

Date: February 21, 2024

To: Andrea M. Kasko, Chair, Academic Senate

From: Diana Messadi, Chair, Committee on Privilege and Tenure

CC: Kathleen Bawn, Vice Chair/Chair-Elect, Academic Senate
Jessica Cattelino, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Marian M. Olivas, Principal Policy Analyst, Academic Senate
Members of the Committee on Privilege and Tenure

Re: Proposed UCLA Time Place and Manner Policies

At its meeting on February 14, 2024, the Committee on Privilege & Tenure (P&T) had an opportunity to discuss the Executive Board's request for advisement on a set of UCLA Policies deemed as "Use Policies" or "Time Place and Manner Policies." These proposed policies include: General Use of University Property (with definitions); Public Expression Activities Policy (with Map of Areas for Public Expression Activities); and Organized Events. Many of the elements of the proposed "General Use of University Property" (General Use) parallel Regents "[Regulations Governing Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California](#)." The General Use proposed policy, however, is more expansive and applies equally to students and employees, including faculty. According to the introduction: "The Use Policies are designed to protect and promote the rights of members of the University, prevent interference with UCLA functions or activities, and assure compliance with all pertinent laws and other applicable University Policies."

The proposed policy is relatively straightforward but with some ambiguities which we address below. Committee members agreed in general that faculty have a right to expect general protection in order to carry out their work. Insofar as this policy is intended to ensure personal safety of University students and employees, members are supportive of the detailed lists of the "Strictly Prohibited" list. Members are hopeful this signals that there will be more enforcement of "non-affiliates" who not only camp out on University property, but become a threat to persons or property. One objection to this list is the inclusion of marijuana and other tobacco products. For one, many faculty conduct research involving cannabis and tobacco products. In addition, it is unclear if the University's non-smoking policy, which was passed several years ago, includes marijuana, which was not legal at that time.

Members also found that the proposed policy may already be out-of-date owing to recent experience with (a) COVID and how the need for appropriate preventative health measures may change the guidelines; (b) strikes and union activities that sometimes present a physical threat to faculty, staff, and students; (c) physical security for individual faculty, staff, and students that sometimes accompanies

major events (vs the emphasis on disrupting an event); (d) the policy does not address continued diversification of work sites associated with the campus through satellite medical facilities and new locations ranging from downtown to the Westside Pavilion and all of the implications for freedom of expression and safety; and (e) increased use of remote communications via Zoom for academic and non-academic events, including (but not limited to) the potential for disruption such as "Zoom bombing" and other activities which, had they occurred in person, could be considered equally disrupting and/or threatening.

As mentioned above, Regents regulations (and possibly existing laws) already allow exclusion of Non-Affiliates for the reasons articulated in this proposed policy. Members were concerned about provisions discussing enforcement for faculty and a risk of possible arbitrary enforcement. According to the proposed policy, if the Vice Chancellor Academic Personnel (Chancellor's designee for Faculty and Emeriti Faculty) determines there is reasonable cause to believe (a very low standard of proof) the individual has Willfully Disrupted the orderly operation of the campus or University Property, individuals may be excluded from University Property campus for up to fourteen (14) calendar days. Individuals may request a hearing before the Administrative Vice Chancellor; if requested, the hearing must be held within seven (7) days. In addition to exclusion, the policy indicates the possibility that faculty might be subject to discipline if they are deemed to have violated the policy: "Violation of University or UCLA policies may subject a person to legal penalties; if the person is a Student or Employee of the University, that person may also be subject to discipline in accordance with University and UCLA policies." It is unclear who would decide that policy had been violated and what standard would be used. Exclusion, presumably used for safety reasons, only requires "reasonable cause to believe" there was a willful disruption. Members also thought there should be clarification as to when "willful disruption" becomes subject to police intervention rather than a determination by the Chancellor.

Members had concerns about the use of the word "obligation" for event organizers and senior administrators, who are required to "promptly alert the Administrative Vice Chancellor ("AVC") at adminvc@ucla.edu or UCPD" if they become "aware of a possible demonstration likely to occur at the Major Event." The provision claims that the "reporting obligation" arises from a recommendation from the [Edley-Robinson Report](#) (2012), a 158-page report written in response to physical altercations between police and protestors on UC Davis and Berkeley campuses. That report, however, encourages communication by organizers and senior administrators with potential protestors in positive terms (p. 56 ff) as part of efforts to prevent clashes or police intervention during a protest. Nowhere does it recommend an enforced reporting "obligation." This seems heavy-handed, especially since it could apparently be enforced even for a "possible" demonstration and could lead to a culture of suspicion and accusation rather than the dialogue that is encouraged in the Edley-Robinson Report.

Members had a few other concerns not directly related to faculty rights which we list here: Whether University employees and students should have the same speech restrictions as Non-Affiliates; the policies seem more focused on disruptions of protests and protection of campus structures than on safety; there four areas that allow public expressions do not include any designated areas near south campus/ the medical complex; It is unclear why up to \$1,000,000 per year is dedicated to RCO or

University Unit sponsored event security and only \$250,000 to host a free speech related event by a Non-Affiliate. Arguably, Non-Affiliate events might carry a higher security risk.

In addition to the above comments, members had some recommendations:

- The Administration should provide clarity on how they propose to enforce this consistently.
- The Administration should also provide some actual examples of incidents with an explanation of why other policies are insufficient and how the particulars in this policy will help.
- How will responsible parties differentiate between a threat and simple harassment? Some faculty, for example, felt harassed to sign petitions or to take part in an action. When might this become disruptive or a threat? There is also no mention at all of hate speech. There should be a better definition of a threat.
- There should be a clear clause that protects faculty rights.

If you have any questions for us, please do not hesitate to contact me at dmessadi@dentistry.ucla.edu or via the Committee's analyst, Marian Olivas, at molivas@senate.ucla.edu.

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