

## 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 May 16, 2024*

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

##### EXECUTIVE SUMMARY

In January 2024 the Regents proposed adopting a Regents Policy regarding the use of administrative websites to mitigate the potential that statements and opinions posted on University websites are not mistaken as the position of the institution itself. Subsequently, the Regents solicited and received comments by the Academic Senate and was apprised of a draft campuswide policy at UCLA on this subject; a new version was developed that incorporated elements of these materials. After discussion of that new version at the March 2024 meeting, the Regents sent a revised draft to the Academic Senate for further comment. The attached revised draft is responsive to these comments and is proposed for adoption by the Regents.

##### 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.

The proposed Policy would provide that Units' main homepages of the Units' official University websites should be used only for information regarding the operations of that Unit (including

communicating news and events related to faculty research, teaching and scholarship) 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 statements made on behalf of the Unit must be consistent with procedures adopted by the Unit and must include a disclaimer that the opinions do not represent the official views of the University. It would not impose any restrictions on individual faculty members' University web pages or other channels of communications, such as faculty members' social media accounts.

Only one campus to date – UC Davis – has adopted a policy on University administrative websites. The Davis campuswide Policy and Personnel Manual includes a section<sup>1</sup> to comply with the June 2022 Academic Senate recommendations on department political statements. It requires use of a specific disclaimer for political statements, the establishment of departmental procedures for approving political statements, and a prohibition on statements related to elections. In addition, the Los Angeles campus is considering adoption of a campuswide policy on Public and Discretionary Statements by Academic Campus Units. At the March joint meeting of the Regents Academic and Student Affairs Committee and Compliance and Audit Committee, UCLA Dean of Humanities Alexandra Stern presented an overview of UCLA's process in generating its draft policy and the policy's purpose and scope.

Following the March 2024, the Regents sent a revised draft Regents Policy on Use of University Administrative Websites to the Academic Senate for review and comment.

### **Academic Senate Review and Comment on March 20, 2024, Draft Regents Policy**

The Academic Senate submitted a letter on May 1, 2024 summarizing comments from its systemwide committees and divisions and discussion at the Academic Council's April 24 meeting (Attachment 3). Overall, Senate bodies appreciated the revised draft's balanced approach, respect for unit autonomy while providing consistent University standards, and measures to protect minority opinions. The letter noted that the proposed Policy reflects the Senate's 2022 recommendations on department political statements, with the notable exception that the recommendations from the Senate are advisory and the proposed Regents Policy requirements are mandatory – i.e. if an Academic Campus Units chooses to issue discretionary statements, it must adopt procedures for the creation and dissemination of such statements in advance and that such statements explain whose views they represent. While the Senate expressed that it would prefer that the Regents simply endorse the advisory 2022 Senate recommendations, the letter provided suggestions for refining the draft Policy should it be considered for adoption by the Regents.

Many of the Senate comments in the May 1 letter regard lack of clarity of definitions and uncertainty over ways in which the Policy could be interpreted, including the treatment of links on a Unit's homepage. Senate bodies also asked for clarification that academic research relating

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<sup>1</sup> <https://ucdavispolicy.ellucid.com/documents/view/385/active>

to political events that could be viewed by some parties as contentious would not be classified as discretionary statements. Several Senate bodies criticized the lack of implementation guidelines provided in the draft item and expressed concern over the potential lack of consistency in enforcement throughout the University. Finally, the Senate would prefer that procedures for those Units that choose to issue discretionary statements be advisory rather than mandatory.

### **May 2024 Revision of Draft Regents Policy on Public and Discretionary Statements by Academic Units**

In response to these comments, changes to the draft Regents Policy are proposed, as shown in Attachment 2. These include:

- Adding to the definitions of Public Statements and Discretionary Statements to clarify that statements about scholarly endeavors do not fall within the definition of Discretionary Statements.
- Deleting a sentence in the definition of Discretionary Statements that may have created a misimpression that any statement that could be viewed by some as controversial might be prohibited from appearing on a Unit's homepage even if relevant to the Unit's operations (e.g., commentary on the value of vaccines by a School of Public Health).
- Clarifying that links on an Academic Campus Unit's homepage to discretionary statements on University web pages are permissible.

Some of the Senate's suggestions have not been incorporated into the revised draft Policy. First, prior discussions of this subject among the Regents have made it clear that the Regents prefer the Policy to *require* that Units adopt a set of procedures if they seek to make discretionary statements. The Policy outlines a set of standards but does not impinge on the autonomy of Units to determine the procedures. Given that few Units or campuses have followed the June 2022 Academic Senate advisory guidance, this item proposes requiring common standards systemwide.

Second, several Senate bodies critiqued the lack of implementation guidelines that would provide consistency throughout the University. Per Regents Policy 1000, the function of Regents Policy is to set forth "broad statements supporting the purpose, principles and philosophy of the tripartite mission of the University as a guide for subsequent action. They communicate important, enduring systemwide governing principles rather than specifying operational details..." The proposed Policy communicates principles and a common set of standards but purposely does not dictate precisely how these standards should be operationalized. As noted, per Bylaw 31, the Chancellors are the executive heads of their campuses and are responsible for implementing the policies of the Board and the President. As such, it is expected that the President and Chancellors will confer regarding the dissemination of any policy, guidelines, or best practices needed to comply with the Regents Policy.

The Regents appreciate the Senate's nuanced responses and engagement with this Policy in a compressed timeline. These perspectives, as well as the Senate's prior work on this issue,

informed the Regents Policy and demonstrate the strength of shared governance. The result is a Policy that balances academic freedom and individuals' freedom of speech with speech on behalf of the University and aims to ensure that the University provides an inclusive environment for the pursuit of inquiry.

**ATTACHMENTS**

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

[Attachment 2: March 2024 Draft Regents Policy on Public and Discretionary Statements by Academic Units with May 2024 Revisions Indicated](#)

[Attachment 3: Academic Council May 1, 2024 Letter Responding to March 2024 Draft Regents Policy](#)