

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

March 20, 2024

The Academic and Student Affairs Committee and the Compliance and Audit Committee met on the above date at the UCLA Luskin Conference Center, Los Angeles campus and by teleconference meeting conducted in accordance with California Government Code §§ 11133.

Members present:     Representing the Academic and Student Affairs Committee: Regents Anguiano, Batchlor, Hernandez, Park, Raznick, Sarris, and Tesfai; Ex officio members Drake and Leib; Chancellors Block, Christ, Muñoz, Wilcox, and Yang; Advisory members Beharry, Pack, Salazar, and Steintrager; Staff Advisor Mackness

Representing the Compliance and Audit Committee: Regents Anguiano, Batchlor, Cohen, Elliott, Ellis, Makarechian, Matosantos, Park, Pérez, Sherman, and Sures; Ex officio member Leib; Chancellors Christ, Gillman, Khosla, Muñoz, and Yang; Advisory members Beharry and Cheung; Staff Advisor Emiru

In attendance:         Regents Chu, Reilly, and Robinson, Secretary and Chief of Staff Lyall, General Counsel Robinson, Provost Newman, Executive Vice President and Chief Financial Officer Brostrom, Executive Vice President and Chief Operating Officer Nava, Executive Vice President Rubin, Interim Senior Vice President Reese, Vice Presidents Brown and Maldonado, Chancellors Hawgood and Larive, and Recording Secretary Johns

The meeting convened at 1:40 p.m. with Compliance and Audit Committee Chair Sures presiding.

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

Upon motion duly made and seconded, the minutes of the meeting of January 24–25, 2024 were approved with the following vote.

Vote by the Academic and Student Affairs Committee: Regents Anguiano, Batchlor, Drake, Hernandez, Raznick, Sarris, and Tesfai voting “aye.”

Vote by the Compliance and Audit Committee: Regents Cohen, Elliott, Ellis, Leib, Makarechian, Park, Pérez, Sherman, and Sures voting “aye.”

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

The Chair of the Compliance and Audit Committee recommended that the Academic and Student Affairs Committee and the Compliance and Audit Committee recommend to the

Regents adoption of a Regents Policy on Public and Discretionary Statements by Academic Units, 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.]

Compliance and Audit Committee Chair Sures introduced the item and noted that the item title had been changed from *Adoption of Regents Policy on the Use of University Administrative Websites* to *Adoption of Regents Policy on Public and Discretionary Statements by Academic Units*. The reason for the change in title was the belief that it was a more accurate description and representation of the policy. This item was an action item, but it could become a discussion item, if this was the consensus of the Board. Detractors of the proposed policy had expressed concern that it represented a violation of free speech and academic freedom. Committee Chair Sures emphasized that this was not the case. It had been made abundantly clear that preserving academic freedom and freedom of speech are imperative and essential to the mission of the University. Shared governance was a critical component in how policies are formulated. He thanked the Academic Senate for sharing its insights, expertise, and wisdom, which had been invaluable.

General Counsel Robinson explained that the draft policy had evolved considerably from the version that was discussed at the January 2024 meeting. It covered a broader set of campus units, not simply departments; it covered all academic units on the campus including schools, centers, laboratories, institutes, and the campus divisions of the Academic Senate. These were all defined as academic campus units. The policy did not cover administrative units. The proposal would govern the handling of two types of communications, defined as “public statements” and “discretionary statements.”

The Committees recessed at 1:50 p.m.

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The Committees reconvened at 2:45 p.m. with Compliance and Audit Committee Chair Sures presiding.

Mr. Robinson continued with his outline of the draft policy. The policy defined public statements as any kind of statement on any subject that is posted publicly on a campus-sponsored website or otherwise shared via mass distribution and that purports to be made on behalf of an academic campus unit, while discretionary statements are in essence public statements excluding communications that are part of the day-to-day operations of a unit. Discretionary statements are a subset of public statements, and what made them discretionary was that they are not required for purposes of managing the day-to-day operations or the official business of a unit. Discretionary statements as defined in the draft policy expressly include comment on institutional, local, regional, global, or national events, what might otherwise be called political speech in other contexts.

The draft policy set forth specific requirements for both public statements and discretionary statements. For public statements, the draft essentially required that the communications be compliant with University policy and law. This would include, for example, laws and

policies regarding anti-discrimination, harassment, and confidential and privileged information. For discretionary statements, at a high level, the draft established four requirements. First, discretionary statements may not be posted on an academic campus unit's home page. Second, where discretionary statements can be posted (on a faculty member's individual page or pages of the academic campus unit's website other than the home page), they must be accompanied by a disclaimer making clear that the opinion expressed is not necessarily that of the University, the campus, or of all the members of the unit, unless the statement was unanimously endorsed by unit members. Third, academic campus units seeking to post discretionary statements must first develop procedures that articulate the process by which such statements will be produced, posted, and archived. At a high level, the procedures were intended to protect the interests of all members of a unit for whom a statement purportedly is issued, including dissenters, and to disclose to the readers some information about the level of support for the statement. Examples of protections included ensuring that all affected persons in the unit would be offered the opportunity to deliberate and vote on the statement and that all persons voting be permitted to vote anonymously. Information on the level of support for a statement would include a description of whose views were being represented in the statement and an indication of the level of support given to the statement through such terms as "unanimous," "supermajority," or "majority" support. The fourth requirement for discretionary statements was that the procedures just described must be published along with the statements, so that readers of a discretionary statement have some context to evaluate them.

Faculty Representative Steintrager began his remarks by underscoring that free expression and academic freedom are core values of the University. It was debatable whether postings on University websites, personal opinions, discretionary statements, or political statements, however defined, fell under the categories of either free expression or academic freedom. Because this was debatable, it was all the more important that there be thorough and thoughtful dialogue about the proposed Regental policy. In 2022, after considerable thought and work, the Academic Senate released recommendations on department political statements, including statements on websites. These recommendations recognized the right to make such statements and recognized and tried to mitigate the downsides of such statements. These were recommendations but not Academic Senate policy for certain reasons, including serious concerns about implementation and enforcement. The Academic Senate prefers that departments do their own rulemaking and enforcement and encourages them to do so according to transparent rules and in ways that respect different views and different voices.

The draft policy before the Regents today had been available for Board members to review for approximately two days. The Board received input from the Academic Senate on an earlier draft policy less than a week prior. As part of that systemwide review, the Academic Council unanimously rejected endorsement of the policy. The grounds for rejection included the ambiguity of the draft policy in terms of intent and content, the broad approach to a complex set of issues, the lack of clear implementation and enforcement mechanisms, the potential of the policy to limit free speech and to impinge on academic freedom, and the potential of the policy to draw the attention and unsolicited input of actors external to the University.

Mr. Steintrager noted that the draft policy presented today had changed in part in response to the Academic Senate's review and recommendations, but the changes could only have been made hastily. The current policy draft incorporated some of the Academic Senate's published recommendations, and while this was a step in the right direction, Mr. Steintrager reiterated that these were recommendations and not policy, and he worried about how the policy would be implemented and enforced. Concerns about the policy existed across key constituent groups. The latest draft also incorporated language from a UCLA draft policy on discretionary statements that was still under review and had not been endorsed by the UCLA division of the Academic Senate. In Mr. Steintrager's view, it would be strange and set an undesirable precedent for Regental policy to be adopted based in part on a campus policy that has not been thoroughly reviewed and adopted by the campus Academic Senate Division. He also raised the question of how some of the additions from the UCLA draft policy to the latest draft of the Regents policy would work and exactly what they entailed. One question concerned how exactly the draft policy corresponded to the Faculty Code of Conduct, and which parts of the Code. Were there limitations on faculty speech that would be appropriate for the classroom but that would be unnecessarily chilling if applied to statements on websites? Mr. Steintrager and his colleagues in the Academic Senate had many questions. He urged the Regents to send this draft policy out for Academic Senate review. The principles enunciated in the University of Chicago's 1967 "Report on the University's Role in Political and Social Action" (or Kalven Report) went in a very different direction than the direction recently taken by UC. The Kalven Report was still considered relevant and significant today, more than five decades later. Mr. Steintrager hoped that any policy adopted by the Regents be carefully considered. The Regents had an opportunity to be a model of institutional integrity, cooperation, and thoughtfulness, and he hoped they would do so.

UCLA Dean of Humanities Alexandra Minna Stern presented an overview of UCLA's process in generating its draft policy and the policy's purpose and scope. In late 2022, at the request of UCLA leadership, a committee was convened to draft a policy on the issuance of statements by departments on their websites. This University-Hosted Web Statement Policy Committee included scientists, social scientists, legal scholars, humanists, and legal review. As a first step, the Committee carried out a review of relevant literature from the UC Academic Senate, including guidance issued in spring 2022 as well as relevant documentation at different UC campuses, the Kalven Report, and documents from other universities such as Brown University and the University of Illinois Urbana-Champaign. Following review of these documents, the Committee met in the winter and spring of 2023 and produced a first draft that was shared with UCLA administrative leadership and the UCLA division of the Academic Senate in fall 2023. The Committee received comments from administrative leadership and from nine UCLA Academic Senate committees. The Committee responded to this feedback by making revisions to the policy draft, including definitions and clarifications. The Committee chose not to make some of the recommended revisions and provided explanations for its decisions. The Committee finalized the policy in early February 2024.

Since that time the policy has undergone legal review and there were pending questions regarding enforcement and implementation, mentioned earlier by Mr. Steintrager, and

Ms. Stern believed that these questions need to be further discussed. In this policy, the Committee developed what it considered the bare minimum requirements for a fair and inclusive process in academic campus units to make decisions and determine how they would generate and post public discretionary statements. The two key pillars of this policy were the production and posting of statements. The Committee also developed guidance for the use of social media since many departments and academic units have Facebook and X accounts. This guidance was not part of the formal policy but was important because it drew from best practices on the use of social media.

Ms. Stern stressed the conviction of the Committee that there was a need for this policy. Many academic campus units wanted to know how to handle requests for statements and what procedures would respect the interests of the entire community. This policy, unlike the protections of the Faculty Code of Conduct, also provided guidance and protections for non-faculty members of the campus community who were members of academic campus units and might be represented and affected by the statements of these units. The procedures that the Committee had developed respected the interests of all community members, who had a diverse range of perspectives—faculty, postdoctoral scholars, graduate student employees, and staff. The procedures had been crafted to be consistent with provisions of the Faculty Code of Conduct. They did not restrict any individual’s right to speak, and they required that academic campus units avoid any impression that they speak for the University. Because discretionary statements are not produced as part of the personnel process or to conduct Academic Senate business, the Committee believed that academic campus units enjoyed the freedom to adopt supermajority requirements for their issuance. The policy had been drafted as an example of how to balance academic freedom, freedom of speech, and the freedom not to speak, along with the need to ensure that the University is represented appropriately. It provided a procedural framework for ensuring that all opinions are respected. Ms. Stern underscored that the policy was in harmony with the Academic Senate guidance issued in 2022, and she and her colleagues sought to partner with the Academic Senate in further work on the policy.

Regent Leib recalled that University websites were funded by taxpayers. There should be disclaimers for discretionary statements. The author of a statement, whether an individual or a group, should be known. There must be freedom of speech and the ability to dissent and to present different points of view. Discretionary statements should appear on a separate opinion page, not on the main or landing page of a website. These measures would provide for freedom of speech and accountability. The draft policy was close to accomplishing these goals, and Regent Leib suggested that the Regents review the policy from now until the May meeting and adopt a policy in May.

Regent Tesfai did not believe that the Board of Regents needed to delve into this matter. Each campus should be free to decide on policies and guidelines in this area. He quoted from a June 2, 2022 letter from then Academic Council Chair Robert Horwitz regarding the recommendations from the Academic Senate’s University Committee on Academic Freedom: “the Council emphasizes that it endorses these recommendations as best practices, not mandates to campuses.” If a campus wishes to enact a policy, this is a matter that should be thoroughly discussed by the administration, faculty, students, and all campus

stakeholders. This did not need to be a mandate implemented by the Board. Decisions on issues of free speech, academic engagement, academic expression, and research needed engagement by campus stakeholders. Regent Tesfai recalled that, a few years earlier, statements about the Black Lives Matter movement and the killing of George Floyd were posted on the website of the UCLA Luskin School of Public Affairs, as well as statements about how UC research would respond to racism and how UC would fight against racism. Even with respect to points of view with which he disagreed or which he found abhorrent, Regent Tesfai did not believe it was his prerogative to create a new policy regulating speech. The Regents should be careful not to create policies because of specific opinions with which they disagreed. Whatever the intentions of the proposed policy, he believed it would have a negative impact on academic expression. There were reasons why so many people had expressed opposition to the proposed policy. Regent Tesfai asked why the Board should decide on how each campus would respond to this issue.

Committee Chair Sures responded that nothing in the proposed policy would dictate what one could or could not say. People can say what they want to say. The policy provided four general guidelines. The policy would give the individual academic units the freedom to create a procedure for those guidelines. The policy granted significant leeway and latitude to individual academic campus units.

Regent Tesfai stated that he understood that the policy would not limit speech but expressed frustration about how certain statements would be classified as discretionary statements and others not. There was no reason why the campuses should not themselves decide whether they wished to adopt this policy or believed that their current policies and procedures were sufficient to meet the demands of free speech and academic expression. The policy outlined stipulations that would be difficult to implement. Each campus would have a different viewpoint in this area. Regent Tesfai reiterated that he did not see the purpose of the Board acting on this matter.

Regent-designate Beharry asked to what extent the 2022 Academic Senate guidelines were already being implemented in academic campus units. Mr. Steintrager responded that he believed that this was not the case. The recommendations had been issued and were later recirculated. In one case, a campus that had not been following the guidelines began following the guidelines after these were recirculated. This might have just been an issue of communication.

Regent-designate Beharry stated that the Regents should also consider the practical implementation and mechanisms of the policy. He raised the questions of whether a committee would be tasked with determining compliance, if chancellors and deans would hold the final decision-making authority, if there would be a warning system in place for compliance, how frequently there would be reviews of compliance, and how websites would be tracked. He observed that the chancellors, vice chancellors, and deans were now facing exceptionally challenging times when their every word or action is scrutinized and sometimes unfairly criticized. One should not alienate UC faculty or students or place additional pressures on administrators who would be tasked with implementing the policy. Regent-designate Beharry stated that campus administrators had been doing a good job so

far in remaining impartial in their decisions but cautioned that this policy might push them to be more partial. This issue should be addressed with empathy and understanding. Student voices should be elevated, and students had been disheartened by the proposed policy. The University must foster dialogue and mutual respect, and the Regents have to be an example of that.

Regent Raznick stressed that the policy as written and rewritten allowed for free speech, even speech that could be considered abhorrent to UC values. UC values were clearly identified and articulated in documents such as Regents Policy 4400, Policy on University of California Diversity Statement. The ability to voice an opinion that might not be aligned with UC's stated values was still within this policy, but the policy provided guidelines, and Regent Raznick expressed appreciation for these guidelines. The guidelines might be to some extent placing time, place, and manner parameters on UC web assets, but the policy did not cover all UC properties or assets, such as social media. He recalled that a difficult situation involving social media had recently arisen at UC Santa Barbara and he believed that the campus had responded well. The response was within the campus' purview, and this was appropriate, as long as UC responds with alacrity and accountability and within the spirit of UC principles. The proposed policy did not represent a break with free speech; in fact, it embraced free speech.

Regent Pérez referred to the Academic Senate's position in 2022 that guidance was more desirable than direction and rule-making in this area. He asked if Mr. Steintrager could see a process during his tenure as Chair of the Academic Senate that might lead to resolution on policy rather than just guidance and best practices. Mr. Steintrager responded that he had seen policy development taking place in the campus divisions of the Academic Senate, and the proposed UCLA policy was an example. Regent Pérez's question also concerned a systemwide policy. The Academic Senate has been concerned about a policy rather than recommendations for a number of reasons. A major reason was the imposition placed on Divisions and departments and their preference for self-governance. There were also concerns about implementation and enforcement. He did not know what the decision of the Academic Senate would be if the current draft were distributed for systemwide review. There was an inherent unpredictability in that situation. The incorporation of some Academic Senate recommendations from the 2022 guidance was a step in the right direction.

Regent Pérez stated his understanding that the Academic Senate was willing to engage in this discussion and to see where the discussion might lead. Any policy adopted by the Regents must be content-neutral. The discussion would be viewed in terms of its timing, and this made it difficult to arrive at the best possible policy as quickly as possible. He recalled that a discussion of this issue had taken place about two years prior. If the Regents had developed this policy at that time, it would have appeared less suspect than it appeared today. There was a problem of trust in developing these rules on time, place, and manner, even if they were content-neutral. Between now and the point at which the Regents would take action on a recommendation there must be broad-based engagement with stakeholders who might not want a rule but who might have insights on how to make a rule less offensive

or problematic and to ensure that there are measures to avoid inadvertent content regulation.

Committee Chair Sures stressed that there was nothing in the proposed policy that would dictate content. Regent Pérez responded that there were circumstances that made the motivation for the policy look suspect. The timing of this policy coincided with certain expressions of opinion. Because of this, the Regents must make additional efforts to ensure that they are beyond reproach in seeking to establish a set of rules with fair implementation and fair outcomes, and not as a reaction to certain statements. Engagement with stakeholders was important.

Committee Chair Sures remarked that, for these reasons, the proposed policy closely followed the 2022 Academic Senate recommendations and the draft UCLA policy.

Regent Anguiano asked about the role of the Regents and the systemwide administration versus that of the campuses in this matter. Policies regarding expression of political and other views already existed at UC. She asked if these were campus policies or systemwide policies. Mr. Robinson responded that these were campus policies.

Regent Anguiano emphasized the importance of consistency in the University's policy. There might be gaps in the policies of some campuses. UC's policy in addressing the current situation should be the same as it had been in past instances when other views were being expressed.

Committee Chair Sures observed that this was the reason for developing a systemwide policy.

Regent Ellis expressed concern about the timing of this item, how the policy would be enforced, and the possibility that this policy could be used as a weapon against faculty in some way. The current draft was an improvement over the draft presented in January, which had seemed overly broad. He suggested that the current proposed policy be referred to the Academic Senate for its formal input and feedback.

Regent Leib stated his view that it would be appropriate for the Regents to act now. Some California taxpayers were offended by messages appearing on UC websites. Personal opinions can be expressed but should not be expressed on the main pages of UC websites. The University should strive to be a safe and an open community. Regarding Regent Anguiano's question, he believed that a broad systemwide policy was warranted for the University. Chancellors could make decisions on individual cases at their campuses.

Committee Chair Sures clarified that individual or group opinions could be expressed on opinion pages.

Regent Sarris observed that, even if opinions are posted on a separate opinion page, there can still be repercussions. Committee Chair Sures recalled that an opinion page would have a disclaimer clarifying that these statements were not on behalf of the Regents or the

University. It would be clear that this was a point of view of a specific group of people and not the entire University.

Regent Sarris asked if chancellors and deans would not already be regulating this and responding to and stopping inflammatory statements. Committee Chair Sures responded that there was no cohesive or consistent policy across the University in this area. The proposed policy would provide guidelines and procedures and allow every academic unit to develop its own policy subject to the guidelines.

Regent Sherman expressed agreement with Regent Leib on the need to act promptly, given the current lack of a policy. The proposed policy would at least provide a framework. He believed that the Regents should act now and subsequently, as part of this process, refine and develop details on questions such as enforcement and the exact definition of officially recognized academic units. There was the question of who would serve as the arbiter of content for a unit's discretionary statement page. There were still many details to be worked out, but this should not prevent the Regents from approving a policy now.

Regent Park reflected that Regents' policies had variable degrees of specificity. Resolution of every aspect of enforcement should not be a requirement or an expectation. She asked what the next prudent steps would be, but even two further months of consideration would not resolve all the varying points of view on this matter. The Regents should consider protection for minority viewpoints holistically and independent of current events. She found that the proposed policy contained many sensible and recommendable elements with respect to navigation of majority and minority viewpoints, professionalism, and reminders that UC is a university that welcomes students of many beliefs and cultures.

President Drake remarked that he understood and appreciated the desire to have the parameters and guidelines as outlined in the proposed policy. He believed that the policy as currently written was not finished. There was not sufficient consideration of students, staff, and those who are not faculty. This policy was nuanced, complex, and layered, and the Regents must make sure to get the policy right. For this reason, President Drake did not support taking action at this meeting. The Regents should take more time for review and have a more refined version before taking action.

Regent Ellis moved that the draft policy be referred to the Academic Senate for its input and recommendations, which he hoped would be provided by the May meeting. The motion was not seconded.

Regent Sherman moved that the Regents adopt the policy as written today, with a directive to develop detailed procedures to augment this policy over the next two months and to present these to the Board. The motion was seconded by Regent Makarechian.

Regent Raznick asked to amend the motion to include comments by the Academic Senate. Regent Sherman responded that this idea was included in his motion.

Regent Pérez asked when the effective date of the policy would be if the Regents were to approve it today. Mr. Robinson responded that the policy would be effective immediately. Additional guidelines or rules would be presented to the Board at a subsequent meeting, with input from the Academic Senate.

Regent Pérez proposed an amendment to Regent Sherman's motion, such that the effective date for accountability actions to be taken be no sooner than January 1, 2025 or the date of adoption of implementation language.

President Drake raised the question of why the Regents should vote on an item that was not yet completed; the item should be correct and finalized before it is implemented.

Regent Elliott believed that the Regents were on a path to developing an appropriate policy but had not yet reached that point and stated that he did not wish to wait for the Academic Senate to complete a laborious and lengthy process. He hoped that the Regents could act on this matter sooner rather than later, but not today.

Committee Chair Sures noted that several motions had been put forward. He suggested that the Regents defer consideration of this item until the next meeting. This would allow time for the Regents and the Academic Senate to address issues and make modifications. The suggestion was moved and seconded.

Mr. Robinson explained that the motion to defer consideration would take precedent over the prior main motion and the proposed amendment to that motion. The Committees approved the motion to defer consideration with the following vote.

Vote by the Academic and Student Affairs Committee: Regents Anguiano, Batchlor, Drake, Hernandez, Leib, Park, Raznick, Sarris, and Tesfai voting "aye."

Vote by the Compliance and Audit Committee: Regents Anguiano, Batchlor, Cohen, Elliott, Ellis, Leib, Makarechian, Matosantos, Park, Pérez, Sherman, and Sures voting "aye."

The meeting adjourned at 3:50 p.m.

Attest:

Secretary and Chief of Staff

## Regents Policy on Public and Discretionary Statements by Academic Units March 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 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 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 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 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