To: Andrea 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

Date: April 9, 2024

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

The Privilege and Tenure Committee (P&T) members received this proposed policy from the Regents and were invited to submit comments on it by today. In general, P&T members are dismayed by the various rushed attempts at a policy that would allow, but restrict, use of UC Websites to issue “public and discretionary statements” by various configurations of Academic Units. First, in Fall, 2023, the UCLA Administration issued a proposed policy which P&T members found to be disjointed and unenforceable. Apparently, others also found it problematic and it was tabled. Then, in January the Regents proposed a policy on the “Use of Administrative Websites.” P&T found the January proposal to be vague and imperfect (although, in their opinion, preferable to the UCLA version). The Regents’ January proposal has now been scrapped in favor of the above-referenced “Proposed Regents Policy on Public and Discretionary Statements by Academic Units.”

This is completely different from their January proposal; yet, there is even less time to comment. P&T understands that the Academic Council recommended that the Regents “consider endorsing the Senate recommendations for department political statements released in June 2022.”1 While the proposed policy adopts some of the UCAF (UC Committee on Academic Freedom) recommendations which the Academic Council endorsed in June, 2022,2 it misses much of the nuance of those recommendations, including that they were meant as “best

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1 https://senate.universityofcalifornia.edu/_files/reports/senate-comments-regents-policy-on-administrative-websites.pdf
2 See: https://senate.universityofcalifornia.edu/_files/reports/rh-senate-divs-recs-for-dept-statements.pdf
practices, not mandates to campuses.” As such, these recommendations were never reviewed by campuses with an eye to create policy. Because the Regents have proposed this as a “policy” rather than guidance as recommended by the Academic Council, in P&T’s view they have missed the mark. The Academic Council’s endorsement of UCAF guidance recommendations does not constitute consultation with the Academic Senate about policy.

Because P&T Committee members find that the proposal closely resembles the UCLA Fall, 2023 proposal, they agreed to adapt their comments from Fall, 2023. However, members emphasize that their main comment is that this is far too short a time for thoughtful policy review.

1) The draft assigns authority over statements to individual academic units. It requires academic units to “create, publicize, and follow procedures that articulate the process by which such statement will be produced, posted, and archived.” These processes are to be documented in bylaws or policies written by each unit, but does not explain who should review these. Like the UCLA proposal, it allows units to reflect that the statements represent “unanimity,” “a supermajority,” or a “majority” of the Unit members. It also does not provide for who will enforce a failure to conform.

2) The draft does not offer any path for conveying the views of dissenting parties. Rather, it purports to “protect members of an Academic Campus Unit from being misrepresented or misunderstood to endorse a position that they have not chosen to endorse and to insulate them from pressure to endorse a position when they hold a minority viewpoint.”3 Should the minority be invited to submit a dissenting statement that would go out along with the majority statement? Because P&T is concerned with faculty rights, it is important to note that this seems to pose a significant imbalance of rights.

3) Issues such as (1) and (2) are consistent with a more general critique: why not simply prohibit academic units, including subsets of those units, from taking public positions in the name of those units on world affairs or political and social issues? Why not, instead, permit faculty to develop and issue their own statements, if they wish, subject to the proviso that they make clear at the outset of such statements that they are only expressing the views of the signatories, and not in any way an official view of UCLA or any academic unit of UCLA. This would protect academic freedom and allow ideas to be expressed in a much less cumbersome way, without embroiling the university directly in political matters.

4) Related to (3), the policy seems to be unnecessary and to contradict the existing Faculty Code of Conduct which already states that Faculty already have the right to “enjoyment of constitutionally protected freedom of expression.”4 “Faculty

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3 There is not even a provision for allowing a minority view to be posted.
4 Part I, Faculty Code of Conduct “Professional Rights of 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.”

5) Further, the Faculty Code of Conduct already admonishes: “When they act or speak in their personal and private capacities, they should avoid deliberately creating the impression that they represent the University.” It also forbids “Unauthorized use of University resources or facilities on a significant scale for personal, commercial, political, or religious purposes.” Why should faculty operating as “academic units” be excused from these admonitions?

These comments reflect the general sense of our committee; we are broadly concerned that this policy, with its cumbersome and difficult-to-enforce procedures, will make protecting the rights of all more challenging.

Thank you for the opportunity to review and comment. If you have any questions, 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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5 Part II, Faculty Code of Conduct E. The Community “Ethical Principles”
6 Ibid
7 Part II, Faculty Code of Conduct: E.1