

The Regents of the University of California

COMMITTEE ON EDUCATIONAL POLICY

March 23, 2016

The Committee on Educational Policy met on the above date at UCSF–Mission Bay Conference Center, San Francisco.

Members present: Regents Elliott, Gorman, Gould, Island, Kieffer, Lansing, Ortiz Oakley, Oved, and Reiss; Ex officio members Lozano, Napolitano, and Varner; Advisory members Brody, Chalfant, Ramirez, and Schroeder; Staff Advisors Acker and Richmond

In attendance: Regents Blum, Davis, De La Peña, Makarechian, Pattiz, Pérez, Sherman, and Zettel, Faculty Representative Hare, Secretary and Chief of Staff Shaw, General Counsel Robinson, Chief Investment Officer Bachher, Provost Dorr, Executive Vice President and Chief Financial Officer Brostrom, Executive Vice President and Chief Operating Officer Nava, Executive Vice President Stobo, Senior Vice President Henderson, Vice Presidents Budil and Duckett, Chancellors Block, Blumenthal, Dirks, Gillman, Hawgood, Katehi, Khosla, Leland, Wilcox, and Yang, and Recording Secretary McCarthy

The meeting convened at 9:35 a.m. with Committee Chair Island presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of January 20-21, 2016 were approved.

2. ADOPTION OF THE REPORT OF THE REGENTS WORKING GROUP ON PRINCIPLES AGAINST INTOLERANCE

Regent Island, on behalf of the Regents Working Group on Principles Against Intolerance, recommended that the Report of the Regents Working Group on Principles Against Intolerance, including the policy statement on Principles Against Intolerance, be adopted, as shown in Attachment 1.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Island recalled that the Working Group had been convened the prior fall to consider a Statement of Principles Against Intolerance (Principles). As chair of the Working Group, he thanked its members and staff. The Working Group met with members of the UC community, experts, and others through the fall and winter. In light of the number and frequency of acts of intolerance reported by those from whom it heard,

the Working Group concluded that the time was apt for the Regents to reaffirm the special role and mission of the University of California and its aspirations for all members of its community. The Working Group recognized that punishing expressions of prejudice and intolerance would not prevent such expressions or change minds. In confronting statements reflecting bias, prejudice, or intolerance that arise from ignorance of the histories and perspectives of others, the University is uniquely situated to respond with speech to educate community members about the different histories and perspectives from which important issues are approached. As a public university, UC must hold First Amendment principles and academic freedom principles paramount in guiding the University's response to instances of bias, prejudice, and intolerance, as well as efforts to create and maintain an equitable campus learning environment for all.

Committee Chair Island noted that issues related to intolerance on campus are addressed by many existing University policies, some adopted by the Regents, others by the administration or the Academic Senate, and others, especially Principles of Community, by individual campuses. The Working Group proposed that the Regents adopt its Report and the Principles Against Intolerance to supplement and enhance existing policies. These Principles transcend specific examples of intolerance, follow directly from the University's mission, and would provide a consistent basis for responding to intolerant speech and acts. The expectation of the Working Group was that University leaders would consider both the Principles Against Intolerance and existing University policies to guide their actions.

Working Group member Regent Pattiz thanked Committee Chair Island for his leadership and expressed appreciation to the Working Group members, who unanimously supported its report. Having considered additional input from a number of sources including the Academic Senate, Regent Pattiz proposed an amendment to the first sentence of the second paragraph of the Report's Contextual Statement, as follows (addition shown in underline): "Anti-Semitism, anti-semitic forms of anti-Zionism and other forms of discrimination have no place at the University of California." Regent Pattiz expressed his enthusiastic support and the support of the Working Group for this amendment. He moved adoption of the Report of the Regents Working Group on Principles Against Intolerance, as amended. Regent Oved seconded the motion.

Committee Chair Island asked General Counsel Robinson to address the legal effects of adoption of the Report and concerns expressed by some members of the public about enforcement of the Principles. Mr. Robinson stated that the University had received numerous questions about the legal effect of the Principles and the Report's Contextual Statement, and many would consider these questions still relevant with the proposed amendment. He observed that the Principles express a viewpoint on conduct that either promotes or undermines the purposes and mission of the University. Intolerance, discrimination, and bias fall into the latter category. Entities like the University have rights, like others, to express opinions and to participate in the discussion of issues vital to its interests. The Principles are aspirational rather than prohibitory, and seek to define the type of environment the University strives to establish in support of its mission. The Principles do not impose a ban on any speech or behavior, but rather call on

administrators to contest and challenge intolerant or discriminatory conduct and speech, in effect, confronting and challenging intolerant speech with more speech. The Principles do not provide a basis for sanctions or enforcement activity against any member of the University community. Mr. Robinson emphasized two points in this regard. First, regarding prohibitions, the Principles refer to other policies already well-established in UC's governing documents that have withstood the test of time and court challenge. These policies include the Faculty Code of Conduct and student conduct and discipline policies; these and other policies form the basis for enforcement. Second, the Principles make clear that all relevant University policies are to be applied in a manner consistent with the First Amendment and all other applicable laws. For example, Paragraph d. of the Principles confirms the University's unshakeable commitment to free speech and academic freedom; Paragraph j. dictates that University leaders apply the Principles to the full extent "permissible under law."

Mr. Robinson confirmed that these same observations apply to the Contextual Statement, for which an amendment had been proposed. The Contextual Statement provides background about the development of the Principles and offers some viewpoints on events giving rise to the need for a set of principles. Much attention was focused on a statement about anti-Zionism. Again, nothing in the Contextual Statement imposes a ban on speech and nothing provides a basis for sanctions or other enforcement activity. Mr. Robinson expressed his view that the Principles and the Contextual Statement are lawful on their face. Some have questioned whether they would be applied by University leadership in a way that bans free speech. Mr. Robinson confirmed that was not the intent and processes were already in place by which managers obtain legal advice when seeking to impose sanctions on individuals for violations of policy. The University expects that those processes would enable the University to avoid any misapplication of the Principles or Contextual Statement.

Chairman Lozano thanked Committee Chair Island for his leadership and the members of the Working Group. She commented that the proposed amendment to the Contextual Statement was thoughtful and consistent with the Regents' intent to respond firmly to acts of intolerance. The Principles and Contextual Statement would allow the University community to stand together in this urgent effort. She urged the Regents to support the recommendation.

Regent Reiss expressed enthusiastic support for the recommendation. She expressed support for condemning anti-Zionism that is anti-semitic. The University must protect free speech, while aspiring to create a climate of respect, and must continue to monitor campus climate.

Regent Lansing stated that tolerance and diversity are fundamental to the culture of UC. She expressed pride that these issues were being addressed and support for the amended item.

Regent Varner, a member of the Working Group, acknowledged the able leadership of Committee Chair Island and the careful and thorough considerations of the Working Group. He expressed support for the Report.

Regent Blum expressed enthusiastic support for the Report and congratulated the members of the Working Group.

Noting his support for the comments of Regent Reiss and appreciation for the proposed amendment, Regent Kieffer expressed full support for the amended Report.

Regent Oved expressed his view that anti-Zionism should not be conflated with criticisms of Israel or the Israeli government. He cited examples of anti-Zionism that were also anti-semitic. Free speech should not be used as a license to target individuals because of their identities. He urged the Board to never shrink from discussing such issues publicly and expressed trust that the Board would extend the legacy of the Principles by investing in a preventive and educational process that would ultimately curb these stains on college campuses. The Principles unequivocally embrace the First Amendment and academic freedom as bedrock values of the University. However, the University's commitment to free speech does not diminish the responsibility of University leaders to oppose bigoted speech. Regent Oved proposed that each UC campus provide the Regents a bimonthly report detailing documented incidents of intolerance and the administration's response. Such reports would build a record in order to capture trends, examine consistency of response, and ensure authenticity of incident accounts. He expressed appreciation to the members of the Working Group.

Regent-designate Ramirez expressed support for the development of educational programs for those implementing the Principles, including how to report incidents, how to characterize various types of incidents, and training in cultural sensitivity.

Regent Davis emphasized the importance of adopting the amendment. He added that the Alumni Associations of the University of California had sent a communication to the Working Group advocating for creation of a preventive, educational component in connection with the Principles, so that new UC students learn what it means to be a member of the UC community with values of civility, respect, and tolerance.

Regent Pattiz expressed pride in the results of the Working Group and associated himself with the comments of Regent Oved and his suggestion that UC campuses report to the Regents incidents of intolerance and campus responses.

Regent Gould noted his appreciation for the leadership of Committee Chair Island and Regent Pattiz's proposed amendment. Consistent application of the Principles on UC campuses would be paramount and would be the responsibility of President Napolitano, the chancellors, and other campus leadership.

Upon motion duly made and seconded, the Committee approved Regent Island's recommendation as amended and voted to present it to the Board.

3. **MENTAL HEALTH STAFFING AT STUDENT HEALTH CENTERS – IMPACT OF THE NEW MENTAL HEALTH FUNDS**

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Executive Vice President Stobo provided background for this discussion. He recalled that in September 2014 his office presented the Regents with a report on the availability and accessibility of mental health services to UC students through the student health centers and Counseling and Psychological Services (CAPS) centers. That report indicated difficulties with access to mental health services, with several weeks' wait time for appointments, increased student demand for mental health services, and student dissatisfaction with their access to campus mental health services. In response, Dr. Gina Fleming, medical director of UC's Student Health Insurance Plan and student health centers, convened a committee comprised of directors of CAPS and UC student health centers. That committee worked under the expectation developed by students that any recommendation for increased funds for mental health services would be used to hire personnel who would directly provide such services, and assessed the need for such personnel. In January 2015, Dr. Fleming provided a presentation to the Regents on CAPS centers' staffing ratios, which indicated an urgent need on all campuses to increase mental health personnel. In the summer of 2015, the Student Services Fee was increased five percent; 50 percent of the increase would be used to support these additional personnel needed to provide mental health services. These funds were available to CAPS and student health centers in the fall of 2015, but initially the funds were insufficient to hire the additional personnel. Many campuses advanced their own funds to hire personnel; one campus took advantage of a loan from the Office of the President. This discussion would report on the results of this hiring effort.

Dr. Fleming highlighted the role students had played in the efforts to enhance student mental health services. In August 2014 the Office of the President presented the document "Student Mental Health at UC: The Growing Need for Critical Care in Staffing" to the Council of Student Body Presidents. That document outlined the historical background, key issues, and a funding recommendation involving the Student Services Fee. In January 2015 the Student Observer for the Committee on Health Services spoke in support of creating a new funding allocation for tier one critical student mental health services. By February 2015 the Student Observer began to work with the UC Student Association (UCSA) and other student leaders to discuss the proposed hiring figures put forward by the Mental Health Services Work Group. Once it became clear that funding would go forward, student leaders, including the student representative to the Student Mental Health Oversight Committee, UCSA, the Council of Student Body Presidents, and the Student Fee Advisory Committee, presented their view in a joint letter to the Student Mental Health Oversight Committee, the Vice Chancellors of Student Affairs, the CAPS center directors, and other stakeholders, stating their desire for these additional funds to be used to support clinical staff positions in UC's CAPS and student health centers. For this reason, when the new mental health funds were implemented the past fall, they were earmarked for staff to provide direct clinical services. By December

2015, 85 new permanent positions were finalized and recruitment efforts began immediately. These new full-time equivalent positions would increase the number of mental health services providers on UC campuses by 43 percent and would bring the student-to-mental-health-staff ratios in line with recommended levels. Currently, 16 new counseling positions and six psychiatry staff had been hired; many positions were in recruitment and were expected to be filled in the upcoming several months.

Over the past year, tremendous progress had been made in the University's ability to gather and compare utilization and access data from UC campus CAPS centers. Information collected from the 2014-15 academic year indicated that there had been persistent increases in mental health service utilization over the past seven years, up 54 percent since 2007. In fact, 13 percent of enrolled UC students received services at the CAPS centers during the 2014-15 academic year. Access to non-urgent counseling continued to be a barrier. While students wait less than one day for an urgent concern, they wait an average of 21 days, or even longer late in an academic quarter or semester, to begin therapy. An alternate way to view the data is to analyze the number of students seen within the goal time frame. While almost 100 percent of students who need to be seen urgently were able to do so within a day, only 62 percent had their first counseling visit within 14 days of their initial assessment, meaning that they could wait up to four weeks from the time they made an initial appointment until their first therapy session. The goal is that 95 percent of students start treatment within two weeks of initial assessment. Wait times would continue to be monitored as new staff are hired.

Dr. Fleming conveyed that new mental health staff hires must fulfill the need for provider diversity and cultural competency. In order to address those needs, campuses have identified specific cultural competency and diversity characteristics, such as experience with lesbian, gay, bisexual, and transgender students, veterans, multicultural populations, first-generation students, and others, as well as special skill sets in crisis management, providing care for students who have experienced trauma or sexual assault, addiction, or other special experience that the new hires were expected to have. The assessment plan includes the expectation that providers' competencies and skill sets would be monitored and recorded as part of an overall annual report. Efforts to improve training in cultural competency would be undertaken by the campuses and in conjunction with the Student Mental Health Oversight Committee.

In addition, alternate strategies to provide student mental health care beyond individual counseling sessions must be considered. Several campuses had begun to think creatively about how to provide clinical care, outreach, and prevention services. Telepsychiatry services at UC Merced had enhanced student access to specialists and currently provided the equivalent of a full-time psychiatrist. Partnerships with training programs at other UC campuses had allowed UC Merced and UC Davis to expand their psychiatry services to students by using faculty and fellows to provide care through their student health and CAPS centers. Interactive web-based and smart phone platforms were being used at several campuses as supplements to student counseling visits; enhanced outreach and prevention efforts such as WellTrack and Lantern were currently being piloted at UC Santa Cruz. Mental Health First Aid is one example of student organizations' proactively

attempting to address student mental health concerns. Substance abuse prevention is an area in which systemwide interventions and best practices among student health and CAPS centers could be coordinated with health education and promotion units.

Dr. Fleming expressed appreciation for the new funding for student mental health services and pride that UC students, faculty, and staff had been working together to proactively address student mental health needs in a collaborative and evidence-based manner. Future goals were to implement ongoing thorough assessments of the effect of additional staff and treatment modules. One year of baseline data regarding CAPS utilization and access had been obtained. Structures and processes were in place to track utilization, wait times, and clinical outcome data longitudinally, to enable assessment of the effect of the additional staff on those vital indicators. Dr. Fleming reiterated that her office would ensure that new hires reflect the diverse characteristics of UC's students, and that all providers in both primary care and counseling undergo appropriate cultural competency training. The University must continue to improve service continuity and integration, both on and off campus, and use team-based care at its CAPS and student health centers to meet the holistic wellness needs of UC students. Tragedies, such as those that occurred near UC Santa Barbara and at UC Merced, have created the need for a response pool of counselors and other providers who can support mental health care during times of high stress. Dr. Fleming confirmed her office's intention to address outreach and prevention of mental illness. By first addressing the highest risk population, those students in need of clinical services, UC had created appropriate ways to approach at-risk groups to provide education and promote activities that produce resilience and well-being.

Regent Ortiz Oakley asked about mental health services for veterans, which he hoped would be an increasing population at the University, particularly in view of UC's efforts to increase the number of transfer students from California Community Colleges (CCCs), which were currently experiencing an influx of veterans who have specific and unique needs. He asked if UC was preparing to provide mental health services to veterans and if it was partnering with organizations in addition to the Veterans Administration, such as U.S.Vets and others. He suggested that, as UC works to improve transfer from CCCs to UC, it examine the resources being invested in mental health services for veterans at CCCs and track those needs as these students transfer to UC. Dr. Fleming replied that UC intended to hire mental health providers with experience caring for veterans. She supported Regent Ortiz Oakley's suggestion to increase coordination and continuity of care with services veterans have received at CCCs and proactively working with CCCs to establish case management with no lapse. She saw value in reaching out to CCCs with that explicit intent.

Dr. Stobo added that UC campuses had identified three groups of students at high risk for needing mental health services: transfer students, international students, and veterans. Regent Ortiz Oakley noted that most CCCs have established veterans' centers, which would be a good point of connection as students move from CCCs to UC.

Regent Elliott asked about the timeline for hiring the remaining new mental health services providers. Dr. Fleming recalled that the new positions were finalized in December 2015 and recruiting a diverse group of providers with the relevant skill sets may require several months. The intention is to have the new positions filled by the 2016-17 academic year. Systemwide outreach is being pursued to recruit qualified candidates.

Regent Makarechian expressed support for establishment of the additional positions, but commented that a stigma about using mental health services could deter students. Students could be concerned about possible future repercussions if their medical records indicated that they received mental health services. He asked what was being done to address this issue. Dr. Fleming responded that grant funds from Proposition 63 had been used for successful outreach programs in destigmatization and suicide prevention. The goal of CAPS is not only clinical, but also outreach and prevention. Many such programs are in place and her office hopes to establish more. Regent Makarechian asked if the term “mental health” could be changed. Dr. Fleming commented that the term acknowledges that there is nothing wrong with having behavioral or mental health challenges that are a common occurrence. Outreach efforts are directed at helping students accept that there is nothing wrong with having a condition that requires one to seek care for depression or anxiety.

Chairman Lozano complimented Dr. Fleming on the progress made on this important issue and asked if desired staffing ratios would be systemwide or by campus. Dr. Fleming responded that some UC campuses would take a few years to reach the desired staffing ratios, but she expressed confidence that by the 2017-18 academic year all UC campuses would have the appropriate staffing ratios. Chairman Lozano asked what measures were being taken on those campuses that had not yet filled their new positions to ensure that services were provided in the meantime to students with needs. Dr. Stobo commented that at a recent meeting, Dr. Fleming and leaders of the student health and CAPS centers discussed innovative ways to provide services. UC campuses have started unique programs on their own in recognition of the fact that, even when staffing ratios would be reached, they would dictate only a minimum number of mental health personnel. Simply hiring more staff would not be sufficient to address the need for these services. Bringing campus leaders together to build on best practices would lead to a more robust program.

Regent Zettel commented that it would be challenging to meet these staffing needs, partly because there was a general shortage of medical personnel. She asked if collaborations were in place with California State University and the CCCs, and if interns could be used to provide services. Dr. Fleming responded that most UC counseling centers have training programs using interns and postdoctoral fellows. Using other types of staff, such as case managers with master’s degrees, could help with care coordination by making use of scarce resources most efficiently. The fact that all ten UC campuses were hiring mental health staff should help attract qualified personnel.

Regent Zettel asked if students’ medical records must include mention of mental health services students have sought. Dr. Fleming stated that counseling records are private and

would not be general knowledge unless the student chose to disclose. Regent Zettel asked if this applied if the mental health services were being billed through medical insurance. Dr. Fleming pointed out that the counseling centers do not charge for on-campus services, so there would be no bill. Online outreach wellness and prevention programs can provide a way for students to find out about mental health services anonymously and could also refer for services if appropriate. Provost Dorr added that efforts over the past few years to improve student mental health services had included attention to protecting students' anonymity to increase students' willingness to seek services.

Regent De La Peña asked if information about students' medications and medical history was automatically transferred from the student health centers to the CAPS centers. Dr. Fleming said the first approach would be to ask the student. If the student does not share the information, the student health service personnel could reach out to their counterparts at CAPS. Every effort is made to coordinate services.

Regent De La Peña asked about progress using telemedicine and on-call personnel. Dr. Fleming replied that several campuses were investigating using telemedicine. UC Merced was currently using telemedicine to meet its psychiatry needs. Regarding after-hours service, all UC CAPS centers use the after-hours call service ProtoCall, which is staffed by licensed psychologists who have the ability to contact the UC campus counseling service staff if needed. Student health centers systemwide use an after-hours nurse line that provides the health centers with after-hours reports the following day. Regent De La Peña asked if the after-hours call services have access to students' records. Dr. Fleming answered in the negative, as the records would be protected from outside services.

Regent Davis recalled an earlier presentation indicating the disparate level of need for mental health personnel at various UC campuses. New resources should be used strategically according to need. He asked what was being done to address the lack of available mental health staff at UC Merced because of a lack of qualified providers in the area. Dr. Fleming responded that the University had acted nimbly in establishing telepsychiatry at UC Merced, using UCSF psychiatry faculty to help provide services. Chancellor Leland added that there was only one psychiatrist in all of Merced County. The campus was actively recruiting mental health personnel, so far unsuccessfully. Meanwhile, the campus had leveraged telepsychiatry. She expressed appreciation for UCSF's helping to fill the gap by offering services from its staff, which had been tremendously helpful to UC Merced. The key for rural or underserved areas would be to leverage all types of health services to better serve UC's campuses located in those areas.

Regent De La Peña asked if third-year psychiatry residents could rotate through UC Merced and other campuses that have difficulty staffing their mental health services. Dr. Fleming said that possibility had been explored, but most psychiatry programs were already committed to other rotations. However, UC San Diego was considering aligning its psychiatry department with its student counseling and psychological services. Regent De La Peña asked if another residency program or two residency positions could be allocated for psychiatry at UC counseling centers. UC psychology programs could also

be involved. Dr. Stobo responded that this possibility had been raised and he would take the suggestion back to the Working Group for further consideration.

Regent-designate Ramirez asked about graduate and professional students' access to mental health services, particularly access with waiting room privacy from undergraduate students who they may teach. Dr. Fleming responded that such arrangements are made on the campus level. All counseling centers have staff designated to work specifically with graduate students.

Regent Pérez supported increasing diversity and cultural competency of providers. UC could become a leader in their training and education. While he supported telemedicine as a supplement, it should not replace in-person counseling. He asked about literature evaluating the efficacy of telepsychology compared with in-person psychological services. Dr. Fleming agreed that telepsychiatry was not intended to replace face-to-face psychiatry, but rather as a supplement at those campuses where hiring was difficult. She noted literature reports that telepsychiatry is well-liked and effective.

Student Observer Elijah Pipersburg addressed issues of student mental health and black student success. He expressed his view that UC's greatest attribute is its tolerance. He emphasized the importance of increasing the diversity of mental health service providers at the campus counseling centers. For example, black male students' experiences can be best understood by black male counselors. Mr. Pipersburg noted that some black students have urged UC to divest from corporations that invest in private prisons. He emphasized the importance of mental health issues for black students, who he said often do not feel part of the UC community.

President Napolitano introduced UCSA President Kevin Sabo, fourth-year UC Berkeley student. Mr. Sabo emphasized the importance of student mental health issues to UC students. Students expressed concern about not being able to get timely appointments, lack of diversity of counseling providers, and lack of student awareness of the availability of counseling services. UCSA evaluated campus counseling centers based on three priorities of UC students: accessibility, diversity of staff, and outreach to students. UCSA graded campus counseling centers; the average grade for all campuses was a C, ranging from a B- for UC Davis to an F for UC Merced. CAPS staff and UC students expressed gratitude to UCSA for shedding light on existing issues. He urged the Regents to take steps to reduce appointment wait time, to increase counseling staff diversity, and to invest particularly in UC Merced. Students were supporting these issues through Assembly Bill 2017 that would establish a trust account that colleges could access to obtain funding for mental health services. At no new cost to the State, this fund would allow campuses the flexibility to fund the particular services they need. UCSA advocates allocating even a greater than 50 percent portion of the increase in the Student Services Fee to student mental health services and would like to partner with CAPS staff to find solutions.

At UCSA's upcoming Student Lobby Conference, an annual day of advocacy, almost 400 students from across the UC system would present a robust legislative agenda aimed at improving the lives of UC students. UCSA believes that more concrete information

about campus climate is needed to ensure that decision-makers understand students' real experiences with identity, housing, and retention. UCSA also supports UC's efforts to increase support for graduate students, including improving housing. UCSA is concerned that recent graduate student housing efforts at UC San Diego might help single graduate students, but could make the housing situation more difficult for graduate students with families. Mr. Sabo also expressed students' concern about cyber privacy and disapproval of the University's coordinated monitoring, as a threat to academic freedom.

The meeting adjourned at 11:20 a.m.

Attest:

Secretary and Chief of Staff

FINAL REPORT OF THE REGENTS WORKING GROUP ON PRINCIPLES AGAINST INTOLERANCE



January 22, 2016

FINAL REPORT OF THE REGENTS WORKING GROUP ON PRINCIPLES AGAINST INTOLERANCE

Contextual Statement

Introduction: The Working Group and its Process

During the 2014-15 academic year, the Regents received correspondence and public comment from a variety of sources expressing concern that there has been an increase in incidents reflecting anti-Semitism on UC campuses. These reported incidents included vandalism targeting property associated with Jewish people or Judaism; challenges to the candidacies of Jewish students seeking to assume representative positions within student government; political, intellectual and social dialogue that is anti-Semitic; and social exclusion and stereotyping. Fundamentally, commenters noted that historic manifestations of anti-Semitism have changed and that expressions of anti-Semitism are more coded and difficult to identify. In particular, opposition to Zionism¹ often is expressed in ways that are not simply statements of disagreement over politics and policy, but also assertions of prejudice and intolerance toward Jewish people and culture.

Anti-Semitism, anti-Zionism and other forms of discrimination have no place at the University of California. Most members of the University community agree with this conclusion and would agree further that the University should strive to create an equal learning environment for all students. This said, members of the community express widely divergent views about how the University should respond to incidents of overt, and more particularly, covert anti-Semitism and other forms of prohibited discrimination and intolerance. In light of the evolving nature of anti-Semitism, some commenters recommended that the Regents endorse or adopt a definition of anti-Semitism that has been attributed to the U.S. Department of State. They express the view that adopting a

¹ Merriam Webster defines Zionism as follows: an international movement originally for the establishment of a Jewish national or religious community in Palestine and later for the support of modern Israel. <http://www.merriam-webster.com/dictionary/Zionism>
The Oxford American Dictionary defines Zionism as follows: A movement for (originally) the [re-establishment](#) and (now) the development and protection of a Jewish nation in what is now [Israel](#). http://www.oxforddictionaries.com/us/definition/american_english/zionism

definition of anti-Semitism would help members of the University recognize and respond to anti-Semitism.² Some commenters urged the Regents to sanction members of the University community who express views thought to be anti-Semitic, while others asserted that the State Department definition would sweep in speech protected by principles of academic freedom and the First Amendment. Sanctioning people based on their speech, they say, would violate the First Amendment. Others expressed concerns about defining and focusing on anti-Semitism alone when other forms of bias and prejudice also occur on UC campuses, but have not been specifically defined or addressed in Regents policy.³ Finally, some commenters asserted that expressions based on stereotypes, prejudice and intolerance impact the learning environment for some members of the University community, and that prohibiting such expressions altogether should be deemed a legitimate approach to enforcing the University's non-discrimination policies.⁴

At our September 2015 meeting, the Regents considered the adoption of a draft statement of principles against intolerance. After receiving public comment and engaging in extensive discussion, the Regents elected not to move forward with the draft in its then current form. Members cited a number of concerns that led to the decision not to move forward. In the end, Chair Monica Lozano announced the formation of a Working Group, to be chaired by Regent Eddie Island, and charged the Group with developing a statement reflecting the Board's discussion, as well as the principles of academic freedom and freedom of

² A 2010 U.S. State Department Fact Sheet uses the following definition of Anti-Semitism: "a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of anti-Semitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities." The document provides a number of examples of anti-Semitism. With respect to Israel, it identifies Demonizing Israel, applying a Double Standard to Israel and Delegitimizing Israel (sometimes referred to as the 3 Ds). The Fact Sheet further notes that "criticism of Israel similar to that leveled against any other country cannot be regarded as anti-Semitic." See <http://www.state.gov/j/drl/rls/fs/2010/122352.htm>

³ The University's non-discrimination policies do address many forms of prejudice and intolerance, including discrimination based on religion and many other characteristics of individual identity.

⁴ The Working Group does not intend to capture all the viewpoints expressed to the Regents or the Working Group. This paragraph instead highlights only key points of difference that were considered by the Working Group.

expression. The Working Group comprises Regents Island, Oved, Pattiz, Perez, and Varner; Faculty Representative Hare; Chancellor Katehi; and Vice Provost and Chief Outreach Officer Gullatt. The Working Group has been supported by General Counsel and Vice President Charles Robinson and Secretary and Chief of Staff Anne Shaw.

In the course of preparing a draft statement, the Working Group convened a day-long public forum, on October 26, 2015, in order to receive additional input from interested parties and members of the public, beyond that received at several Regents meetings. Following the public forum, on December 1, 2015, the Working Group invited four recognized scholars and/or leaders on the subjects of discrimination, with a particular focus on anti-Semitism, and on free speech, to come before the group and present their views on what might be an effective statement on intolerance. These experts were UCLA Professor of Law and Vice Chancellor for Equity, Diversity and Inclusion Jerry Kang, UCLA Gary D. Schwartz Professor of Law Eugene Volokh, President and General Counsel of the Louis D. Brandeis Center for Human Rights Under the Law Kenneth L. Marcus, and Founder and Dean of the Simon Wiesenthal Center Rabbi Marvin Hier. In addition to making presentations, each of these experts provided written materials to the Working Group for further consideration.

The Working group then convened for a series of meetings in December 2015 and January 2016 to develop a statement on intolerance. In addition to the forums convened as described above, the Working Group, and the Secretary's Office on behalf of the Board, have received extensive comment from many members of the University community and the general public. In December, 2015, Student Regent Avi Oved began soliciting input by email from all UC students.

Working Group Observations

The efforts of the Working Group throughout its process were guided by the following observations:

The University of California is a place where students encounter a wide range of views, opinions, and lifestyles that can prompt them to reexamine aspects of their lives that they may have taken for granted. Like all public

universities, UC accepts and brings to our campuses students from diverse communities. It is not uncommon for students to find themselves interacting with peers from groups they might otherwise have avoided or might never have encountered. Lack of exposure to groups from different communities can lead to insufficient understanding and appreciation of the viewpoints and sensitivities of others. In the collective view of the Working Group, students at UC campuses should expect to be challenged both intellectually and emotionally. They should expect more intense intellectual and emotional give and take than they might have previously experienced. Some of the ideas a student encounters may be abhorrent to that student or their family members and friends; nevertheless, these ideas may be instrumental in helping a student further define their own vision.

The Campus experience may include engagement with contemporary international disputes related to aspects of personal identity that members of the UC community hold dear. Recently, in the context of debates about Israel and its neighbors, members of the UC community have come forward with concerns that anti-Semitic stereotypes and tropes of Jewish people appear coded as political discourse about Israel and its policies. The University community is part of a larger world in which contemporary policy disputes and even armed conflicts are closely tied to heritages that, for many, are essential aspects of people's personal identities. In this context, policy positions are sometimes framed in terms that are perceived, rightly or mistakenly, to be personal attacks based on prejudice and intolerance linked to group identity.

The Working Group considered other examples raising similar concerns. Terrorist attacks by self-identified religious fundamentalists have fueled Islamophobic acts against peaceful members of our communities who are -- or are presumed to be -- followers of Islam. These attacks and counter-attacks generate fear on UC campuses as much as they do outside the UC community, and they sometimes generate policy positions or statements that are perceived to be personal attacks that reflect prejudice or intolerance based solely on religious belief.

Discussions related to differences arising from race, ethnicity, gender, sexual orientation, national origin, citizenship, or other individual identity characteristics also can result in attacks and discourse that reflect stereotypes,

prejudice or intolerance. For example, the Black Lives Matter movement has brought renewed focus to aspects of racial inequality that persist despite decades of struggle to overcome them. Debates on college campuses about anti-Black racism have highlighted instances of isolation and exclusion that create unequal learning environments for Black students. Similarly, members of the University community have reported that the debates over U.S. immigration policy are of great personal importance to them. Policy debates about immigration, we are told, sometimes reflect bias and prejudice based on actual or perceived national origin or ethnicity. Likewise, the recent state and national dialogue about marriage equality has been of great personal importance to some members of the UC community. In some instances, this dialogue may have reflected bias and prejudice toward members of the LGBT community.

In the view of the Working Group, debate and community life on public university campuses inevitably reflect the social and political conflicts that surround us. Members of the UC community historically have been both the targets of injustice and the leaders of movements to promote equality and fairness. The unique environment of a public university campus, which serves as both a home and a workplace to tens of thousands of learners drawn from widely diverse experiences, often gives these debates added intellectual and emotional intensity.

Other incidents of prejudice and intolerance arise, not in connection with policy debates, but in acts of social exclusion, stereotyping, threats of violence or vandalism. At one extreme, rudeness may reflect stereotypes that intentionally or unintentionally convey intolerance. At the other extreme, intolerance can include criminal behavior that can and should be reported, investigated, and where appropriate, sanctioned within the student or faculty discipline process, as appropriate, and/or the criminal justice system

In light of the number and frequency of acts of intolerance reported by the commenters appearing before the Working Group, the group has concluded that the time is particularly apt for the Regents to reaffirm the special role and mission of the University of California and our aspirations for all members of the University of California community. Punishing expressions of prejudice and intolerance will not prevent such expressions or change the minds of speakers. In confronting statements reflecting bias, prejudice or intolerance arise from

ignorance of the histories and perspectives of others, the University is uniquely situated to respond with more speech – to educate members of our community about the different histories and perspectives from which we approach important issues. As a public university, First Amendment principles and academic freedom principles must be paramount in guiding the University’s response to instances of bias, prejudice and intolerance and its efforts to create and maintain an equal campus learning environment for all.

The Regents Policy on Policies (RP 1000), which calls on the Regents to adopt policies supporting the purpose, principles, and philosophy of the tripartite mission of the University, is at the core of the Working Group’s efforts. The group notes that many existing University policies address issues related to intolerance on campus. Some have been previously adopted by the Regents while others have been adopted by the administration and/or Academic Senate. Others, particularly principles of community, have been adopted by individual campuses. See the accompanying Appendix A for a brief survey of such policies.

To supplement and enhance these existing policies, the Working Group proposes that the Regents adopt the accompanying Principles Against Intolerance. These Principles transcend specific examples of intolerance and, following directly from the University’s mission, provide a consistent basis for responding to intolerant speech and acts. We expect that University leaders will consider both the Principles Against Intolerance and existing University policies to guide their actions.

Regents Policy: Principles Against Intolerance

- a. The mission of the University is to promote discovery and create and disseminate knowledge, to expand opportunities for all, and to educate a civil populace and the next generation of leaders. The University therefore strives to foster an environment in which all are included, all are given an equal opportunity to learn and explore, in which differences as well as commonalities are celebrated, and in which dissenting viewpoints are not only tolerated but encouraged. Acts of hatred and other intolerant conduct, as well as acts of discrimination that demean our differences, are antithetical to the values of the University and serve to undermine its purpose.
- b. University policy prohibits discrimination based on race, color, national origin, religion, sex, gender, gender expression, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, service in the uniformed services, or the intersection of any of these factors. Prohibited discrimination arising from historical biases, stereotypes and prejudices jeopardizes the research, teaching and service mission of the University. This mission is best served when members of the University community collaborate to foster an equal learning environment for all, in which all members of the community are welcomed and confident of their physical safety.
- c. Human history encompasses many periods in which biased, stereotypical or prejudiced discourse, left unchallenged and uncontested, has led to enormous tragedy. In a community of learners, teachers, and knowledge-seekers, the University is best served when its leaders challenge speech and action reflecting bias, stereotypes, and/or intolerance. Anti-Semitism and other forms of discrimination have no place in the University. The Regents call on University leaders actively to challenge anti-Semitism and other forms of discrimination when and wherever they emerge within the University community.
- d. Freedom of expression and freedom of inquiry are paramount in a public research university and form the bedrock on which our mission of discovery is founded. The University will vigorously defend the principles of the First

Amendment and academic freedom against any efforts to subvert or abridge them.

- e. Each member of the University community is entitled to speak, to be heard, and to be engaged based on the merits of their views, and unburdened by historical biases, stereotypes and prejudices. Discourse that reflects such biases, stereotypes or prejudice can undermine the equal and welcoming learning environment that the University of California strives to foster. The University seeks to educate members of the community to recognize, understand and avoid biases, stereotypes and prejudices.
- f. Regardless of whether one has a legal right to speak in a manner that reflects bias, stereotypes, prejudice and intolerance, each member of the University community is expected to consider his or her responsibilities as well as his or her rights. Intellectual and creative expression that is intended to shock has a place in our community. Nevertheless, mutual respect and civility within debate and dialogue advance the mission of the University, advance each of us as learners and teachers, and advance a democratic society.
- g. Candidates for University leadership positions are entitled to consideration based on their stated views and actions, and in a manner consistent with the University's nondiscrimination policy. Efforts to discredit such candidates based on bias or stereotyping should not go unchallenged.
- h. Actions that physically or otherwise interfere with the ability of an individual or group to assemble, speak, and share or hear the opinions of others (within time place and manner restrictions adopted by the University) impair the mission and intellectual life of the University and will not be tolerated.
- i. Harassment, threats, assaults, vandalism, and destruction of property, as defined by University policy, will not be tolerated within the University community. Where investigation establishes that such unlawful conduct was targeted at an individual or individuals based on discrimination prohibited by University policy, University administrators should consider discipline that includes enhanced sanctions. In addition to discipline and consistent with the University's mission to educate members of our community, University administrators should use all available tools, including restorative justice

techniques, to address such unlawful conduct, in order to foster learning and mutual respect.

- j. The Regents call on University leaders to apply these Principles Against Intolerance and all other University policies directed to discrimination and intolerance to the full extent permissible under law. University leaders should assure that they have processes in place to respond promptly, and at the highest levels of the University, when appropriate, when intolerant and/or discriminatory acts occur. Such response should include consideration of support for members of the community directly affected by such acts.

Appendix A

- Regents Policy (RP) 1111: Policy on Statement of Ethical Values and Standards of Ethical Conduct calls on all members of the University to conduct ourselves in a manner that reflects fair dealing, individual responsibility and accountability, and respect for others.
<http://regents.universityofcalifornia.edu/governance/policies/1111.html>
- RP 3303: Policy on Employee and Student Protections Related to Student Press and Student Free Speech Rights provides that students shall not be subject to discipline on the basis of protected speech but notes several reserved areas of University authority, including to establish and enforce non-discrimination policies
<http://regents.universityofcalifornia.edu/governance/policies/3303.html>
- Several provisions of the Policies Applying to Campus Activities, Organizations and Students (PACAOS) establish expectations for the conduct of students as members of the University community and provide for discipline of students; especially relevant grounds for discipline include:
 - 102.04 addressing damage to property of University or others on University premises
 - 102.08 addressing physical abuse, assault and threats of violence
 - 102.09 addressing harassment so severe and pervasive as to substantially impair a person's access to University programs effectively denying equal access
 - 102.09 also provides for enhanced sanctions where harassment is motivated on the basis of various protected characteristics including, among others, race, national origin, citizenship, sex, religion, sexual orientation, et al (see also 104.90)
 - 102.10 addresses stalking behavior making a credible threat of intent to cause a person to fear for his or her safety where it alarms, torments or terrorizes an individual and serves no legitimate purpose (such as self-defense) (also 102.24)
 - 102.13 addresses obstruction of teaching, research, administration, disciplinary procedures or other University activities
 - 102.14 addresses disorderly conduct
 - 102.15 addresses disturbance of the peace and unlawful assembly

- 104.10 authorizes Chancellors to discipline for violation of University policies and campus regulations even where conduct does not also violate law
- 105.00 provides for following types of student discipline: warning/censure, probation, loss of privileges and exclusion from activities, exclusion from areas of campus or University functions, suspension, dismissal, restitution, revocation of awarding of degree and also provides for interim suspension during an investigation and/or conduct proceeding

See: <http://policy.ucop.edu/doc/2710530/PACAOS-100>

- Policies governing staff are found in the Personnel Policies for Staff Members (PPSM), especially PPSM 12 re nondiscrimination and PPSM 62 re corrective action

<http://policy.ucop.edu/doc/4000376/NondiscrimAffirmAct>

General University Policy regarding academic appointees is found in the Academic Personnel Manual (APM).

- APM-010, the University's policy on academic freedom.
<http://www.ucop.edu/academic-personnel-programs/files/apm/apm-010.pdf>
- APM-015, the Faculty Code of Conduct, was approved by the Academic Senate and establishes ethical principles, rights and responsibilities for faculty to define and support academic freedom; it also defines unacceptable conduct by faculty.
<http://www.ucop.edu/academic-personnel-programs/files/apm/apm-015.pdf>
- APM-016 sets University policy on faculty conduct and the administration of discipline.
<http://ucop.edu/academic-personnel-programs/files/apm/apm-016.pdf>