### Committee on Academic Freedom and Responsibility

<table>
<thead>
<tr>
<th>Total Meetings</th>
<th>3 in person meetings plus numerous email discussions</th>
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<tbody>
<tr>
<td>Total Reviewed</td>
<td>2 (courses, proposals, cases, etc.)</td>
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<tr>
<td>Total continued from the previous year</td>
<td>1</td>
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<td>Total continued to the coming academic year</td>
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- Listing of Bylaw changes proposed: N/A
- Listing of committee policies established or revised: N/A

Issues considered by the committee: Wilkes case; Planning of forum on Academic Freedom (jointly sponsored with Office of the Provost); Public Records Request for faculty affiliated with American Studies Association; Draft Proposal on Freedom of Expression for UC Davis campus; Request from academic freedom committee of Academic Federation; Discussion of language of UC contracts with California Department of Public Health
Committee’s narrative

The Committee on Academic Freedom and Responsibility (CAFR) studies any conditions within or outside the University, which in the judgment of the committee, may affect the academic freedom of the University or any of its individual members.

In 2013-14, CAFR had three in-person meetings and numerous email exchanges among its members. The first meeting recapitulated the events and activities of CAFR during the last 2-3 years. Prominent among these events were the Michael Wilkes case and the Academic Senate resolutions of June 8, 2012 and its follow-up (Feb. 28, 2013) by the Representative Assembly of the Academic Senate. The Assembly upheld the initial resolution on the Feb. 28th meeting stating: That the Representative Assembly condemns Health System and Campus Legal Counsels for drafting inappropriate and apparently threatening letters that violated a faculty member’s right to academic freedom.

The initial resolutions of June 8 2012 also required the School of Medicine to undertake concrete steps to prevent future violations of rights of academic freedom, including training of administrators, their staff, and faculty on such rights. In order to ensure that this resolution was carried out, CAFR met with Provost Hexter in the early summer of 2013 to begin planning for an academic freedom forum that would provide deeper understanding of the principles of academic freedom to the campus at large. In consultation with the office of the Provost, Robert Post, Dean and Sol & Goldman Professor of Law at Yale University was selected to give a keynote address and preparations got immediately underway. Additional participants were invited, namely a representative of AAUP, and a representative of the system-wide committee on academic freedom, and the Provost.

In advance of the forum, CAFR solicited questions from the faculty via a link on the Academic Senate website. Academic Senate and Academic Federation listserves were used to notify the faculty about the forum and advertise the event. At least two notices were sent to the faculty
and questions were collected. CAFR selected the representative questions that were to be posed to the forum panelists.

Several questions were submitted, and the following were selected by CAFR for further discussion by the panel participants:

1. To what extent, if any, does academic freedom protect the decision of a unit of the university, such as an academic department, to publicly take a stand or advocate a position on political issues (such as controversies relating to Proposition 8, the Affordable Care Act, or the Israeli-Palestinian conflict) in its institutional capacity? Conversely, does a unit of the university, such as an academic department, taking a stand or advocating a position on political issues in its institutional capacity jeopardize the academic freedom of faculty and students in the department who may hold different views on the subject?

2. Academic Freedom appears not to be a legally established category but a constantly evolving and negotiable one. Thus, in the name of an 'Act to Protect Academic Freedom', HR 4009, introduced (February 6) with the public involvement of the Israeli ambassador, asks Congress to act to punish the ASA and its supporters and/or members for the resolution supporting the Boycott, Divestment and Sanctions (BDS) campaign against Israel. Meanwhile those supporting the boycott (which in fact applies to institutions, not individuals) point out that Israeli universities do not themselves extend uncontingent or meaningful academic freedom either to Palestinians and Palestinian Israelis or to Jewish-Israeli dissidents (Ilan Pappe e.g.), while the Israeli Knesset passed (in July 2011) a law making support of BDS a civil offense. Support for academic freedom therefore argues for a boycott of state-embedded institutions that do not observe or provide the infrastructural conditions in which academic freedom itself might be a meaningful concept.

What is the panel's view of this situation, and to what extent is it possible or indeed desirable to postulate a set of conditions entailed in 'academic freedom' that are deemed indisputable and/or beyond politics?

3. I have a "university" computer in my university office. It is attached to the university network. Recently, without warning, a person from IT came by and "upgraded" the computer. During
the process he or she removed files and programs from my computer. I believe this is a violation of academic freedom in the same way removing research files from my lab or file cabinet would be. Could please weigh in on the subject of academic freedom and research using university computers, who controls the data?

4. I wish to find out who has absolute ownership claim to research materials we produce as part of our research efforts at UC Davis. Faculty get royalties when a patent produces income and faculty also have copyrights to the books they write and course lecture materials they produce. What about the research materials we produce in our labs before the experimental result is patented or published? Can the University Administrators go into a lab, remove research materials and destroy them claiming that the University owns everything on campus and hence they can do whatever they please with such materials? I request you to please address this very important issue.

5. Should faculty have the unquestioned academic freedom to use a textbook that they have written as the textbook in their class? Or should there be standard procedures (across the university but implemented within each department) to periodically decide whether a textbook is appropriate for a course? What should the criteria be for deciding whether such a textbook is appropriate? For example, if a faculty member's textbook is out of date, or is much more expensive than an appropriate alternative, or is clearly inferior to an appropriate alternative, does the department have the right to step in and declare that the faculty member must choose a different text?

Forum on Academic Freedom: The Forum on Academic Freedom took place on March 14, 2014. Robert Post, Dean of the Yale Law School, and a highly regarded authority on academic freedom delivered the keynote address. After his lecture, a panel comprising Dean Post, Professor Emeritus Henry Reichman representing AAUP, Professor Roberta Rehm, former chair of the UC system-wide Committee on Academic Freedom, and Provost Ralph Hexter responded to questions submitted ahead of time by members of academic senate and academic federation. In attendance at the event were Chancellor Katehi, several Deans and chairs of departments, as well as the leadership of the Academic Senate. As a follow-up to the forum, CAFR discussed plans for making an archive of resources relating to academic freedom readily accessible to all members of Academic Senate and Academic Federation. A link to the
recording of the academic freedom forum held on March 14, 2014 is one of the resources to be included in the planned archive. Currently, a video recording of the Academic Freedom Forum can be viewed at: http://webcast.ucdavis.edu/llnd/19d5a48e.

**UCLA Toolkit for Responding to Freedom of Information Requests:** In April of this year, Academic Council disseminated the toolkit to all the campuses via the Divisional Academic Senate Chairs and Directors to help faculty facing Public Records requests about their research. The system-wide committee also made this document available to individual committees on academic freedom ahead of distribution by Academic Council.

CAFR discussed how best to make this toolkit and other academic freedom-related resources accessible to the faculty. CAFR is convinced that faculty should not be left to their own devices. A link on the Davis Division Academic Senate website directing faculty to go to the Academic Freedom site would be useful. CAFR suggests the following resources and links as a start:

- **Statement on the Principles of Scholarly Research and Public Records Requests**
  https://www.apo.ucla.edu/resources/academic-freedom
- **Faculty Resource Guide for California Public Records Request**
  https://www.apo.ucla.edu/resources/recordrequest
- **Statement of Principles from AAUP**
- **Forum on Academic Freedom of March 14, 2014** http://webcast.ucdavis.edu/llnd/19d5a48e
- **Proposed Policy on Freedom of Expression**
- **Links to the Office of Campus Counsel**

CAFR has discussed contacting the Academic Senate Chair about constructing such a site and listing these resources.

**Request for Consultation (RFC) on Draft Proposal on Freedom of Expression:** CAFR received a Request for Consultation on the Proposed Policy on Freedom of Expression in October 2013. CAFR members suggested a number of revisions to the policy, in particular calling for inclusion of statements highlighting the university’s role in enabling innovative and potentially provocative speech, proportionality in police responses to civil disobedience, and references to other UC policies that pertain to academic freedom. These points were reiterated in a response to the revised draft that was made available to the committee in April 2014.
**Request for Consultation (RFC) on Conflict of Commitment with Outside Activities:** This RFC pertained to APM – 25, APM – 670 and the new APM – 671 defining the scope of outside activities for faculty. In general, faculty can engage in outside activities as long as their engagement does not interfere with their university obligations. Previously the policy was confusing because APM-025 and APM 670 appeared to provide conflicting guidelines on outside activities. A new APM 671 was crafted to resolve these conflicts and would apply only to faculty under the Health Sciences Compensation Plan (HSCP). The proposed APM 671 has generated some concerns with respect for example to the cap of $40,000 on the income that could be earned through outside activities. A second concern is the fact that this APM is applicable only to one category of faculty, namely those under HSCP. A third concern was that the term, “full time” faculty was not adequately defined in the new policy. Although there was a question as to whether placing a limit on outside income for HSCP faculty could constitute an infringement of academic freedom by discouraging faculty from undertaking work that they would have normally, CAFR came to the conclusion that this situation did not by itself elicit substantive academic freedom questions and thus declined to comment on the RFC.

**Public Records Request Courtesy Notification:** In January of this year, CAFR reviewed an academic freedom issue that was brought to its attention. An individual had made a public records act request for the disclosure of all payments made by UC Davis faculty to the American Studies Association (ASA) which had voted to authorize an academic boycott of Israel. At least two faculty members were contacted by the Office of Legal Affairs informing them that UC Davis would be releasing their names, departmental affiliations, and records of payment to the requester. These faculty members were concerned about the potential consequences of releasing information on their professional activities and thus on their academic freedom. CAFR discussed this situation at length and consulted with campus counsel by speaker phone. Counsel informed committee members that all public record requests had to be responded to by law, but also provided additional information that led CAFR to conclude that this request would be handled with appropriate sensitivity.
Faculty Grievance regarding penalties for lack of participation in departmental activities: CAFR received a grievance from a faculty member regarding penalties levied on him for failure to register an adequate level of participation in diverse departmental activities. Since the faculty member was attending to other professional and work related activities at the time, he viewed the penalties as a deterrent to professional work and as such an impingement on his academic freedom rights. After further studying the case, CAFR concluded that the departmental policy tying bonuses to participation in departmental activities did not pose academic freedom questions.

Language of contracts with California Department of Public Health: A researcher in the Agricultural Issues Center at Davis discovered that she had been asked to give the right to approve any publications to the California Department of Public Health (CDPH) as a condition for funding, and had heard that UCOP has approved this language. The researcher contacted the Academic Senate to find out if UCOP has indeed accepted these conditions for collaboration with CDPH. A colleague in the School of Medicine confirmed that unknowingly he too had been signing contracts giving the CDPH authority to approve or decline publication of research results. If confirmed, language of this sort would constitute an infringement on academic freedom. In the meantime, it was agreed that CAFR should seek more information regarding these contracts from UCOP, the system-wide committee, and University Counsel.

Reclassification of Academic Appointments by the Library: The University Library (at Davis) has been reclassifying previously academically appointed Assistant and Associate University Librarians as staff. As a result, the merit/promotion packages of these individuals were being reviewed by non-academic appointees, such as MSOs. The AF Committee on Academic Freedom contends that this is a violation of the Academic Personnel Manual (APM). CAFR is informed that the Office of the Vice Provost—Academic Affairs is looking into these reclassifications. CAFR recommended that the Chair follow up on these developments with the Vice Provost for Academic Affairs. This has been done, and her response will be conveyed to the incoming chair of CAFR.
Respectfully submitted,

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Robert Berman
Lawrence Bogad
Christopher Elmendorf
Eric Rauchway
Juliana Meadows (Academic Federation Rep)
Wilbur Chan (ASUCD Rep)
Solomon Bekele, Academic Senate Resource Analyst