

The Regents of the University of California

PUBLIC ENGAGEMENT AND DEVELOPMENT COMMITTEE

September 20, 2023

The Public Engagement and Development Committee met on the above date at UCLA Luskin Conference Center, Los Angeles campus and by teleconference at 1200 Taraval Street, San Francisco and 106 E. Babcock Street, Bozeman, Montana.

Members present: Regents Guber, Hernandez, Kounalakis, Raznick, Reilly, Sarris, and Tesfai; Chancellor Wilcox; Staff Advisor Mackness

In attendance: Regent Lee, Regents-designate Pack and Salazar, Faculty Representative Steintrager, Assistant Secretary Bricker, Deputy General Counsel Drumm, Provost Newman, Executive Vice President and Chief Financial Officer Brostrom, Interim Senior Vice President Reese, Vice President Maldonado, Chancellor Gillman, and Recording Secretary Li

The meeting convened at 1:55 p.m. with Committee Chair Reilly presiding.

Committee Chair Reilly shared a video about the new UC Student and Policy Center in Sacramento, which had its grand opening in August. Many elected officials, legislative staff, University leadership, donors and others attended the event. The intent of the Center was for State leaders, policy makers, and members of the UC community to converge and address the biggest challenges in the state, the nation, and the world. Noted political analyst Dan Schnur, who had given a presentation at a previous Committee meeting, would lead new programming there. Another example of UC impact was the Climate Action Initiative, which was awarding \$80 million in State funds as well as seed and matching grants to 38 project teams involving over 130 groups representing community, industry, tribes, public agencies, 13 UC locations, 11 California State University campuses, and two private universities. External Relations and Communications has shared this news across its digital channels. A new website highlighting UC's positive impact on California would be presented at a future Committee meeting.

Interim Senior Vice President Reese shared that the new website would showcase data, storytelling, and ideas across eight sectors: economic impact, affordability, access, social mobility, research, health care, climate change, and public service. Federal Governmental Relations and State Governmental Relations recently partnered with UC Health to launch a UC Advocacy Network (UCAN) campaign on health equity which would cover topics such as research, physician training programs like UC Programs in Medical Education (PRIME), and UC's Medi-Cal hospital services. Last week, UC opened applications for the UCAN Student Ambassador program, in which undergraduate, graduate, and professional students learn about advocacy, public affairs, and the effect of legislation and policies on the University and participate in advocacy trips to Sacramento or Washington, D.C. In celebration of National Hispanic Heritage Month, UC has launched a new Spanish word mark, a typographical treatment across its digital platforms, and would feature UC changemakers online.

1. **APPROVAL OF MINUTES OF PREVIOUS MEETING**

Upon motion duly made and seconded, the minutes of the meeting of July 19, 2023 were approved, Regents Guber, Hernandez, Kounalakis, Raznick, Reilly, Sarris, and Tesfai voting “aye.”¹

2. **CONVERSATION WITH SENATOR SCOTT WIENER**

[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.]

This item was deferred.

3. **LEADING THE WAY: THE UC NATIONAL CENTER FOR FREE SPEECH AND CIVIC ENGAGEMENT AND KEY CONCEPTS IN EXPRESSION AND ACADEMIC FREEDOM**

[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.]

Interim Senior Vice President Reese predicted that, in the run-up to the 2024 U.S. presidential elections, free speech at universities would be the subject of much debate.

Chancellor Gillman stated that the UC National Center for Free Speech and Civic Engagement (Center) was created by then UC President Janet Napolitano in 2017, following extraordinary controversy across the country regarding certain types of speakers on college campuses in 2015 and 2016. President Napolitano envisioned scholarly, research-driven contributions to the understanding and protection of free speech, as well as broader conversations about free speech and academic freedom. She asked Chancellor Gillman and then Dean of UC Irvine School of Law Erwin Chemerinsky, both of whom had been teaching a course on free speech and had published a book entitled “Free Speech on Campus,” to develop the Center. Chancellor Gilman was also asked to provide administrative oversight on behalf of the University to ensure that the Center was making contributions to the UC system and to national debate. UC played a unique role as a result of the UC Berkeley Free Speech Movement of the 1960s. At the time, UC Berkeley students were interested in civil rights advocacy and political organizing, but, according to the University, UC property was for scholarly deliberation only. Students advocated intensely for free speech rights on campus and helped establish the principle that general free speech rights should be protected on campus. Starting in 2015, a new generation of students held the belief that certain viewpoints expressed on campus put certain students at risk and created a discriminatory learning environment. This was a generation that grew up with anti-bullying initiatives in K–12 schools. In a reversal of the Free Speech Movement, students were pressing administrators across the country to restrict speech. A

¹ Roll call vote required by the Bagley-Keene Open Meeting Act [Government Code §11123(b)(1)(D)] for all meetings held by teleconference.

variety of new issues have arisen, including demands to cancel events with controversial speakers, protests designed to disrupt speakers, and the costs associated with security protocols so that such events could proceed. Students were demanding that universities respond to faculty's pedagogical choices, and campuses were addressing controversies from social media. State legislatures have increasingly asserted authority over public universities to prevent faculty from teaching offensive or divisive concepts. These developments have raised questions about academic freedom and the future of public universities in the U.S.

Michelle Deutchman, Executive Director of the UC National Center for Free Speech and Civic Engagement, began her remarks by noting the dual UC and national aspects of the Center. Its National Advisory Board, chaired by President Drake and co-chaired by Chancellor Gillman and Mr. Chemerinsky, was comprised of leaders from a variety of fields and sectors. The Center also had an Academic Advisory Board comprised of scholars from the ten campuses and a variety of disciplines. The Valuing Open and Inclusive Conversation and Engagement (VOICE) Initiative provided up to \$5,000 to UC students, staff, and faculty to further the Center's mission of expression, engagement, and democratic learning through research, programs, or activities and has funded over 80 projects. Ms. Deutchman shared that she has facilitated workshops at nine UC campuses to train administrators, staff, law enforcement, and students, who in turn could train and empower others on campus. The Center partnered with the Office of the President (UCOP) and UC San Diego to build a Free Expression Community of Practice, in which professionals from the ten campuses met bimonthly to discuss protests, bias response, labor relations, and hate crimes. The National Fellowship was open to applicants from across the country and provided one year of funding for research related to the Center's mission. It helped advance national discourse and had a pragmatic impact. The Center engaged higher education through educational programming, a mailing list, an annual conference, a podcast, and regular webinars. Over the years, the Center has made an effort to connect expression and engagement in higher education to democracy. The Center also had many national partners and served as a resource for the press.

Ms. Deutchman noted that, in the most recent Civic Knowledge Survey conducted by the Annenberg Public Policy Center, only 26 percent of respondents could name one of the five freedoms protected by the First Amendment. In a different poll, only 24 percent knew that the First Amendment does not apply to private workplaces. Except in California, the First Amendment did not apply to private universities in the U.S. Ms. Deutchman contrasted free speech with non-protected speech, as well as expression without the use of words, and presented a list of the eight categories of non-protected speech. She underscored the difficulty of explaining the value of protecting hateful speech in today's polarized environment. One reason hateful speech was protected was that speech codes were found to be vague and overbroad, punished more speech than necessary, and ultimately had a chilling effect on speech. Second, these codes also tended to punish unintended targets. The University of Michigan enacted a hate speech code in the 1980s due to anti-Black sentiments on campus, but the two students who were punished per the code were Black. Third, there was no proof that speech codes created more a welcoming environment for marginalized groups. Despite the fact that there were punishments in Germany for certain

types of speech, there was still a significant white supremacist movement there. Ms. Deutchman noted that the cost of the term “free speech” was borne by marginalized groups. With regard to why it is important to protect ideas that are antithetical to other values on campus, she quoted former UC President Clark Kerr: “The University is not engaged in making ideas safe for students. It is engaged in making students safe for ideas.” Subject to much debate was the question of whether campuses should shield students from ideas that are harmful, disrespectful, or false or empower students to evaluate, engage, and challenge these types of ideas.

While protest was protected under the First Amendment and part of UC history, protesters may not interfere with UC operations, damage property, cause injury, or exercise a “heckler’s veto,” whereby one is so disruptive as to preclude the speaker from being heard. There has been a misunderstanding, particularly at law schools, that one had a First Amendment right to shout so loudly as to stop the speaker, but this was not protected speech. UC Irvine issued a disruption policy to help individuals understand what qualified as disruptive behavior. Ms. Deutchman presented a scenario in which students yelled at a speaker at intervals but stopped after warnings from the chair of the group hosting the event, and asked whether this was protected speech. She explained that this was protected speech, because the speaker could be heard despite a significant number of interruptions, and they later stopped. Disruptions after that point would not have been protected. Ms. Deutchman remarked that the law is a blunt instrument, and part of her work was finding alternative ways to channel energy, such as planning an event at the same time as the speaking event in question, fundraising, writing an op-ed, and forming a petition.

Freedom of speech and academic freedom had some overlap but were different concepts. General free speech rights were not based on expertise or a commitment to accuracy, while academic freedom applied to faculty when they engaged in teaching, research, and publication. Faculty were obligated to act in accordance with standards of professionalism. In the American Association of University Professors’ 1940 official statement on academic freedom, a matter was “controversial” if it had no bearing on one’s discipline, and, when acting as citizens, faculty should be accurate, appropriately restrained, and indicate that they are not speaking on behalf of their institution. UC’s academic freedom policy was found in Academic Personnel Manual - 010.

Chancellor Gillman shared that the announcement that UCI’s 2023–24 academic year would feature briefings, dialogue, and ongoing debate about free speech and academic freedom has drawn a tremendous response from the academic community. Deans were considering how this thematic year would relate to their disciplines. He and Ms. Deutchman developed “Introduction to Free Speech and Academic Freedom,” a one-unit online course that would be offered in the fall quarter and possibly in the winter. Currently, UC faced legal challenges to diversity, equity, and inclusion statements in hiring, and campuses across the country faced legal challenges for having bias response teams. Campuses faced legislative interference and there was an increase in book banning by school districts.

Regent Hernandez asked what benchmarks the Center used to quantify success. Ms. Deutchman responded that one metric was event attendance, including number of attendees, the number of new attendees, and the demographics of attendees. She observed that the Center needed to improve student involvement. Another criterion was name recognition, such that national and larger groups wished to partner with the Center. The Center has also built a record of work to apply for grants, which served as a third measure of success.

Regent Tesfai invited Ernesto Arciniega, a graduate student at UCLA, to share his experience with the National Fellowship program. Mr. Arciniega stated that the Fellowship enabled him to propel his advocacy of undocumented students, particularly their political engagement and free speech, across the system. Mr. Arciniega wrote recommendations for UCOP, and he shared the challenges experienced by undocumented students with faculty, administrators, and legislators across the country. He encouraged other students to apply for the Fellowship and expressed hope that the Regents continue supporting it.

Regent Tesfai asked about opportunities to expand student access to the Center, particularly to undergraduate students. Ms. Deutchman replied that the Center hoped to increase the number of staff and was considering the formation of an advisory council of students. At present, students had opportunities through the VOICE initiative, which offered opportunities to connect through quarterly meetings and a book club. The COVID-19 pandemic had made student engagement challenging. The Center was open to suggestions.

Regent Raznick proposed a scenario in which a curriculum or coursework threatens a student's sense of identity, religious beliefs, or core values. Chancellor Gillman stated that the concept of academic freedom gave faculty much leeway to determine the most appropriate pedagogy to convey information and help students master the material. Standards of acceptable behavior were determined by faculty through peer review of best practices and professional standards of ethics. There has been a trend of students objecting to choices made by faculty. Chancellor Gillman noted the events surrounding a Hamline University art history professor showing a 14th century painting in class that included a depiction of the Prophet Muhammad, having provided notice in advance of the class. Students complained, and the university stated that the professor's actions were Islamophobic and unacceptable, and that the well-being of marginalized students should sometimes be prioritized over academic freedom. This caused a national uproar, and the university's board of trustees overturned this statement, apologized, and fired the president. Chancellor Gillman contrasted teaching evolution or historic literature using outdated language, which would be protected by academic freedom, with abusing students with no scholarly justification, which would not. He did not believe that UC administrators had unilateral authority to determine whether a faculty decision was acceptable. Similarly, fellow faculty determined whether a work of scholarship is of sufficient quality. Chancellor Gillman remarked that academic freedom is meant to insulate faculty from political pressure from boards, administrators, students, and the public.

4. FEDERAL GOVERNMENTAL RELATIONS UPDATE

[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.]

Associate Vice President Chris Harrington provided projections for a potential shutdown of the federal government, the impact of which depended on its length and on guidance from the U.S. Office of Management and Budget. The federal budget that was being finalized applied to the 2024–25 academic year, so a brief shutdown would have limited impact on the University’s educational services and financial aid programs. Final funding totals could affect financial aid, including Pell Grants, issued after July 2024. The release of the Free Application for Federal Student Aid could be delayed further, which could affect students’ ability to apply for and access federal aid. The impact on research funding also depended on the length of the shutdown. Awarded funds were not likely to be affected, but agencies would not be able to issue new contracts or grants, renew existing projects, or respond to inquiries during a shutdown. The Office of Research and Innovation at the Office of the President issued guidance regarding actions that campuses and researchers could take to reduce pressure on government-funded research activities. A short shutdown would also have a limited immediate impact on UC Health, but Federal Governmental Relations (FGR) would closely monitor reimbursements and Medicare and Medicaid financing programs. FGR has met with the California congressional delegation, and the UC Student Association (UCSA) recently launched a campaign to advocate for federal budget priorities such as Pell Grants, federal work-study, supplemental educational opportunity grants, and childcare funding. The Alumni Associations of the University of California (AAUC) joined the campaign by sending a letter to the congressional delegation, and President Drake planned to send a letter advocating UC priorities and asking to keep the government operational. Last week, UC participated in the Rally for Medical Research in Washington, D.C.

Committee Chair Reilly asked about other federal issues of note. Mr. Harrington responded that FGR was monitoring the National Defense Authorization Act, which had security provisions. FGR was working with campuses to identify opportunities within the next iteration of the CHIPS and Science Act in areas such as technology transfer.

5. STATE GOVERNMENTAL RELATIONS UPDATE

[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.]

Associate Vice President Kathleen Fullerton began her remarks by noting that State Senator Mike McGuire would be the next Senate President pro tempore. This year, State Governmental Relations (SGR) determined that 284 bills of about 3,000 bills introduced to the State Legislature had a significant impact on the University’s operations. UC took an official position on 21 bills and secured hundreds of amendments to dozens of other bills. For example, SGR worked with Assemblymember Akilah Weber’s office on a bill pertaining to sexual violence on campus, partnered with the California State University and

the independent colleges to improve Assembly Bill (AB) 299, which was related to hazing, and worked with the Newsom administration on Senate Bill (SB) 143 to extend the expiration dates of medical residents' licenses. UC opposed Assembly Constitutional Amendment (ACA) 6, which would have required that UC employees be subject to the same labor standards as State employees, because exceptions in State and federal law for institutions of higher education would no longer have applied to UC, and the bill would have required UC to follow the State Personnel Board's protracted process to review and approve contracts. ACA 6 failed to secure enough votes to proceed. ACA 14 and Senate Constitutional Amendment (SCA) 8 were introduced on the last day of the legislative session and contained the same language as ACA 6. UC removed its opposition to SB 27, which would allow a contract employee to file civil litigation against a vendor to enforce UC's wage benefit parity policy, after Senator Maria Elena Durazo accepted UC's suggested amendments. The bill awaited Governor Newsom's signature. The Governor signed SB 1307, which declared that residential noise did not have an environmental impact under the California Environmental Quality Act. SB 1307 would help the UC Berkeley construction project at People's Park proceed. The language of AB 1749 was added to AB 1291, which would require UC to start a pilot Associate Degree for Transfer (ADT) program at UCLA, with a potential for expansion systemwide. The University removed its opposition to SB 525 after it was amended to require UC Health to set a minimum wage of \$23 per hour in 2024 and \$25 per hour in 2026. The bill awaited the Governor's signature.

SGR has maintained a physical presence in Sacramento and memberships in statewide organizations and engaged the campuses for a more unified advocacy approach. President Drake, UC's most active and important advocate in Sacramento, attended many meetings, such as the UC Legislative Roundtable with legislators who had a UC campus or National Laboratory in their district. SGR increased its use of social media and arranged activities to thank legislators during the legislative recess. SGR collaborated with the Office of the President (UCOP) to help legislators resolve issues raised by their constituents, scheduled over 50 meetings for President Drake and over 20 meetings for UCOP leadership, and coordinated with faculty and staff who were testifying at legislative committee hearings or meeting with legislators. SGR partnered annually with the State Legislative Analyst's Office and the California Department of Finance on projects related to UC's management of public resources.

Regent Hernandez asked about the fiscal impact of SB 525 and whether UC needs to seek additional State funding if the bill passes. Ms. Fullerton offered to provide the Regents with the revised cost estimates. Interim Senior Vice President Reese added that the California Hospital Association led broad opposition to the bill due to concerns about distressed rural hospitals. A compromise has provided some exemptions for rural hospitals.

Regent Raznick asked how the University's two million living alumni could engage in advocacy. Ms. Fullerton replied that the UC Advocacy Network (UCAN) enabled a large amount of outreach regarding the State budget and high-level policy issues like health equity. SGR could provide guidance on writing letters and making telephone calls. Smaller group events enabled advocates to have more detailed discussions. Ms. Fullerton noted that

legislators were interested in meeting with constituents, and that SGR was developing a strategic plan to coordinate more meetings with legislators and their staff next year. She offered to discuss additional engagement ideas. Mr. Reese credited this year's legislative success to the advocacy efforts of the UC community.

Regent Tesfai expressed disappointment in the compromise to incorporate AB 1749 into AB 1291, which was different from what students had advocated. He asked about the likelihood of AB 1291 passing and the timeline of its implementation. Ms. Fullerton stressed her view that the addition of language to AB 1291 was a good compromise, an effort from multiple entities. The University agreed with AB 1749 in principle but did not believe that systemwide expansion could be reasonably implemented in the time prescribed. The pilot program would begin at UCLA by 2025 and expand to five campuses two years later. UC would decide whether to expand the program to all campuses by 2031. Ms. Fullerton noted the length of time proposed in the bill and the amount of effort needed to design the pilot program. She anticipated that Governor Newsom would sign the bill due largely to the combined effort of his office, the Legislature, and UC to reach this compromise.

Committee Chair Reilly asked that the Regents be notified about upcoming events at the UC Student and Policy Center.

The meeting adjourned at 3:25 p.m.

Attest:

Secretary and Chief of Staff