

Office of the Secretary and Chief of Staff to the Regents

TO MEMBERS OF THE ACADEMIC AND STUDENT AFFAIRS COMMITTEE AND THE COMPLIANCE AND AUDIT COMMITTEE:

ACTION ITEM

For Meeting of March 20, 2024

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

EXECUTIVE SUMMARY

The University affirms the right of academic freedom while also fostering an environment in which all are included and in which dissenting viewpoints are not only tolerated but encouraged with all viewpoints to be expressed in a respectful manner. The University's websites communicate information about its many Units to conduct the business of the University. When individual or group viewpoints or opinions on matters not directly related to the official business of the Unit are posted on the Unit's landing (main) page, it creates the potential that the statements and opinions will be mistaken as the position of the institution itself. To address this issue, in January 2024 the Regents proposed adopting a Regents Policy regarding the use of administrative websites. The Regents solicited and received comments by the Academic Senate, which included that the Regents endorse the Academic Senate's 2022 recommendations on departmental political statements, and also was apprised of a draft campuswide policy at UCLA on this subject. Taken together, the recommendations articulate broad agreement on principles of academic freedom, and many commonalities regarding how to implement those principles. Based on these recommendations, the Regents propose a new draft Regents Policy on Public and Discretionary Statements by Academic Units.

RECOMMENDATION

The Chair of the Compliance and Audit Committee recommends 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

Freedom of speech is a fundamental value of the University of California, and the University is committed to protecting free speech and academic freedom as vital elements of a democratic society. The University affirms the right of academic freedom while also fostering an inclusive

environment. However, individual or group statements on political or controversial issues that are posted on Units' websites and are unrelated to the Unit's day-to-day operations are likely to be interpreted by the public and the community as the University's institutional views, as opposed to individual or group speech. At the January 2024 joint meeting of the Regents Academic and Student Affairs Committee and Compliance and Audit Committee, the Regents discussed a proposed Regents Policy on Use of University Administrative Websites to address any such confusion.

Academic Senate Review and Comment on January 30, 2024, Draft Regents Policy

Following the January 2024 meeting, revisions to the proposed policy were made to address Regents' comments during the meeting and it was transmitted to the Academic Senate on January 30 for review and comment. (See January 30, 2024, Draft Policy in Attachment 2).

The proposed Policy would provide that Units' main homepages of their websites should be used only to conduct official business of that Unit (including communicating news and events related to faculty research and teaching) and not to express the personal or collective opinions of Unit members. However, individual faculty members, groups of faculty, or Units could choose to express opinions on other pages of a Unit's website provided that they include a disclaimer that the opinions do not represent the official views of the University or of the Unit. An example of such is a subpage¹ of UC San Diego's Ethnic Studies Department website. It would not impose any restrictions on individual faculty members' University web pages and would not include any restrictions or requirements on social media posting.

The Senate's comments (Attachment 3) were received on March 15, 2024. The Senate asked the Regents to either reject the Policy or "delay consideration to provide time for clarification and for analysis of consequences and implementation challenges."

In lieu of adopting the proposed Regents Policy, the Senate suggested that the Regents endorse the Senate's previous guidance and recommendations on departmental political statements. In June 2022, the systemwide Academic Council endorsed the recommendations of the Academic Senate's University Committee on Academic Freedom (UCAF) (Attachment 4). While UCAF recommended that departments should not be precluded from making political statements in the name of the department, it recognized that such statements "have the potential to infringe on academic freedom" by suppressing the opinion of those with minority viewpoints and chilling speech. UCAF recommended that department statements be accompanied by disclaimers that they are not the position of the University. UCAF further recommended that departments establish bylaws, guidelines, or processes for the publication of political statements and that such statements explain whose views they represent.

¹ <https://ethnicstudies.ucsd.edu/about/statements-commentaries.html>

Other Policies on University Administrative Websites: UC Davis Policy and Proposed UCLA Policy on Public and Discretionary Statements by Academic Campus Units

Faculty and academic administrators recently have engaged in further thoughtful consideration of issues related to posting on official University websites.

The Davis campus adopted a section² in its campuswide Policy and Personnel Manual to comply with the June 2022 Academic Senate recommendations. The policy requires: (1) the use of a specific disclaimer for political statements; (2) that departments establish internal procedures for approving political statements; and (3) the prohibition of statements related to electioneering (e.g., advocacy for ballot measures or candidates for elective office).

In addition, the Los Angeles campus is considering adoption of a campuswide policy on Public and Discretionary Statements by Academic Campus Units that aims to balance academic freedom, freedom of speech as well as the freedom not to speak, and to provide a procedural framework for ensuring that all opinions are respected. The draft policy was reviewed by UCLA leadership and the UCLA Division of the Academic Senate, but further action was deferred pending potential Regents' action. The proposed campus policy would require Units that choose to post "discretionary statements" (as defined in the policy) to develop a process about the production of such statements that complies with rules outlined in the policy.

The UCLA Division of the Academic Senate wrote in its response to the UCLA proposal that it preferred the existing UCAF recommendations. The suggestion to develop procedures is similar to the systemwide Academic Senate's advice.

Proposed New Regents Policy on Public and Discretionary Statements by Academic Units

The various recommendations and proposed policies attached to this item articulate broad agreement regarding important principles of academic freedom, as well as similar recommendations on how to implement those principles. A draft Regents Policy on Public and Discretionary Statements by Academic Units (Attachment 1) incorporates many of the recommendations in these documents.

The draft Policy explicitly would allow Academic Campus Units to issue "discretionary statements" (as defined in the Policy) on political or controversial matters under certain terms. It sets forth the responsibilities of and procedures for Academic Campus Units when issuing discretionary statements, including:

- Requiring a disclaimer explicitly stating that the discretionary statement should not be taken as a position of the University or of the Unit (unless unanimously held);
- Requiring the adoption of procedures by the Unit governing the issuance and publication of such statements that protect the members of the unit from pressure to speak and from

² <https://ucdavispolicy.ellucid.com/documents/view/385/active>

misrepresentation. Academic units may determine their own procedures within the limits set forth in the Regents Policy; and

- Prohibiting the publication of discretionary statements on the main homepage of a unit's website.

The draft Policy differs from the systemwide Senate's recommendations, in that it would prohibit the posting of discretionary statements on the main homepages of Units' websites.

The Policy would protect the freedom of individuals or groups of individuals to publish their opinions on pages on a unit's website other than the main homepage, as well as via other means of communication such as social media. It aims to balance academic freedom and individuals' freedom of speech with speech on behalf of the University and to ensure that the University provides an inclusive, welcoming environment for the pursuit of inquiry.

ATTACHMENTS

Attachment 1: [March 2024 Draft Regents Policy on Public and Discretionary Statements by Academic Units](#)

Attachment 2: [January 30, 2024 Draft Regents Policy on Use of University Administrative Websites](#)

Attachment 3: [Academic Council March 15, 2024 Letter Responding to Draft Regents Policy](#)

Attachment 4: [June 2022 Academic Council Letter Endorsing UCAF's Recommendations](#)