

Approved

**ACADEMIC AND STUDENT AFFAIRS COMMITTEE
COMPLIANCE AND AUDIT COMMITTEE**

July 18, 2024

TO THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

**ADOPTION OF REGENTS POLICY ON PUBLIC AND DISCRETIONARY
STATEMENTS BY ACADEMIC UNITS**

The Academic and Student Affairs Committee and the Compliance and Audit Committee recommend adoption of a Regents Policy on Public and Discretionary Statements by Academic Units, as shown in Attachment 1.

Academic and Student Affairs Committee vote: Regents Drake, Hernandez, Leib, Pack, Reilly, Robinson, Salazar, and Sarris voting “aye,” Regent Batchlor abstaining, and Regent Beharry voting “no.”

Compliance and Audit Committee vote: Regents Elliott, Leib, Makarechian, Reilly, Sherman, and Sures voting “aye,” Regent Batchlor abstaining, and Regent Beharry voting “no.”

Board vote: Regents Batchlor, Cohen, Drake, Hernandez, Kounalakis, Leib, Makarechian, Pack, Pérez, Reilly, Salazar, Sarris, and Sherman voting “aye” and Regent Beharry voting “no.”

Regents Policy on Public and Discretionary Statements by Academic Units May 2024

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, 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, long-standing principles of academic freedom have recognized that when faculty 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 University 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 faculty research, teaching, and individual or collective scholarly endeavors. 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. 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, teaching, and individual or collective scholarly endeavors.

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 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,” (at least two-thirds), or a “simple majority” of the Unit members (at least 51 percent);
 - 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. Links to discretionary statements may be placed on an Academic Campus Unit's homepage.

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 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.