistant Vice Chancellors for Academic Affairs/Academic Personnel
Associate Vice President Matella
Associate Vice President McRae
Chief Policy Officer McAuliffe
Executive Director Anders
Executive Director Lin
Executive Director Menezes
Executive Director Spear
Chief of Staff Beechem
Chief of Staff Levintov
LBL Chief of Human Resources Officer Crosson
Managing Counsel Essick
Managing Counsel Meltzer
Director Chin
Director Weston-Dawkes
Associate Director Woolston
Assistant Director LaBriola
Labor Relations Manager Ishaya
Policy Analyst Durrin
Research and Policy Analyst Sali
Policy Analyst Wilson
Program Policy Analyst D'Agostino

DRAFT: Systemwide Guidelines on Extramural Speech and Significant Intrusion of Material Unrelated to the Course

When faculty teach or engage in extramural speech, three University policies establish the parameters of expression that is protected and expression that may be subject to discipline. APM - 010 recognizes that "[t]he principles of academic freedom protect . . . freedom of teaching, and freedom of expression and publication"[1] and that "[t]he exercise of academic freedom entails correlative duties of professional care when teaching, conducting research, or otherwise acting as a member of the faculty. These duties are set forth in the Faculty Code of Conduct (APM - 015)."

APM - 015, Part II, Section A provides examples of the types of conduct which are presumptively subject to University discipline, including allowing "significant intrusion of material unrelated to the course." Regents Policy 2301, Policy on Course Content, is complementary to APM - 015 and refers to, among other things, the "[m]isuse of the classroom by, for example, allowing it to be used for . . . purposes other than those for which the course was constituted . . ." as the misuse of the University as an institution. Regents Policy 2301 also states that: "no campus, no academic college, no department, and no instructor [shall] distort the instructional process in a manner which deviates from the responsibilities inherent in academic freedom."

The following FAQs have been developed to provide guidance to faculty about how University policies may apply in common scenarios regarding extramural speech and instructional responsibilities. The FAQs are divided into two sections. The first section addresses extramural speech, and the second section addresses significant intrusion of material unrelated to the course. Both sections address specific common scenarios that may occur and whether they may or may not potentially constitute a policy violation and provide the basis for potential discipline under APM - 015.

For all the scenarios provided that are related to extramural speech, the responses provided are premised on the assumption that the faculty member's extramural speech does not separately constitute a violation of the law or standards of professional conduct in APM - 015, The Faculty Code of Conduct. Speech, whether extramural or not, can be subject to disciplinary action under APM - 015 when it constitutes, *e.g.*, discrimination, harassment, a serious violation of other University policies, breach of established rules governing confidentiality in personnel procedures, or otherwise can be shown both to be inconsistent with the ethical values described in APM – 015 and to "significantly impair the University's central functions," namely, that the University seeks to provide and sustain a free environment conducive to sharing, extending, and critically examining knowledge and values, and to furthering the search for wisdom.

[1] While both APM - 010 and the U.S. and California constitutions provide protections for extramural speech—that is, speech that occurs beyond the scope of a faculty member's employment—the following FAQs focus on the protections and responsibilities established through University policies.

The Appendix contains relevant excerpts from the aforementioned University policies. All faculty are encouraged to read both the excerpts in the Appendix, as well as the full text of APM - 010, APM - 015, and Regents Policy 2301.

Section I: Extramural Speech

1. **Can a faculty member be subject to a disciplinary action for extramural speech (for example, an op-ed, blog post, interview, or social media post) because it criticizes the University or its leadership?**

   A: No. The fact that a faculty member's speech is critical of the University or its leadership, cannot provide a basis for disciplinary action under APM - 015.

2. **Can a faculty member be disciplined because their extramural speech expressed a view with which prominent donors, politicians, students, or parents disagree?**

   A: No. The mere fact that individuals inside or outside the University community object to a faculty member's extramural speech because they disagree with it cannot provide a basis for a disciplinary action, even when the disagreement results in threats to withhold funding or the loss of funding.

3. **Can a faculty member be disciplined for reposting or linking to controversial speech on their personal social media account when faculty at other universities have been disciplined for similar posts?**

   A: The University recognizes that to discuss controversial matters and controversial speech, faculty will sometimes quote and otherwise draw attention to the speech of others. The fact that speech was disciplined at a different university is not pertinent to whether it is protected at the University of California. Describing a controversy and offering a link to the controversial speech of others is not itself a basis for discipline. However, when reposting speech would itself constitute a true threat or harassment, would misappropriate the research of others, or would otherwise violate APM - 015, it may justify a disciplinary action, just as an original post that constitutes a true threat or harassment, is a misappropriation, or is another policy violation, may constitute a basis for discipline. An important factor in evaluating any potential disciplinary action is context, such as whether the faculty member was aware of the content of the original post and knowingly reposted the speech.

4. **Can a faculty member be disciplined by the University for extramural speech that a court finds defamatory concerning a public official?**

   A: No. Being subject to liability for one's extramural speech is not itself a basis for discipline. For discipline to be warranted, the University must demonstrate that either the conduct violates a specific provision of APM - 015 or is otherwise inconsistent with the ethical principles in APM - 015 and seriously impairs the University's central functions.

5. Can a faculty member be disciplined for participating in a nonviolent protest?

A: No. Participating in nonviolent protest on or off campus, as such, does not constitute a basis for discipline. If, however, the faculty member's participation in the nonviolent protest violates a campus's time, place, and manner policy or other University policies pertaining to their responsibilities and conduct, that violation may constitute a potential basis for discipline. In addition, conduct that would otherwise be subject to sanction as a violation of APM - 015 would not be immune from potential discipline simply because it took place during a nonviolent protest.

6. What are some examples of extramural speech for which a faculty member could be disciplined?

A.1: Purporting to speak on behalf of the University or any entity closely affiliated with the University (e.g., affiliate hospitals, natural reserve) when not authorized to do so, including through social media or other communications outside of work, may be subject to investigation and could result in discipline under APM - 015. Pursuant to APM - 015, "Faculty members have the same rights and obligations as all citizens. They are as free as other citizens to express their views and to participate in the political processes of the community. When they act or speak in their personal and private capacities, they should avoid deliberately creating the impression that they represent the University." Unacceptable conduct includes, "[i]ntentional misrepresentation of personal views as a statement of position of the University or any of its agencies. (An institutional affiliation appended to a faculty member's name in a public statement or appearance is permissible, if used solely for purposes of identification.)"

A.2: A faculty member's use of social media in a manner that, under University policy, [2] may constitute harassment of another member of the University community[3] may be subject to investigation and could result in discipline, despite the fact that the harassment occurs through off-campus extramural speech, and not in the course of teaching or supervising students or working with staff or colleagues. As noted in the response to FAQ #1, APM - 015 protects the right of faculty members to criticize the University, its leadership, or University administrators, including instances in which a faculty member engages in persistent criticism of University administration. However, University policy does not protect speech that violates federal and state anti-discrimination laws.

A.3: Engaging in criminal use of social media that leads to a conviction that demonstrates unfitness to continue as a faculty member may be subject to investigation and could result in discipline as stated in APM - 015 II.E.2, whether the conduct was directed at a member of

[2] Anti-Discrimination Policy and the Sexual Violence Sexual Harassment Policy

[3] *Id*. (University Community Members as defined in the Anti-Discrimination Policy and the Sexual Violence Sexual Harassment Policy are any members of the University community, including faculty and other academic appointees, staff, student employees, students, coaches, clinicians, residents, interns, and third parties (such as contractors, volunteers, vendors, visitors, guests, and patients).

the University community or not.

Section II: Significant Intrusion of Material Unrelated to the Course

7. What counts as a "significant intrusion" under APM - 015?

A: APM - 015 II.A.1(b) defines as unacceptable conduct the "[f]ailure to meet the responsibilities of instruction, including . . . significant intrusion of material *unrelated to the course*" (emphasis added). The germaneness of a topic to a particular course or to the context of study is, therefore, an essential consideration in assessing any potential violation of APM -015 Section II.A.1.b.

Questions about the germaneness of material, and, for non-germane material, the "significance" of the intrusion will necessarily require context-dependent academic judgments. Relevant factors include: The relationship of the material to the course or to the context of its study; the extent to which the material has a pedagogical as opposed to merely personal or political purpose; the duration and frequency of any intrusions; the degree to which the intrusion displaces course content that would otherwise be covered; and whether the faculty member makes it sufficiently clear that engagement with unrelated material will play no role in a student's academic assessment.

8. What steps can faculty take to reduce concerns about potentially violating APM - 015, The Faculty Code of Conduct, Section II.A.1(b), related to failure to meet the responsibilities of instruction because of "significant intrusion of material unrelated to the course?"

A: The following practices may reduce concerns about violating APM - 015, but, as actual situations can be nuanced and complex, they should not be read as practices that guarantee that one cannot be found to have violated Section II.A.1(b):

1. connecting material to identifiable pedagogical purposes germane to the course (*e.g.*, identifying how material relates in a germane manner to the course, the broader context in which the material is studied, or to methodology of the field);

2. avoiding repeated and/or extensive introduction of materials that are unrelated to the course or to other identified pedagogical purposes;

3. assuring students that their grade and relationship with the faculty do not depend on agreeing with the faculty's opinions (*e.g.*, the faculty member will not assign extra credit for engaging with extraneous materials or adjust a student's grade based on whether their work demonstrates agreement or disagreement with the faculty member's opinion or causes for which the faculty member expresses support);

4. over the term, ensuring that matters related to course instruction and goals remain the primary focus of class time;

5. refraining from attempts at indoctrination (per FAQ #15).

9. **Are faculty prohibited from referencing breaking news, current events, or campus controversies in class?**

   A: There is no general prohibition on referring to political or controversial issues in class. The subject matter of the course will determine whether such references are germane to what is studied or whether it may help students apply what they have learned to the contemporary environment. In addition, whether such references are germane or appropriate depends on the location, context, and type of class, and the applicable established professional and ethical standards and norms that apply based on national, local, and regional standards (e.g., clinical teaching where patients or clients are present).

   In courses where these references do not obviously relate to the course or illuminate material in the syllabus, such references may still serve other pedagogical purposes, such as acknowledging a source of concern, distraction, or common circumstances that influence the conditions of teaching, learning, or research. Where the references do not relate to the subject matter of the course or the conditions affecting its study, the faculty member should ensure that the references and ensuing discussion are of limited duration and do not significantly displace the curriculum of the course.

10. **What constitutes "material" in "significant intrusion of material" in APM – 015 Section II.A.1(b)? Are readings written by someone other than the instructor considered "material"? Does the answer depend on whether they are on the syllabus or merely noted in a lecture? Assigned or merely optional? Do crafted Zoom backgrounds in online course sessions with political messages or imagery count as "material"? Are statements the faculty member makes during office hours or in emails to students (possibly a subset of them) "material"?**

    A: All communications, whether spoken, written, or non-verbal, including crafted Zoom backgrounds, readings, videos, and third-party presentations, which a faculty member calls to the attention of students in the faculty member's role as the course instructor, are "material" for the purposes of APM - 015 Section II.A.1(b). This is true even if the communications are not made during a class session, provided that they are made by the faculty member in their role as instructor of the course.

11. **May a faculty member express their personal identity or views in the classroom, for example, by wearing a political t-shirt to class, crafting a Zoom background highlighting their national identity, or bringing a water bottle festooned with stickers?**

    A: While there is generally no dress code for faculty in the classroom at the University of California (examples of exceptions are teaching in a wet lab and clinical teaching), nor is there a requirement that faculty hide what may be important features of their lives and identity (including their religious affiliations, orientation, gender identity, marital status, political opinions, connections to family members and pets, sports enthusiasms, or life-sustaining hobbies), faculty should exercise professional judgment in balancing their right to self-expression with their responsibility to maintain an instructional environment that

supports learning and fair treatment. In addition, in exercising professional judgment, the faculty member should consider the location, context, and type of class, and the applicable established professional and ethical standards and norms that apply based on national, local, and regional standards (e.g., clinical teaching where patients or clients are present). Sharing some details of one's life is one pedagogical method by which some faculty generate connection with their students. It should be made apparent that students will not be favored or disadvantaged based on whether they share these features, identities, opinions, or interests.

12. Can faculty discuss issues not related to the course content outside of the physical classroom, during the semester/quarter, with students who are enrolled in their course?

A: Yes. Faculty may discuss issues not related to the course content outside of the physical classroom during the semester/quarter with students who are enrolled in their course. However, if the faculty member engages in a discussion of issues not related to the course outside of the physical classroom, they should make clear that the discussion will play no role in the assignment of a grade for the course, and that students are not expected to share any particular viewpoint. All other provisions in the Faculty Code of Conduct with respect to responsibilities in engaging with students, colleagues, and the community remain in effect.

13. Are faculty prohibited from discussing issues not related to the course content during office hours and independent studies?

A: Office hours and independent studies often involve both instruction and mentorship and provide an opportunity for students, either individually or in groups, to discuss a broader range of topics, including the course itself, the academic field/discipline, the academic environment, research applications not covered in the course, the broader context in which the material is studied, as well as the student's academic program, their career trajectory, or personal challenges they are facing. Under APM - 210, mentoring, which is a component of teaching, "may focus directly on scholarly activity or on efforts to create conditions that promote scholarly activities . . . [including] non-scholarly support (*e.g.*, life skills, referrals to behavioral and/or health resources, social-emotional development) . . ."

Although it is natural that faculty may discuss a wide range of topics with students, faculty should exercise professional judgment in their interactions with students during office hours or independent studies and should make it clear that students are not expected to share any particular viewpoint and that the student's status in the course does not depend on agreement with opinions the faculty member expresses. If the faculty member is engaged in discussions outside the subject matter of the course or independent study program, it should be made clear that the discussion will not play a role in determining grades or standing in a program. Equally important, faculty should remain mindful of the power dynamics in the faculty-student relationship and should not engage in comments or discussion that exceeds the bounds of professional interactions.

14. Might speech that is acceptable in one course represent a violation of the Faculty Code of Conduct in a different course?

A: Yes. APM - 015 Section II.A.1(b) defines as unacceptable conduct: "Failure to meet the responsibilities of instruction, including . . . significant intrusion of *material unrelated to the course*" (emphasis added). The germaneness of a topic to a particular course or to the context of study is an important consideration in assessing any potential violation of the Faculty Code of Conduct. For example, a faculty member's extensive discussion of an ongoing foreign conflict in an introductory engineering course could implicate this provision of the Faculty Code of Conduct in a way that the same discussion might not in a political science course on just war theory. Alternatively, in a graduate-level course on engineering, in which students may be preparing for careers in which outside funding is essential, it may be appropriate to discuss the potential impact of the foreign conflict on the domestic funding environment. A discussion of the potential impact of the foreign conflict on visas to study in the United States may be relevant to undergraduate and graduate students alike. As explained in FAQ #8, whether the speech represents "significant intrusion" depends on context, including germaneness (*e.g.*, its relationship to pedagogical purposes), duration, repetitiveness, and manner.

15. What constitutes political indoctrination under Regents Policy 2301?

A: Faculty are not barred from offering courses that explore specific points of view, causes, or ideologies, or that start from certain premises that might be fruitfully contested in other courses or by other instructors. Such a focus does not constitute indoctrination. There is no requirement that syllabi, course sessions, or the course as a whole achieve value-neutrality. The faculty member has the right and responsibility to exercise their professional discretion to determine the content of the class and the time devoted to classroom discussion.

Regents Policy 2301 prohibits the "distort[ion] of the instructional process in a manner which deviates from the responsibilities inherent in academic freedom," including the "[m]isuse of the classroom by, for example, allowing it to be used for political indoctrination . . ." The term "political indoctrination," as set forth in Regents Policy 2301, means proselytizing in the classroom with an effort to coerce students and without an openness to other points of view.[4]

[4] In September 2005, a Discussion/Action Item was presented to the members of the Special Committee on Regents' Procedures relevant to proposed revisions to Regents' Policy Compendium, including Regents Policy 2301. Discussion of the Policy Concerning Course Content was that "this policy states the right of students to be free from proselytizing in the classroom . . . In addition, it has long been the practice to permit faculty to express points of view in the classroom, including points of view on controversial and current issues, if done within proper constraints (*e.g.*, not as an effort to coerce students, and with an openness to other points of view.). The faculty as a whole is entrusted with enforcing proper standards, subject to the ultimate authority of the Administration." These principles are also underscored in various statements and reports issued by the American Association of University Professors (AAUP). "[I]ndoctrination occurs whenever an instructor insists that students accept as truth propositions that are in fact professionally contestable. If an instructor advances such propositions dogmatically, without allowing students to challenge their validity or advance alternative understandings, the instructor stands

16. What are some examples of conduct that are and are not presumptive violations of Regents Policy 2301 and APM - 015 for the "[f]ailure to meet the responsibilities of instruction [as a result of the] significant intrusion of material unrelated to the course"?

A1: The following are examples of conduct that may be violations of Regents Policy 2301 and APM - 015:

1. A professor cancels discussion sections of their course to join a political protest called to draw students' attention to a larger social movement. The course syllabus explicitly noted that students were expected to attend and participate in weekly discussion sections as part of the course requirements. The cancellation of the discussion sections contradicts the course expectations. While noting that the movement and cancellation of classes are governed by local campus policies, and while noting that Regents Policy 2301 acknowledges that students are free to engage with matters of interest to them outside of class, it cannot be argued successfully that it is necessary to interrupt progress of an academic course or to modify grading procedures to force extraneous or irrelevant discussion on matters of public concern.

2. A professor cancels their regularly scheduled course meeting in support of a General Strike called to recognize recent acts of political violence and instead holds an optional discussion at the regularly scheduled class time to provide a forum for students to discuss the external events, which bear no relation to the subject matter of the course. Communication from the faculty member to the members of the class clearly states that the cancellation is in support of the General Strike and its objectives. The cancelling of the course explicitly in support of a General Strike is an inappropriate use of the classroom under Regents Policy 2301, as well as under APM - 015, which prohibits both: 1) the unauthorized use of University resources on a significant scale for personal, commercial, political, or religious purposes; and 2) significant failure to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled.

A2: The following are examples of conduct that are likely not violations of Regents Policy 2301 and APM - 015:

1. In response to an act of political violence and the ensuing demonstrations on campus, a faculty member notifies their class that regularly scheduled class sessions will move from in-person to remote. The faculty member expresses concern about

guilty of indoctrination . . . Vigorously to assert a proposition or a viewpoint, however controversial, is to engage in argumentation and discussion – an engagement that lies at the core of academic freedom. Such engagement is essential if students are to acquire skills of critical independence. The essence of higher education does not lie in the passive transmission of knowledge but in the inculcation of a mature independence of mind." AAUP 2007 report, Freedom in the Classroom, p. 55.

the developments globally and on campus and notes the change in course delivery is based on concerns about the evolving situation, but that no regularly scheduled course sessions will be missed and that the content of the course will follow the syllabus. (Note: a campus may have rules and/or policies governing the ability of a faculty member to unilaterally change the mode of instruction—*e.g.*, from in-person to online—violation of those rules/policies may result in discipline independent of Regents Policy 2301 or the provisions of APM - 015 that pertain to course material, such as Section II.A.1(b).)

2. A faculty member shares with their class that they will be participating in a teach-in event in support of a community recently targeted by acts of violence. In an isolated email communication to the class, the faculty member shares the title of their presentation and explicitly states that this activity will not be associated with the course or the University, and that there is no expectation that any student will participate. The activity will not be during the faculty member's regularly scheduled course sessions, discussion sessions, or office hours. Further, the email communication excludes any language that explicitly or implicitly promises any kind of benefit, such as extra credit, for participation in this activity.

Appendix: Relevant University Policy Excerpts

Policy Excerpts Related to Extramural Speech and Significant Intrusion of Material Unrelated to the Course

Faculty members are entitled to the academic freedom protections described in APM - 010 as well as the constitutional right to free expression, which all University employees enjoy. Both APM - 010 and the U.S. and California constitutions provide protections for extramural speech - that is, speech that occurs beyond the scope of a faculty member's employment.

However, this does not mean that extramural expression by faculty may never be subject to discipline. Constitutional protections for speech by government employees extend only to speech on matters of public concern, as long as its value is not outweighed by the disruption it causes to the University's ability to carry out its mission, which itself should be understood to incorporate a commitment to academic freedom and shared governance. The protections of APM - 010 and APM - 015 are more concretely articulated. Under those policies , extramural speech by faculty is not subject to discipline unless it falls within one of the prohibited categories identified in APM - 015 (see below) or otherwise can be shown both to be inconsistent with the ethical values described in APM - 015 (drawn from the American Association of University Professors' Statement on Professional Ethics) and to "significantly impair the University's central functions," namely, "to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and further the search for wisdom."

APM - 015 protects the rights of faculty both to enjoy "constitutionally protected freedom of expression" and "to be judged by one's colleagues, in accordance with fair procedures and due process, in matters of promotion, tenure and discipline, solely on the basis of the faculty members' professional qualifications and professional conduct."

APM - 010, Academic Freedom

APM - 010 provides in relevant part:

> "The University of California is committed to upholding and preserving principles of academic freedom. These principles reflect the University's fundamental mission, which is to discover knowledge and to disseminate it to its students and to society at large. The principles of academic freedom protect freedom of inquiry and research, freedom of teaching, and freedom of expression and publication. These freedoms enable the University to advance knowledge and to transmit it effectively to its students and to the public. The University also seeks to foster in its students a mature independence of mind, and this purpose cannot be achieved unless students and faculty are free within the classroom to express the widest range of viewpoints in accord with the standards of scholarly inquiry and professional ethics. The exercise of academic freedom entails correlative duties of professional care when teaching, conducting research, or otherwise acting as a member of the faculty . . ."

> "Academic freedom requires that teaching and scholarship be assessed by reference to the professional standards that sustain the University's pursuit and achievement of knowledge. The substance and nature of these standards properly lie within the expertise and authority of the faculty as a body. The competence of the faculty to apply these standards of assessment is recognized in the Standing Orders of The Regents, which establish a system of shared governance between the Administration and the Academic Senate. Academic freedom requires that the Academic Senate be given primary responsibility for applying academic standards, subject to appropriate review by the Administration, and that the Academic Senate exercise its responsibility in full compliance with applicable standards of professional care."

APM - 010 goes on, in Appendix B, to state:

> "[T]he faculty has the major responsibility to establish conditions that protect and encourage all students in their learning, teaching, and research activities. Such conditions include, for example: free inquiry and exchange of ideas; the right to critically examine, present, and discuss controversial material relevant to a course of instruction; enjoyment of constitutionally protected freedom of expression; and the right to be judged by faculty in accordance with fair procedures solely on the basis of the students' academic performance and conduct."

APM - 015, The Faculty Code of Conduct

APM - 015, The Faculty Code of Conduct, provides that "the faculty's privileges and protections, including that of tenure, rest on the mutually supportive relationships between the faculty's special professional competence, its academic freedom, and the central functions of the University. These relationships are also the source of the professional responsibilities of faculty members." It also provides that, "it is the intent of the Faculty Code of Conduct to protect academic freedom, to help preserve the highest standards of teaching and scholarship, and to advance the mission of the University as an institution of higher learning."

The Professional Rights of Faculty under APM - 015, Part I, states, in relevant part, conditions that support the faculty in teaching, learning, research, and public service, including:

> "free inquiry and exchange of ideas; the right to present controversial material relevant to a course of instruction; enjoyment of constitutionally protected freedom of expression; freedom to address any matter of institutional policy or action . . .; participation in the governance of the University . . .; the right to be judged by one's colleagues, in accordance with fair procedures and due process, in matters of promotion, tenure and discipline, solely on the basis of the faculty members' professional qualifications and professional conduct."

The concomitant professional responsibilities, ethical principles, and unacceptable faculty conduct are also provided for in APM - 015. Specifically, with respect to the imposition of discipline, APM - 015 states that:

> "University discipline under this Code may be imposed on a faculty member only for conduct which is not justified by the ethical principles and which significantly impairs the University's central functions."

APM - 015 also states:

> "University discipline, as distinguished from other forms of reproval or administrative actions, should be reserved for faculty misconduct that is either serious in itself or is made serious through its repetition, or its consequences ."

APM - 015, Part II, Section A, is organized around individual faculty members' relationships, including their relationship to teaching and students, and it explains that:

> "the integrity of the faculty-student relationship is the foundation of the University's educational mission. This relationship vests considerable trust in the faculty member, who, in turn, bears authority and accountability as mentor, educator, and evaluator. The unequal institutional power inherent in this relationship heightens the vulnerability of the student and the potential for coercion. The pedagogical relationship between faculty member and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the University."

APM - 015, Part II, Section A also provides examples of the types of conduct which are presumptively subject to University discipline, including as relevant to these FAQs: The failure to meet the responsibilities of instruction because of the "significant intrusion of material unrelated to the course." APM - 015, Section II.A.1(b)—Professional Responsibilities, Ethical Principles, and Unacceptable Faculty Conduct.

Regents Policy 2301

Regents Policy 2301, Policy on Course Content, is complementary to APM - 015 and refers to, among other things, the "[m]isuse of the classroom by, for example, allowing it to be used for . . . purposes other than those for which the course was constituted . . ." Regents Policy 2301 also states in pertinent part, that:

> "It should be understood that the Board of Regents has always recognized the importance of an "open forum policy" on the campuses, of a free exchange of ideas, and of pursuit of the truth wherever it may lead--popular or unpopular though that may be . . .
>
> Therefore, it is The Regents' policy that no campus, no academic college, no department, and no instructor distort the instructional process in a manner which deviates from the responsibilities inherent in academic freedom."

To read the policies in their entirety, please see APM - 010, APM - 015, and Regents Policy 2301.

MODEL COMMUNICATION

The University invites comments on the proposed guidance document concerning extramural speech and significant intrusion of material unrelated to the course under APM - 015, The Faculty Code of Conduct, Section II.A.1(b):

- Systemwide Guidelines on Extramural Speech and Significant Intrusion of Material Unrelated to the Course

The proposed guidelines consist of Frequently Asked Questions (FAQs) and an appendix of relevant policy provisions. The FAQs are organized into two sections: extramural speech and significant intrusion of material unrelated to the course. Both sections address illustrative scenarios, explain how existing University policies may apply in those circumstances, and identify when conduct may or may not provide the basis for potential discipline under APM - 015. The Appendix includes excerpts from relevant University policies, including APM - 010, Academic Freedom; APM - 015, The Faculty Code of Conduct, and; Regents Policy 2301, Policy on Course Content. The FAQs provide interpretive guidance regarding the application of existing University policies; they do not establish new policy requirements or standards.

The proposed guidance document is posted on the Systemwide Academic Personnel website under the "Systemwide Review" tab. It may also be viewed at _____ [*e.g., the campus Academic Personnel Office or Human Resources Office*].

If you have any questions or if you wish to comment, please contact _____ at _____, no later than _____, 2027.