

Executive Board

(Systemwide Senate Review) Regents Policy on Public and Discretionary Statementsby Academic Units

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April 19, 2024

James Steintrager
Chair, UC Academic Senate

Re: (Systemwide Senate Review) Proposed Regents Policy on Public and Discretionary Statements by Academic Units

Dear Chair Steintrager,

The divisional Executive Board (EB) appreciated the opportunity to review the proposed Regents policy on public and discretionary statements by academic units, a revision of their proposed policy on the use of university administrative websites about which the division provided comments in March 2024. EB reviewed the current proposal and divisional committee and council responses at its meeting on April 11, 2024.

Members voted unanimously in favor of a motion to decline to endorse the proposal, concluding that the Academic Council-endorsed University Committee on Academic Freedom [UCAF guidelines](#) are sufficient for helping academic units, that implementation of the proposed policy would be challenging, and that the long-standing practice where faculty indicate they are not speaking for the institution, should continue. (One student representative voted in favor of the motion.)

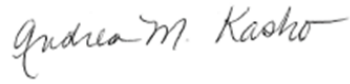
Members appreciated the improvements in this latest proposal, particularly the clarification that it would not include faculty research and teaching, and hoped that there was a shared understanding that faculty determine what constitutes research and teaching. However, they expressed concern that the current definitions of an academic unit and a discretionary statement retain a lot of ambiguity that may prove both hard to define and potential harmful to faculty research. Some members were specifically concerned that the proposed policy referred to laboratories, as it was unclear whether or not this included websites for individual PI laboratories.

Members pointed to the American Association of University Professors' [Statement of Principles on Academic Freedom and Tenure](#), highlighting the following quotation:

College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

Lastly, the Executive Board observed that robust shared governance requires faculty involvement in these important decisions about public and discretionary statements. Thus, they affirmed the [UCAF guidelines](#), which the Academic Council concluded “affirm the freedom of campus academic departments to issue or endorse statements on political or controversial issues, and outline processes that will ensure the judicious and transparent use of statements.”

Sincerely,

A handwritten signature in dark ink, reading "Andrea M. Kasko". The signature is written in a cursive, flowing style.

Andrea Kasko
Chair
UCLA Academic Senate

Encl.

Cc: Kathleen Bawn, Vice Chair/Chair Elect, UCLA Academic Senate
Jessica Cattelino, Immediate Past Chair, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate

3125 Murphy Hall
410 Charles E. Young Drive East
Los Angeles, California 90095

April 10, 2024

To: Andrea Kasko, Chair, Academic Senate
From: Catherine Sugar, Chair, Undergraduate Council
Re: Regents Policy on Public and Discretionary Statements by Academic Units

The Undergraduate Council independently reviewed the Regents Policy on Public and Discretionary Statements by Academic Units.

Among those that responded, some members appreciated that the new policy clarifies what types of statements are covered and that it carefully excludes individual faculty, while others remain concerned about many of the issues raised in the prior version of the policy. With specific regard to the mission of the Undergraduate Council, some also commented that the policy could still run afoul of research and educational content, including courses or syllabi, with topics that may be considered controversial. More broadly, members note that without further justification, the need for a policy prohibiting political statements on departmental websites remains unclear, and that limiting speech tends to be a slippery slope.

Thank you for the opportunity to opine. If you have any questions, please contact me via the Undergraduate Council analyst, Julia Nelsen, at jnelsen@senate.ucla.edu.

cc: Kathy Bawn, Vice Chair/Chair-Elect, Academic Senate
Jessica Cattelino, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Julia Nelsen, Principal Policy Analyst, Academic Senate

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

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

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

- 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.”⁶ It also forbids “Unauthorized use of University resources or facilities on a significant scale for personal, commercial, political, or religious purposes.”⁷ 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.

⁵ Part II, Faculty Code of Conduct E. The Community “Ethical Principles”

⁶ Ibid

⁷ Part II, Faculty Code of Conduct: E.1

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.

April 9, 2024

Andrea Kasko, Chair
Academic Senate

Re: (Systemwide Senate Review) Regents Policy on Public and Discretionary Statements by Academic Units

Dear Chair Kasko,

The Faculty Welfare Committee (FWC) circulated the Regents Policy on Public and Discretionary Statements by Academic Units as an independent review because of the accelerated timeline needed for comment. This policy was circulated electronically, and members commented by email, with no formal vote on a specific motion.

Members had a variety of opinions, ranging from finding the current version of the policy less objectionable than the previous version to remaining concerned about the silencing effect on departments that have social justice at the center of their teaching and research mission. While some of us are sympathetic to the current plight of leadership, the idea of censoring academic freedom to protect the UC “brand” remains chilling.

All members of the FWC who commented are concerned that the University of California should **not** be subject to policies designed by the Regents (themselves political appointees) and would have appreciated more context about revising this policy. The FWC remains concerned that this policy is an overreaction to specific academic units showing poor judgment in discretionary statements, thereby creating new and inappropriate policies to discipline faculty.

FWC members had the following specific comments:

1. *The definition of “Academic Campus Unit” continues to be too broadly defined and thus remains unacceptable.* Specifically, it is unacceptable to define a “laboratory” as a unit since this includes many personal websites of faculty members in STEM. This policy would limit their free expression and create a new administrative burden. It also remains unclear whether individual faculty websites hosted on UCLA servers are, or are not, included in this policy. The FWC categorically rejects this policy if it targets individual faculty members.
2. *The definition of “Discretionary Statement” continues to be too broadly defined.* As written, a discretionary statement would include a comment on “institutional, local [...] events, activities or issues” but not “news announcing University or campus activities.” There is considerable overlap between those two statements. What if the news about campus activity announces a student protest or a seminar/paper on a controversial topic that the Regents do not approve of?

3. *More consideration needs to be applied to departments whose research/mission is directly impacted by specific political events.* A number of departments, such as the Ethnic, Gender, and Queer Studies departments, see social justice as core to their departmental identity and research. These departments represent the constituencies most likely to be harmed by the imposition of silence and must be allowed to continue exercising free speech.
4. *There was support for requirements for disclaimers.* These guidelines might help departments navigate when their faculty disagrees over the publication of discretionary statements. The requirement that discretionary statements be on a separate page would presumably not preclude a large link on the home page to the discretionary statement.

We thank you for the opportunity to opine. If you have questions, please do not hesitate to contact me at butlersj@ucla.edu or via the Committee analyst, Renee Rouzan-Kay, at rrouzankay@senate.ucla.edu.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Butler', with a stylized, cursive script.

Samantha Butler, Chair
Faculty Welfare Committee

cc: Kathleen Bawn, Vice Chair/ Chair-Elect, Academic Senate
Jessica Cattelino, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Renee Rouzan-Kay, Senior Policy Analyst, Faculty Welfare Committee
Members of the Faculty Welfare Committee

To: Andrea Kasko, Chair, Academic Senate

From: Shane White, Chair, Committee on Rules and Jurisdiction

Date: April 9, 2024

Re: (Systemwide Senate Review) Regents Policy on Public and Discretionary Statements by Academic Units

The Committee on Rules and Jurisdiction (CR&J) reviewed the proposed Regents Policy on public and discretionary statements by academic units. Members offered the following comments.

Section B, paragraph 2: *“The University affirms the rights of individual university members, and of groups of University members, to author and publish statements and circulate them in their own private networks or on an individual University community member’s page on a unit’s website.”*

- A member suggested the Policy should only differentiate between webpages on University domains and webpages not on University domains.

Section C, paragraph 2: *“Public Statements may not promote, endorse, or oppose political campaigns or candidates for elected or appointed government office, or comment in support of, or in opposition to, specific ballot measures.”*

- This is surprising because there is a long history of University administrators, Regents, and faculty making such statements, taking such positions, and directly participating in political campaigns, even as candidates themselves. Indeed, faculty endorsement is often solicited by administrative leaders when they make such statements.

Section D, paragraph 2: *“The guidance in the Academic Senate recommendations for department political statements released in June 2022 outline the recommendations below. The procedures must incorporate these recommendations”*

- This appears to be a demand that the Academic Senate’s May 2022 Department Statements be implemented. Why is anything else needed?

Section D, bullet 2: *“Units should develop standards governing the practice of issuing Discretionary Statements, and then memorialize these standards in written bylaws or policies that govern departmental practice and are publicly available.”*

- What is the purpose of this proposed Regental Policy, if Units need to develop their individual standards for issuing these statements?

Section D, bullet 3: *“As part of this process, Units should decide who is included in the Unit when the Unit makes a statement. Units ought to include in their deliberations all those for whom they claim to speak when issuing discretionary statements. Units must collect the vote anonymously to minimize pressure on members of the Unit who hold minority views.”*

- This statement appears contrary to [UC Standing Order 105.2.c.](#), that states “the several departments of the University, with the approval of the President, shall determine their own form of administrative organization.” This statement implies administrators can determine who is and is not included in the Unit.

“NO RIGHT OF ACTION This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the University of California or its Board of Regents, individual Regents, officers, employees, or agents.”

- The concluding “NO RIGHT OF ACTION” statement appears unbalanced in that the proposed Regents Policy provides the Board with additional authority but attempts to remove the Board from accountability to the consequences or potential harms of its Policy.

Thank you for the opportunity to review and comment. If you have any questions, please do not hesitate to contact me at snwhite@dentistry.ucla.edu or via the Committee’s analyst, Lori Ishimaru, at lishimaru@senate.ucla.edu.

cc: Kathleen Bawn, Vice Chair/Chair-Elect, Academic Senate
Jessica Cattelino, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Lori Ishimaru, Senior Policy Analyst, Academic Senate
Members of the Committee on Rules and Jurisdiction

April 9, 2024

To: Andrea Kasko, Chair
UCLA Academic Senate

Re: **(Systemwide Senate Review) Regents Policy on Public and Discretionary Statements by Academic Units**

At its meeting on April 9, 2024, the Committee on Diversity, Equity, and Inclusion discussed the proposed Regents Policy on Public and Discretionary Statements by Academic Units.

Members identified that the policy as written could be divisive and would be difficult to implement and monitor. There was mention of worry when discussing how the implementation of this policy would be accepted by colleagues. More specifically, there were concerns regarding the identification of how many faculty members were in favor and against certain statements, and how holding a vote could have a negative impact on faculty within an academic unit as well as the climate of academic units around campus.

Some members also brought up how this policy could disproportionately affect academic units whose work is focused on social reform. The Committee felt that the Regents should further consider and ensure that these groups would not be ostracized and disproportionately affected.

Committee members also identified that there were various instances that are not clearly addressed in the current policy. For example, if faculty members develop their own website but identify themselves as UCLA faculty, would there need to be a discretionary statement or a disclaimer on this site even though it is not a statement made by the full academic unit?

Members also felt that the policy's current terminology was vague, and the policy would benefit from further attention to detail.

Some members also mentioned that the timing of this policy could cause some concerns among campus groups. Though members agreed with the purpose of the policy, they found that now might not be the best time to implement new standards.

We appreciate the opportunity to express our views on this matter. If you have any questions, please do not hesitate to contact me (thall@mednet.ucla.edu) or Academic Senate Policy Analyst, Lilia Valdez (lvaldez@senate.ucla.edu).

Sincerely,



Theodore Hall, Chair
Committee on Diversity, Equity and Inclusion

cc: Kathy Bawn, Vice Chair/Chair-Elect, UCLA Academic Senate
Jessica Cattelino, Immediate Past Chair, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate
Lilia Valdez, Senior Policy Analyst, UCLA Academic Senate
Members of the Committee on Diversity, Equity, and Inclusion

April 9, 2024

To: Andrea Kasko, Chair
UCLA Academic Senate

Re: **(Systemwide Senate Review) Regents Policy on Public and Discretionary Statements by Academic Units**

Dear Chair Kasko,

The UCLA Committee on Academic Freedom has discussed the proposed policy on webpage statements, which the Regents will consider in May. Our members have different views on the ideal arrangement, but we see the proposal as a supportable compromise.

The proposal is clear on major questions, e.g., that decision rules leading to the statement be set by each academic unit as long as they are consistent with the general policy; that the decision be made fairly and protect individuals' anonymity; that a disclaimer make it clear the University is not endorsing the statement; and that the statement appear on a dedicated page rather than on the unit's homepage.

The Committee is reassured and gratified that the faculty had a role in developing the policy.

We appreciate the opportunity to review and comment on this report. If you have any questions, please do not hesitate to contact me at barry.oneill@polisci.ucla.edu or committee analyst Lilia Valdez at lvaldez@senate.ucla.edu.

Sincerely,

Barry O'Neill, Chair
Committee on Academic Freedom

cc: Kathy Bawn, Vice Chair/Chair-Elect, UCLA Academic Senate
Jessica Cattelino, Immediate Past Chair, UCLA Academic Senate
April de Stefano, Executive Director, UCLA Academic Senate
Lilia Valdez, Senior Policy Analyst, UCLA Academic Senate
Members of the Committee on Academic Freedom

3125 Murphy Hall
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April 9, 2024

To: Andrea Kasko, Chair, UCLA Academic Senate

From: Brooke Scelza, Chair, Graduate Council

Re: (Systemwide Senate Review) Regents Policy on Public and Discretionary Statements by Academic Units

Graduate Council members independently reviewed the *Regents Policy on Public and Discretionary Statements by Academic Units*. Members offered the following comments for consideration.

Of the members who responded, some members stated that the draft policy seems reasonable. One member appreciated the definitions of public and discretionary statements and the articulation of a clear policy that guides units on how to issue discretionary statements. While some members noted that the policy was clearer than the *Policy on Use of University Administrative Websites*, one member noted that it was unclear whether a link to a discretionary statement can be made on the main homepage of the academic unit (i.e., not the statement itself, but a link to that message). A member queried whether there was a common understanding of the term “subgroups” of a Unit, which was mentioned in Part D and suggested adding it to the definition of “Academic Units” in Part A.

We appreciate the opportunity to express our views on this matter. If you have any questions, please contact us via Graduate Council Analyst, Emily Le, at ele@senate.ucla.edu.



James Steintrager
Telephone: (510) 987-9983
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Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
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April 2, 2024

CHAIRS OF SENATE DIVISIONS AND SYSTEMWIDE COMMITTEES

Re: Systemwide Senate Review of Regents Policy on Public and Discretionary Statements by Academic Units

Dear Colleagues,

I am forwarding for further systemwide Academic Senate review a proposed UC Regents Policy, which has been renamed to Public and Discretionary Statements by Academic Units.

This proposal supersedes the previous Policy on Use of University Administrative Websites,¹ which the Senate recently reviewed.² We invite you to review the new proposal, given that the policy has changed considerably in response to feedback from the Senate and others. The Regents are expected to adopt some version of a policy at their May 14-16 meeting.

Please submit comments to the Academic Senate office at SenateReview@ucop.edu by April 22, 2024, to allow us to compile and summarize comments for the Academic Council's April 24 meeting. As always, any committee that considers these matters outside its jurisdiction or charge may decline to comment.

We apologize for this extremely condensed review timeframe, a result of when the Senate received the policy, when Council can convene to discuss comments received, and the ideal timeline for Senate's feedback to the Regents before their May meeting.

Please do not hesitate to contact me if you have additional questions.

Sincerely,

A handwritten signature in purple ink, appearing to read "J. Steintrager".

James Steintrager, Chair
Academic Council

¹ https://senate.universityofcalifornia.edu/_files/underreview/senate-review-regents-policy-use-administrative-websites.pdf

² https://senate.universityofcalifornia.edu/_files/reports/senate-comments-regents-policy-on-administrative-websites.pdf

Cc: Senate Division Executive Directors
Executive Director Lin

Encl.



THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

OFFICE OF THE SECRETARY AND CHIEF OF STAFF
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April 1, 2024

Academic Council Chair James Steintrager
Academic Council Vice Chair Steven Cheung

Re: Systemwide Senate Review of Proposed Regents Policy on Public and Discretionary Statements by Academic Units

Dear Chair Steintrager and Vice Chair Cheung:

At the March 2024 Regents meeting, the Board voted unanimously to defer consideration of the proposed Regents Policy on Public and Discretionary Statements by Academic Units to the May 2024 Regents meeting to allow an opportunity for the Academic Senate to review the revised draft policy.

As you are aware, following the January 2024 Regents meeting the Board requested and received the Senate's comments on the proposed policy which suggested that the Regents endorse the Senate's previous guidance and recommendations from June 2022 on departmental political statements. Based on these recommendations and the comments from the March Regents meeting, the Board proposed a new draft policy.

On behalf of the Board, enclosed for systemwide Senate review is the revised proposed Regents Policy on Public and Discretionary Statements by Academic Units which will be considered for action at the May 2024 Board of Regents meeting.

We would appreciate receiving a summary of your comments no later than **Wednesday, May 1** so that the Regents have time to consider your comments prior to the meeting. Please note that this policy is in draft form and Board members reserve the right to make additional edits as they deem necessary.

Thank you, in advance, for conducting this expedited review.

Sincerely,

Rich Leib
Chair, Board of Regents

cc: Vice Chair Elliott
Regent Park
Regent Sures
President Drake
Provost and Executive Vice President for Academic Affairs Newman
General Counsel and Senior Vice President Robinson

Regents Policy on Public and Discretionary Statements by Academic Units

POLICY SUMMARY/BACKGROUND

Upholding the values of freedom of speech and inquiry are core values of the University of California. Under the First Amendment and principles of academic freedom, University community members, individually and collectively, have the right to express their views. While individual members of the University community are free to express constitutionally protected viewpoints through all non-official channels 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. This Policy sets forth the responsibilities of and procedures for Academic Campus Units when issuing public statements.

POLICY TEXT

A. **DEFINITIONS.** For the purposes of this Policy, these terms are defined as follows:

Academic Campus Units refer to officially recognized University academic departments or divisions as well as other official academic University entities, including schools, centers, laboratories, institutes, campus divisions of the Academic Senate, and campus Extension Units.

Homepage refers to the page typically first encountered on a website that usually contains links to the other pages of the site, serving as a table of contents for the site; the main page of a website.

Public Statements refer to communications by an Academic Campus Unit or its lead administrator purporting to be made on behalf of the Academic Campus Unit and distributed, disseminated, posted online or otherwise shared via mass distribution with University constituencies or the public. This term includes an Academic Campus Unit's messages sent to University constituencies or the public regarding its curricular offerings, its traditional mission statements, or strategic plans; administrative activities, operations or resources; news announcing University or campus activities, programs or initiatives; or news and events related to research and teaching. This term also encompasses Discretionary Statements.

Discretionary Statements refer to communications by an Academic Campus Unit purporting to be made on behalf of the Academic Campus Unit and distributed, disseminated, posted online, or otherwise shared via mass distribution with University constituencies or the public, that are not part of the day-to-day, term-to-term operations of the unit, and that comment on institutional, local, regional, global or national events, activities or issues. Such statements at times are described as political or controversial to signify that they express opinions on potentially contentious or complex issues. Discretionary Statements do not include an Academic Campus Unit's messages sent to University constituencies or the public regarding its curricular offerings, traditional mission statements or strategic plans; administrative activities, operations or resources; news announcing University or campus activities, programs or initiatives; or news and events related to faculty research and teaching.

B. POLICY STATEMENT

This Policy sets forth the responsibilities and procedures for Academic Campus Units issuing Public Statements, including Discretionary Statements. In particular, the Policy requires the following:

- That all Public Statements (including Discretionary Statements) be consistent with applicable law and University policy;
- That Discretionary Statements be accompanied by a disclaimer expressly stating that the statement should not be taken as a position of the University, or the campus, as a whole;
- That Academic Campus Units that intend to produce and disseminate Discretionary Statements develop and publish procedures that comply with the rules outlined below; and
- That Discretionary Statements should not appear on the main homepage of a website of an Academic Unit, and instead should be posted on a separate page identified for such statements.

This Policy applies only to Academic Campus Units and does not address statements made by individual university community members or groups of University community members. The University affirms the rights of individual university members, and of groups of University members, to author and publish statements and circulate them in their own private networks or on an individual University community member's page on a unit's website.

The rules outlined below for Discretionary Statements aim to ensure that the viewpoints of Academic Campus Units are not understood to reflect the views of the University. The rules also aim to ensure that members of the University community associated with the Academic Campus Unit enjoy the freedom to speak or not to speak, to deliberate or not deliberate about issues, where such speech is not a required element of their job description, and that their decision whether and how to speak through Discretionary Statements compliant with this policy is insulated from repercussions on and off campus. These procedures also aim 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.

This Policy shall be construed in a manner consistent with the First Amendment and other applicable laws.

C. REQUIREMENTS FOR PUBLIC STATEMENTS

All Public Statements made by Academic Campus Units (including Discretionary Statements) must comply with applicable laws and University policies, including but not limited to University and campus policies governing:

- Conflicts of interest.
- Anti-violence, anti-discrimination, and anti-harassment.
- Use of University technology.

- Privacy and personal information, including the University's policies regarding FERPA (Family Educational Rights and Privacy Act) and HIPAA (Health Insurance Portability and Accountability Act).
- Intellectual property, including policies on copyright and use of the University's names and assets.
- University codes of conduct, including the Faculty Code of Conduct.

Public Statements may not promote, endorse, or oppose political campaigns or candidates for elected or appointed government office, or comment in support of, or in opposition to, specific ballot measures.

D. REQUIREMENTS FOR DISCRETIONARY STATEMENTS

In addition to the above requirements for Public Statements, Academic Campus Units that seek to make and disseminate Discretionary Statements must create, publicize, and follow procedures that articulate the process by which such statements will be produced, posted, and archived.

Academic Campus Units have substantial discretion about the details of these procedures. The guidance in the Academic Senate recommendations for department political statements released in June 2022 outline the recommendations below. The procedures must incorporate these recommendations (including parallel procedures for statements made by subgroups of the Unit on behalf of the subgroup if permitted by the Unit):

- Discretionary Statements must be accompanied by a clear disclaimer that the Unit is not speaking for the University, all members of a Unit (unless unanimous), or the campus, as a whole.
- Units should develop standards governing the practice of issuing Discretionary Statements, and then memorialize these standards in written bylaws or policies that govern departmental practice and are publicly available. These bylaws or policies should be flexible enough to take into account the varied contexts within which the desire to issue a statement might arise.
- As part of this process, Units should decide who is included in the Unit when the Unit makes a statement. Units ought to include in their deliberations all those for whom they claim to speak when issuing discretionary statements. Units must collect the vote anonymously to minimize pressure on members of the Unit who hold minority views.
- Any Unit Discretionary Statement should be accompanied by some explanation of whose views it represents. Such an explanation can take a number of forms. For example, Units could:
 - a. accompany all statements with a disclaimer that the statements do not necessarily reflect the views of every member of the Unit;
 - b. accompany all statements with a report that the statements reflect "unanimity," "a supermajority," or a "majority" of the Unit members;
 - c. issue all statements in the name of the dean or chair of the Unit;
 - d. list the results of a Unit vote on whether to issue the statement.

In addition, Discretionary Statements must not appear on the main homepage of a website of an academic unit, and instead should be posted on a separate page identified for such statements.

COMPLIANCE/DELEGATION

Campuses or Academic Campus Units may adopt additional policies on the use of Unit electronic resources provided that any such policies must not reduce or eliminate elements of the requirements contained in this policy. Per Bylaw 31, the Chancellors serve as the executive heads of their respective campuses and implement the policies and objectives of the Board and the President of the University, and apprise the Board and the President of significant developments affecting their campuses and the University.

NO RIGHT OF ACTION

This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the University of California or its Board of Regents, individual Regents, officers, employees, or agents.

DRAFT



James Steintrager
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Email: james.steintrager@ucop.edu

Chair of the Assembly of the Academic Senate
Faculty Representative to the Regents
University of California
1111 Franklin Street, 12th Floor
Oakland, California 94607-5200

March 15, 2024

RICHARD LEIB, CHAIR
UNIVERSITY OF CALIFORNIA BOARD OF REGENTS

Re: Proposed Board of Regents Policy on Use of University Administrative Websites

Dear Chair Leib:

As requested, I distributed for systemwide Academic Senate review the proposed Regents Policy on Use of University Administrative Websites. All ten Academic Senate divisions and four systemwide Senate committees ([Academic Freedom](#), [Graduate Affairs](#), [Academic Computing and Communications](#), and [Faculty Welfare](#)) submitted comments. These were discussed at a special meeting of the Academic Council on March 12. A summary is below but we also encourage you to review the full set of comments [through this link](#).

Each of the campus divisions and the four systemwide committees expressed serious reservations about various aspects of the policy. We summarize as the main concerns:

- The ambiguity of the draft policy in terms of intent and content, including the meaning of key terms.
- The overly broad and simplistic approach to a complex set of issues underlying the policy.
- The lack of clear implementation and enforcement mechanisms.
- The potential of the policy to limit free speech and to impinge on academic freedom.
- The potential of the policy to allow external actors to harass faculty and the University with claims of violations.

Based on the comments that we received, the Academic Council voted unanimously (19-0) against endorsement of the policy. We ask the Regents to reject the policy outright, or at least delay consideration to provide time for clarification and for analysis of consequences and implementation challenges. Further, we encourage the Regents to instead consider endorsing the Senate recommendations for department political statements¹ released in June 2022. These recommendations align with the spirit of the University of California's understanding of

¹ https://senate.universityofcalifornia.edu/_files/reports/rh-senate-divs-recs-for-dept-statements.pdf

academic freedom and provide a more thorough and considered approach to the issues at hand. Below we elaborate the principal concerns noted above and also express our concerns about process.

The version of the policy reviewed by the Senate would restrict department members from expressing “the personal or collective opinions of Unit members” on the main landing pages of administrative websites. It would mandate that any opinions expressed on other parts of administrative websites include a disclaimer clarifying that these opinions do not represent the official views of the University or the Unit.

Many reviewers noted the ambiguity of the proposed policy, which provides no clear definitions for terms such as “unit,” “main landing page,” and, most importantly, “official business,” raising questions about what constitutes permissible content and what content might be deemed as violating the policy. It is also unclear how those in charge of implementing the policy would define what qualifies as an “opinion,” either personal or collective, or ensure that communication on website landing pages addresses only the “official business of that Unit.”

Department websites often serve as platforms for scholarly communications, applying academic expertise to ongoing economic, social, and political issues. Imposing blanket restrictions on personal or collective opinions could hinder scholarly discourse and limit academic freedom. While these negative impacts are likely to be felt more acutely in disciplines that address societal and public policy issues, there is no reason to think that they will be exclusive to these areas (consider, for example, statements on climate change or vaccine efficacy). While academic freedom as defined by the University of California (see Academic Personnel Manual [APM] - 010²) holds faculty accountable on the grounds of scholarly competence, which need not be viewpoint neutral, members of the public may consider research-based statements as either facts or opinions, depending on their own personal beliefs and political affiliations. Those who disagree with particular statements may find the policy convenient to allege violation as the basis for harassing actions against faculty, students, and other UC community members.

These ambiguities and the lack of clear enforcement mechanisms will make implementation challenging at best. Delegating the adjudication of these ambiguities to staff website or faculty administrators will unfairly burden them with an impossible task and will likely create confusion and division within campuses and across the University. There has also been no discussion about the campus resources that will be required to implement the policy, monitor compliance, and enforce any consequences of non-compliance (which consequences are also not addressed).

As the policy text itself asserts, freedom of speech and of inquiry are cornerstone values of the University of California. Faculty members should have the right to express their opinions, whether as employees or subject matter experts, even if their views differ from those of peers and senior leaders. The policy’s exemption of certain University officers from its provisions raises questions about equity in freedom of discourse.

Lastly, a word on process: while the Senate appreciates the opportunity to review this policy for the March 19-21 Regents meeting, the hurried crafting of the policy and compressed review schedule (shorter than our normal expedited review) has caused the campuses to highlight the importance of adhering to the principles and normal processes of shared governance. Further, the

² https://www.ucop.edu/academic-personnel-programs/_files/apm/apm-010.pdf

Senate notes that APM 010 in its discussion of academic freedom delegates to the faculty the sole right to determine the substance and nature of the standards of scholarly and pedagogical criteria. It defines the process by which concerns about academic freedom can be maintained and strengthened by shared governance.

The Senate acknowledges the policy's principal goal, which is to ensure that individual and collective viewpoints are not misconstrued as official University positions. The Senate also recognizes that departmental statements have various downsides, including the potential to infringe on academic freedom. Again, the Senate believes that the Regents' principal goal, as stated in the draft policy, as well as related issues will be most effectively addressed by Regental endorsement of the Senate's recommendations on departmental statements. These recommendations were based on comprehensive consultation with faculty on the ten campuses, as well as with UC Legal consultants. They are intended to guide departments whose members opt to post statements to do so in ways that minimize downsides and that do not infringe on academic freedom. These recommendations advise departments to use their right to issue political statements responsibly and judiciously, include disclaimers with statements that make clear that the department does not speak for the University as a whole, define the unit voting on the statement, and solicit minority or opposition statements.

In summary, the proposed policy raises numerous content and implementation issues, and is vague, impractical, possibly unenforceable, likely counterproductive, and appears inconsistent with the University's adherence to principles of free expression and academic freedom. If the Regents are unable to resolve the questions and address the complexities identified, the Board should not move forward with a systemwide policy.

Thank you for the opportunity to opine. Please do not hesitate to contact me if you have additional questions.

Sincerely,



James Steintrager, Chair
Academic Council



Steven W. Cheung
Vice Chair, Academic Council

Cc: Academic Council
Vice Chair Elliott
Regent Park
Regent Sures
President Drake
Provost and Executive Vice President for Academic Affairs Newman
General Counsel and Senior Vice President Robinson
Secretary and Chief of Staff to Regents Lyall
Senate Division Executive Directors
Senate Executive Director Lin

February 23, 2024

Andrea Kasko, Chair
Academic Senate

Re: (Systemwide Senate Review) Proposed Regents Policy on Use of University Administrative Websites

Dear Chair Kasko,

Following its February 16, 2024, meeting, the Committee on Data, Information Technology, and Privacy (CDITP) reviewed the Proposed Regents Policy on Use of University Administrative Websites. Members made the following comments:

Following significant concerns about the earlier version of this policy, members found the new policy effectively clarifies the distinction between individual academic freedoms and the official use of University platforms. It balances, largely successfully, the need for individual and collective academic freedom and free speech with the responsibility of maintaining the integrity of University administrative units' communications. The committee found the disclaimer requirement prudent, and the approach to delegation anchored in designating specific administrators responsible an effective route to compliance.

Suggestions for the policy include greater guidance and specificity for the formulation of disclaimers and their location on unit websites. Examples of templates might help ensure clarity and consistency. Similarly, the Committee advises that some formal and transparent mechanisms for monitoring websites and a clearly articulated set of standards for evaluating compliance will be important. Periodic reviews may also identify incremental improvements to the policy across new technologies and platforms. The Committee encourages a proactive, rather than responsive, approach to aiding faculty to engage with alternative platforms upon which they might express their views individually and collectively.

Key concerns include clarifying the scope of "Official Business," an issue raised in CDITP's statement on the previous version of this policy. Given the extensive latitude for unit communications, more specific guidance is required. Moreover, we believe a feedback mechanism and a transparent dispute resolution process should be developed for instances where there may be disagreements about policy application.

Thank you for the opportunity to comment on the proposed policy. If you have any questions, please do not hesitate to contact me at fisher@humnet.ucla.edu or via the Committee analyst, Renee Rouzan-Kay, at rrouzankay@senate.ucla.edu.

Sincerely,



Matthew Fisher, Chair
Committee on Data, Information Technology, and Privacy

cc: Kathleen Bawn, Vice Chair/Chair-Elect, Academic Senate
Jessica Cattelino, Immediate Past Chair, Academic Senate
April de Stefano, Executive Director, Academic Senate
Renee Rouzan-Kay, Senior Policy Analyst, Committee on Data, Information Technology, and Privacy
Members of the Committee on Data, Information Technology, and Privacy



THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

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January 30, 2024

Academic Council Chair James Steintrager
Academic Council Vice Chair Steven Cheung

**Re: Systemwide Senate Review of Proposed Regents Policy on Use of University
Administrative Websites**

Dear Chair Steintrager and Vice Chair Cheung:

Enclosed for systemwide Senate review is a proposed Regents Policy on Use of University Administrative Websites which will be considered for action at the March 2024 Board of Regents meeting.

We would appreciate receiving a summary of your comments no later than **Friday, March 15** so that the Regents have time to consider your comments prior to the meeting. Please note that this policy is in draft form and Board members reserve the right to make additional edits as they deem necessary.

Thank you, in advance, for conducting this expedited review.

Sincerely,

Rich Leib
Chair, Board of Regents

cc: Vice Chair Elliott
Regent Park
Regent Sures
President Drake
Provost and Executive Vice President for Academic Affairs Newman
General Counsel and Senior Vice President Robinson

Regents Policy on Use of University Administrative Websites

POLICY TEXT

Upholding the values of freedom of speech and inquiry are core to the University of California's mission. Under the First Amendment and principles of academic freedom, faculty members, individually and collectively, have the right to express their views. While individual members of the University community are free to express constitutionally protected viewpoints through all non-official channels of communication, they may not associate the official administrative units of the University with their personal viewpoints. Long-standing principles of academic freedom have recognized that when faculty members speak or write as citizens, they should make every effort to indicate that they are not speaking for the institution.

The University of California establishes websites and other official channels of communication maintained by the campuses, schools, departments, centers, units, and other entities ("Units") for purposes of conducting the official business of the University and these Units. Examples of a Units' official business may include delivering informational resources about the Unit, such as course descriptions, and communicating personnel changes, dates of upcoming events, the release of new publications, the issuance of new policies, and similar activities.

The main landing page of a Unit's website shall only be used for purposes of conducting the official business of that Unit. Such page shall not be used for purposes of expressing the personal or collective opinions of Unit members, as other means of publishing those opinions are available. Opinion expressed in locations of the Unit's administrative website other than the main landing page shall bear a disclaimer or other notation making clear that the opinion expressed is that of the author or authors, and does not represent the official views of the University or that Unit.

Nothing in this policy shall limit the following:

1. The use of any privately-maintained resource or other non-University media by any member of the University community for any purpose;
2. Communications by the Chair of the Board of Regents or his or her designee, the President of the University, the Chancellors, and the leadership of the Academic Senate in their respective roles as spokespersons for the University within their areas of responsibility;
3. Communications by UC-affiliated associations or auxiliaries with their constituencies pursuant to their own rules, provided they make clear, as warranted, that viewpoints where expressed do not represent the official views of the University;
4. Authority of the Units to communicate news and events related to faculty research and teaching; or
5. Authority of the Units to adopt additional policies on use of Unit electronic resources provided that any such policies must not reduce or eliminate the limitations contained in this policy.

This policy shall be construed in a manner consistent with the First Amendment and other applicable laws.

COMPLIANCE/DELEGATION

Any questions concerning the application of this policy shall be referred to the administrator responsible for maintaining the website and ~~DMS~~ administrator shall be responsible for assuring compliance with this policy.

NO RIGHT OF ACTION

This policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the University of California or its Board of Regents, individual Regents, officers, employees, or agents.