To: Andrea M. Kasko, Chair, Academic Senate
From: Brett Trueman, Chair, Charges Committee
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 Charges Committee
Date: April 9, 2024
Re: Proposed Regents Policy on Public and Discretionary Statements by Academic Units
    (Previously: Use of University Administrative Websites)

Thank you for giving us the opportunity to comment on the “Proposed Regents Policy on Public and Discretionary Statements by Academic Units,” which replaces the previously proposed policy “Use of University Administrative Websites.”

This new proposal closely resembles one proposed by UCLA Administration in the Fall. The Charges Committee expressed serious reservations about that policy (See November 3, 2023 letter), several of which apply to this proposal. In addition to the reservations previously expressed, the lack of uniform procedures is concerning. Instead, the policy leaves it to individual Academic Campus Units (widely defined as departments or divisions [both academic and nonacademic] as well as other official) to develop, publish, and implement procedures that are supposed to meet ‘Requirements for Public Statements’ and ‘Requirements for Discretionary Statements.’

Conforming with the Faculty Code of Conduct is just one of these requirements. Yet, nothing in the policy provides for review of these procedures to ensure they comply with the requirements, let alone the proper mechanism for enforcing misuse of the process.” As the Committee responsible for assessing probable cause of violations of the Faculty Code of Conduct this is especially troublesome.

The Committee again wonders: Why is this even needed when individuals and groups of individuals may use private means to make statements? As noted at the start of the new proposal “While individual members of the University community are free to express constitutionally protected viewpoints through all non-official channels [emphasis added] of communication, long-standing principles of academic freedom and free speech have recognized that when University community
members speak or write as individuals, they should make every effort to indicate that they are not speaking for the institution.” No rationale is offered for why there is need for a policy that allows units to use official channels such as their Campus Unit name to make discretionary “comments on institutional, local, regional, global or national events, activities or issues” and, further, to use University website and other dissemination resources to see that these are “distributed, disseminated, posted online or otherwise shared via mass distribution with University constituencies or the public.”

Further, in response to the UCLA proposal, the Charges Committee members expressed “concerns that UCLA itself, as one of the divisions of the University of California, is an “Academic Campus Unit.” As such, should the Chancellor or Vice Chancellors be allowed to make statements on behalf of UCLA without meeting the standards and providing the disclaimers outlined in the proposed procedures?” Along this line, one member wrote: “The definition of ‘academic unit’ continues to be a problem [in the Regents proposed policy] since it appears to confer transcendent status on figures in the administration who apparently can continue to claim to speak for the entire campus without any consequences for themselves. Why the administration should have this privilege while faculty can only speak for themselves is far from clear.”

In sum, while a few members felt that the provisions for disclaimers and keeping statements off of main pages might be sufficient, the majority of comments showed concern about the rush to issue a policy in the first place. Since they require review by the Legislative Assembly (at least at UCLA), the deferral to units to establish “bylaws” might be workable, but allowing units to establish “policies” gives unprecedented authority to units.

Charges members who provided comments to the January proposal request that those comments continue to be considered.¹

¹ See: Charges to EB re Administrative Websites, February 26, 2024.