Annual Report: Academic Year 2006-07
Davis Division: Academic Senate

Committee on Academic Freedom and Responsibility

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<tr>
<th>Total Meetings</th>
<th>Meeting frequency</th>
<th>Average hours of committee work each week</th>
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<th>Total Reviewed (courses, proposals, cases, etc.)</th>
<th>Total of reviewed deferred from the previous year</th>
<th>Total deferred to the coming academic year</th>
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Listing of bylaw changes proposed:
None

Listing of committee policies established or revised:
None

Issues considered by the committee:
- Systemwide Standards for Institutional Review Boards
- Policies on Pharmaceutical Vendor Relations
- Tobacco Research
- Conflicts of Interest Policy 230-05
- Proposal Regarding Department Chair’s Authority

Recommended procedural or policy changes for the coming year:
None

Committee’s narrative:
The committee met three times during the 2006-2007 academic year: 12/12/06, 2/13/07, 5/15/07. Four-position reports were submitted to the Chair of the Academic Senate and one to the Chair of the Universitywide Committee on Academic Freedom and Responsibility.
The first report dated December 19, 2006 contains a series of comments regarding Institutional Review Board procedures.

The second report dated March 1, 2007 is in regards the guidelines for vendor relations. The committee concluded that no significant academic freedom issues were implicated by the proposal.

The third report dated March 1, 2007 sent to Dr. Theis, Chair, Universitywide Committee on Academic Freedom and Responsibility. The committee believes that funding arrangement should be structured in a manner that protects research integrity.

The fourth report dated May 21, 2007 contains a series of comments regarding the draft of Policy and Procedure manual section 230-05, Individual and Institutional Conflicts of Interest Involving Research. (Appendix I)

- IV.A. Academic Freedom Restrictions has two provisions that were unclear.
- In section IV.A.3. the term “outside activity” is not defined
- VI.D.1 and 2 should include some requirement that the IRB performs its functions expeditiously and that they have adequate resource and staff.
- Exhibit A-V.B.2. provides no provision for what should happen if a dispute occurs.

The Fifth report dated May 21, 2007 involves a grievances brought to the committee by a senate member regarding the proposal of the department Chair’s authority to refuse support and sign off on a faculty grant proposal, and a Chair’s authority to reassign laboratory space and remove equipment from a laboratory to accomplish the reassignment of space. (Appendix 2)
To: Academic Senate

From: Alan Brownstein, Chair
Committee on Academic Freedom

Re: Comments relating to Report on System wide Standards for Institutional Review Boards

Date: Dec. 19, 2006

The Committee on Academic Freedom discussed the Report on System wide Standards for Institutional Review Boards at our meeting on Dec. 12, 2006 and offers the following comments:

We request that the system identify the inappropriate inclusion of social science research under IRB procedures as a separate action item worth specific consideration. Inasmuch as the system report on Institutional Review Boards notes that "[t]he use of a medical model for behavioral and social science protocols is a central criticism in the published discourse on IRB reform," and inasmuch as the Center for Advanced Study's "Illinois White Paper" recommends "removing some kinds of activity from IRB review altogether," specifically mentioning "[s]ome fields, such as journalism and ethnography, and some methods, such as oral history," we would like to see the system report single out this problem for action.

We note that recommendation 2 includes a proposal for "discussion" of this issue, recommendation 3 proposes to "establish a forum for systemwide discussion" of this issue, and recommendation 8 proposes a UC contribution "to the discussion of IRB reform." But we believe that the specific problem of inappropriately using IRB methods designed for medical research to restrict research in the social sciences requires its own separate inquiry, and furthermore that this inquiry should explicitly include consideration of the recommendation to remove social science research altogether from IRB jurisdiction.
To: Gina Anderson,  
Executive Director of the Academic Senate

From: Alan Brownstein,  
Chair, Committee on Academic Freedom and Responsibility

Date: March 1, 2007

Re: Guidelines regarding Vendor Relations

In response to your request dated January 3, 2007, the Committee on Academic Freedom and Responsibility met on February 13, 2007 to discuss the several proposals presented regarding the relationships between University faculty and staff and pharmaceutical vendors.

With regard to the formal policy titled “Proposed Guidelines Regarding Vendor Relations” (Version date: 12/11/2006), the Committee concluded, after discussion, that no significant academic freedom issues were implicated by the proposal.

With regard to the informally proposed policy: “Faculty may not publish articles or editorials that are ghostwritten by vendor employees.” The Committee concluded, after discussion, that the proposed policy would not infringe the academic freedom of faculty if it were drafted with sufficient care to avoid any suggestion that it applied to legitimate collaborative research, which fully disclosed the role of the participants.

With regard to the informally proposed policy: “‘No strings attached’ grants or gifts directed to individuals from vendors shall be prohibited (this excludes competitive grants).” The Committee concluded, after discussion, that the use of the term grant was ambiguous and depending on how it was defined, the policy could seriously limit the opportunities for faculty to engage in research and to present their work. Would the selection of a faculty member to present an endowed lecture, for example, be prohibited on the grounds that the grant (or honorarium) provided did not involve a competitive selection process? We would need to see the specific language of this proposal in order to evaluate its impact on the academic freedom of faculty.

With regard to the informally proposed policy, “All consulting agreement and unconditional grants shall be publicly listed (e.g. on an internet web site),” the Committee concluded, after discussion, that such a policy implicated freedom of association concerns, but these concerns were probably of limited weight in the context of health care professionals and pharmaceutical vendors. As a general matter, the disclosure of consulting relationships in other contexts (e.g. a law professor providing advice to the attorneys representing a politically or socially disfavored client) implicates important academic freedom issues.
To: Dr. J. Theis,
Chair, Universitywide Committee on Academic Freedom and Responsibility

From: Alan Brownstein,
Chair, Davis Campus Committee on Academic Freedom and Responsibility

Date: March 1, 2007

Re: University Policy on Tobacco Research

The Davis CAFR met on February 13, 2007 to consider academic freedom concerns arising out of the proposal to prohibit faculty from accepting research funds from tobacco companies for tobacco-related research. With respect to the first question posed in the January 23, 2007 memo from Dr. Theis, the consensus of the committee is that the Regents should avoid making policy on the acceptance by faculty of funds from outside sources based upon the source of the funding. Restricting or banning the acceptance of funds from particular sources, such as tobacco companies, will invite various constituencies to put political pressure on the University to place restrictions on other sources of funds. Ultimately, faculty may be constrained from accepting funding from any sources having a point of view, severely compromising the ability of faculty to conduct research. With respect to the second question in the memo, the committee believes that funding arrangements should be structured in a manner that protects research integrity. A University-wide policy to require that all corporate funding of research be accepted under the agreement that there will be complete faculty autonomy in research and publication, as well as provisions of similar effect in individual agreements, are important means of protecting research integrity. As members of the professorate, faculty have professional obligations to ensure that their work is conducted with integrity and free of improper influence.
To: Linda Bisson,
Chair, Academic Senate

From: Alan Brownstein,
Chair, Committee on Academic Freedom (CAFR)

Date: May 21, 2007

Re: CAFR Review of Draft of 230-05 Policy on Conflicts of Interest

As requested, at its May 15, 2007 meeting the Committee on Academic Freedom discussed the draft of Policy and Procedure Manual Section 230-05, Individual and Institutional Conflicts of Interest Involving Research; Exhibit A, Procedures for Reporting, Reviewing, and Managing Conflicts of Interest in Research.

The committee had the following comments regarding this draft:

IV. A. Academic Freedom Restrictions. Two of these provisions are unclear. IV. A. 1. prohibits secrecy or confidentiality requirements in certain circumstances. It is not clear if this is an exclusive list or whether it suggests by negative implication that secrecy and confidentiality requirements are acceptable in all other circumstances.

IV. A. 3. is also unclear. The term “outside activity” is not defined. Interpreted literally, this provision would suggest that no evaluation of faculty or students could be based on activities in which they were invited to participate by the principle investigator of a project. That would unreasonably limit a broad range of opportunities for both faculty and students.

VI. D. 1 and 2 ought to include some requirement that the IRB performs its functions expeditiously and that it has adequate resources and staff to do so.

Exhibit A - V. B. 2. provides no provision for what should happen if a dispute occurs with regard to the approval of a management plan. If the monitor or sub-committee and the principal investigator cannot agree on the adequacy of the management plan, is there a mechanism through which the principal investigator could challenge or appeal the refusal of the monitor or sub-committee to approve a proposed management plan.
To: Linda Bisson  
Chair, Academic Senate

From: Alan Brownstein  
Chair, Committee on Academic Freedom

Date: May 21, 2007

Re: Proposal Regarding Department Chair Authority

In response to grievances by faculty filed with the Committee, the Committee on Academic Freedom has examined questions regarding the scope of the authority of a Department Chair specifically with regard to a Chair’s refusal to support and sign off on faculty grant proposals, and a Chair’s authority to reassign laboratory space and remove equipment from a laboratory to accomplish the reassignment of space.

In considering these matters, we are informed that a Department Chair has substantial discretionary authority under the statement of the chair’s duties set out in Appendix A to APM 245. A chair’s responsibilities include the following duties: 5. “to prepare the budget and administer the financial affairs of the department, in accord with University procedures.” and 8. “To be responsible for the custody and authorized use of University property charged to the department, and for assigning departmental space and facilities to authorized activities in accordance with University policy and campus rules and regulations.”

Unfortunately, these provisions do not provide any guidance as the criteria a Department Chair may employ in exercising these grants of discretionary authority, nor do they suggest any clear limits on the grounds for decision making in these areas.

The resulting ambiguity as to the proper exercise of Department Chair authority has both substantive and procedural consequences. Neither the Chair, nor faculty who bear the burden of a Chair’s decision, know the limits on the Chair’s discretion. Accordingly, the Chair may ground a decision on inappropriate criteria without even knowing that he or she is doing so. Faculty members, in turn, have no clear basis for evaluating the propriety of those decisions. Further, if a grievance is filed with the Privilege and Tenure Committee of the Academic Senate (P&T), the investigation and adjudication of the grievance is hampered by the lack of clarity as to what constitutes impermissible administrative action.

Accordingly, the Committee on Academic Freedom proposes the adoption of the following guidelines with regard to the exercise of Departmental Chair authority in the above referenced areas.
1. As a general matter, the decision by a Department Chair not to support or sign off on a grant proposal of a faculty member may only be based on content neutral criteria. Content neutral criteria do not include the subject or value of research. Thus, for example, the refusal to sign off on a faculty member’s grant proposal may not be based on the Chair’s determination that the subject of the research falls outside of the scope of the Department’s mission. It may be based on the lack of physical space or resources currently available to the Department for conducting the research at issue. The former decision inappropriately considers the subject or value of the proposed research. The latter appropriately considers neutral administrative factors such as physical space and resources.

2. In the rare situation in which decisions about faculty grant proposals may be based on the content of research, the substantive criteria to be considered in reaching such decisions must be formally determined prior to the Chair’s action. The determination of such substantive criteria is a function of the faculty – not the Department Chair.

3. The justification for a Department Chair refusing to sign a faculty member’s grant proposal must be stated in writing and made available to the faculty member at the time the decision is reached.

4. As a general matter, decisions regarding the allocation of laboratory space or equipment may only be based on content neutral criteria (see proposal 1 above.)

5. In the rare situation in which decisions regarding the allocation of laboratory space or equipment may be based on the content of the research, the substantive criteria to be considered in reaching such decisions must be formally determined prior to Chair’s action. The determination of such substantive criteria is a function of the faculty – not the Department Chair.

6. The justification for a Department Chair reassigning a faculty member’s laboratory space must be stated in writing and made available to the faculty member at the time the decision is reached.

7. Equipment may not be removed from a faculty member’s laboratory without the faculty member receiving timely notice that such an action is planned. Unless exigent circumstances exist, the consent of the faculty member must be obtained before equipment is removed from a laboratory.

The Committee on Academic Freedom considers these proposals to be initial recommendations that will, of necessity, require additional input, review, and amendment. We offer them to initiate the process of developing criteria and guidelines for the exercise of Department Chair discretion.