

# Session 3: Academic Freedom and Free Speech

Brian Soucek  
Professor of Law

10:15 – 10:30am

# UC's Academic Freedom Policy

WHO IS COVERED?

# UC's Academic Freedom Policy

GENERAL UNIVERSITY POLICY  
REGARDING ACADEMIC APPOINTEES  
Academic Freedom, Protection of Professional Standards,  
and Responsibilities of Non-Faculty Academic Appointees

APM - 011

**Academic Freedom, Protection of Professional Standards, and Responsibilities of Non-Faculty Academic Appointees<sup>1</sup>**

<sup>2</sup> Because students, and those with academic student employee and mentored/trainee titles, are covered by the freedom of scholarly inquiry set forth in Appendix B of [APM - 010](#), APM - 011 does not apply to them. APM - 011 is also inapplicable to administrators with underlying faculty appointments (e.g., Deans, Department Chairs, and Faculty Administrators), whose academic freedom as a faculty member is covered by [APM - 010](#) – Academic Freedom.

# UC's Academic Freedom Policy

## WHO IS COVERED?

- Academic freedom (APM-010): **faculty**
- Academic freedom (APM-011): **non-faculty academic appointees**, when engaged in teaching, research, scholarship, or the public dissemination of knowledge
- Freedom of scholarly inquiry (APM-010 Appendix B): **students**
- Constitutional freedom of speech: **everyone, but in different ways**

# THE QUAD

- can't make someone speak
- no viewpoint discrimination
- no content discrimination
- time, place, and manner restrictions are ok
- exceptions for harassment, incitement, obscenity, defamation, copyright
- even offensive, fact-free hate speech is allowed





# THE BULLETIN BOARD

- supports the expression of others for a particular purpose
- speaker discrimination is ok
- content discrimination is ok, if it's reasonable given the purpose
- no viewpoint discrimination
  - ✓ registered student groups
  - ✓ faculty speech hosted on departmental social media



# THE OFFICE

- government employees have free speech rights
- **but not** when their speech is part of the job
- (that doesn't apply to **teaching and research**)
- **or** if its **not** on a matter of 'public concern'
- **or** if the disruption it causes at work **outweighs** the value of the speech





# THE CLASSROOM



*content  
discrimination*

*viewpoint  
discrimination*

*compelled  
speech*

*require  
reasoned  
arguments*

*meet  
professional  
standards*

*require  
respectful  
engagement*



# UC's Academic Freedom Policy

## WHAT IS COVERED?

- Freedom of inquiry / research
- Freedom of teaching
- Freedom of expression / publication

# UC's Academic Freedom Policy

## WHAT IS COVERED?

- Freedom of inquiry / research
- Freedom of teaching
- Freedom of expression / publication
  - ✓ right to speak in public as scholar and citizen
  - ✓ right to speak as participant in university affairs

# UC's Academic Freedom Policy

## WHAT IS COVERED?

- Freedom of inquiry / research
- Freedom of teaching
  - ✓ meant not just to convey knowledge but to instill independence of mind in students
  - ✓ faculty needs freedom to model intellectual independence
  - ✓ students need freedom to express their views
- Freedom of expression / publication

# UC's Academic Freedom Policy

## HOW IS IT PROTECTED?

- By entrusting judgments about the quality of faculty work only to disciplinary experts, applying their professional standards



# UC's Academic Freedom Policy

## HOW IS IT PROTECTED?

- By entrusting judgments about the quality of faculty work only to disciplinary experts, applying their professional standards, *not to “the political decisions of the electorate, the priorities of financial donors, or the managerial priorities of the administration.”*

# Faculty's Academic Freedom + Responsibilities

- choices about curriculum, grading, etc. have to be based on our disciplinary and pedagogical expertise, not personal political or religious beliefs
- can't misuse power to intimidate or indoctrinate
- can't allow "significant intrusion" of irrelevant material into courses

# Students' Freedom of Scholarly Inquiry + Responsibilities

- free “to take civil and reasoned exception to the...views offered in any course of study and to reserve judgment about matters of opinion
- but responsible for learning the content of the course
- can't “abridge the rights of other students when exercising their right to differ

## UC DAVIS DEPARTMENT OF PHILOSOPHY PUBLIC STATEMENT ON AAPI HATE CRIME

April 2021

The UC Davis Department of Philosophy condemns the anti-Asian racism and violence that have afflicted our state and country in recent months, and we stand in solidarity with the Asian American and Pacific Islander communities who have been targeted.

To report anti-Asian hate or discrimination, go to:

[UC Davis Harassment & Discrimination Assistance and Prevention Program](#)

[Stop AAPI Hate](#)

For further links and resources, see [Chancellor May's message to the AAPI community](#).

We believe that philosophy, as a field of study, has much to contribute to the projects of understanding racism and opposing it. We are committed to providing a safe and supportive environment in which these projects can be pursued.

## GEORGE FLOYD

The murder of George Floyd, a black man asphyxiated under the knees of Minneapolis police, is devastating. The pain and horror of this event, in the midst of a global pandemic that has disproportionately devastated black and brown communities, lay bare once again the systemic racism of this country's history. [Read More...](#)

# DEPARTMENTAL STATEMENTS

**UC DAVIS**  
**ASIAN AMERICAN STUDIES**

## Public Statements

*The statements below are part of our educational mission and reflect the views of the faculty in the department and not official University policy.*

## ASTRONOMY *and* ASTROPHYSICS

[About](#) [Faculty](#) [Academics](#) [Research](#) [News & Events](#) [Support Us](#)

[News](#)

[Seminars](#)

[Home](#) / [News & Events](#) / [News](#) / Black Lives Matter: A statement from our department

## Black Lives Matter: A statement from our department

June 24, 2020

### BLACK LIVES MATTER

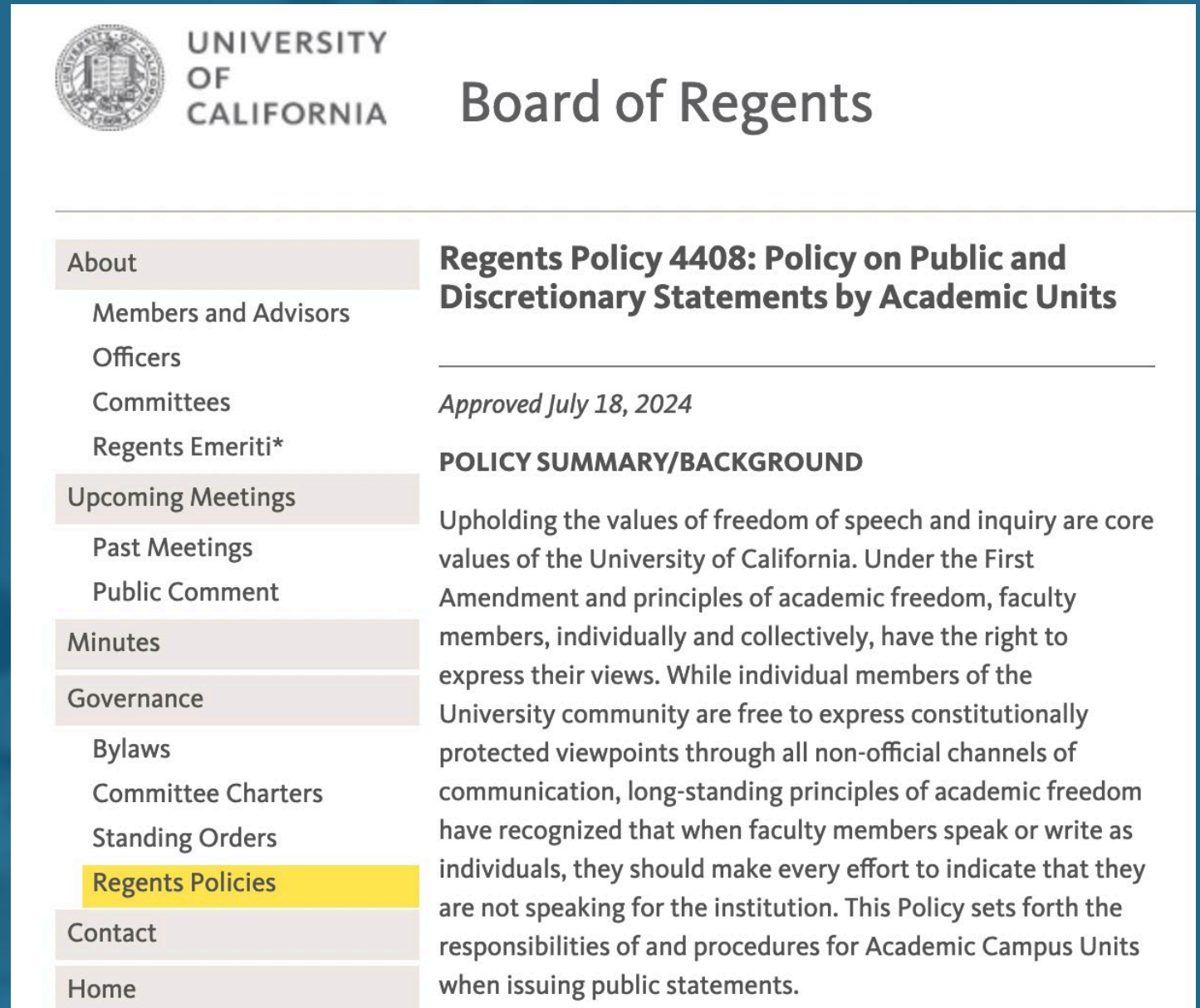
We, the faculty, students, and staff of the UCSC Department of Astronomy & Astrophysics condemn racism, injustice, and hate. The unconscionable murders of George Floyd, Breonna Taylor, Tony McDade, Ahmaud Arbery and countless other innocent Black lives at the hands of police is evidence of systemic racism and deeply-rooted social injustice that must be addressed. We mourn with our Black colleagues and students who are reminded of the marginalization and oppression that is still, today, a part of their experience. We acknowledge and deeply lament the undue burden and collective trauma that they carry.

We call for policy changes at all levels of policing that can immediately be implemented to reduce harm caused by police. We also support transformative change that moves beyond policing toward comprehensive structures for community safety. We urge campus administrators to audit campus police funding and resource allocations with such changes in mind. We condemn the unnecessary use of police force as was seen in the February 2020 graduate student strikes and hold these events as additional evidence that change is required.



# “Discretionary Statements”

- messages shared with the public or via mass distribution internally
- that “comment on institutional, local, regional, global or national events, activities or issues”



The screenshot shows the University of California Board of Regents website. The header includes the University of California logo and the text 'UNIVERSITY OF CALIFORNIA Board of Regents'. A navigation menu on the left lists: About, Upcoming Meetings, Minutes, Governance, and Regents Policies (highlighted in yellow). The main content area displays the title 'Regents Policy 4408: Policy on Public and Discretionary Statements by Academic Units' and the date 'Approved July 18, 2024'. Below this is a section titled 'POLICY SUMMARY/BACKGROUND' with the following text: '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.'

# “Discretionary Statements”

These do NOT include statements on:

- ✓ curricular offerings
- ✓ mission statements or strategic plans
- ✓ department or University activities, operations or resources
- ✓ news related to faculty’s individual or collective scholarly endeavors

The screenshot shows the University of California Board of Regents website. At the top left is the University of California seal and the text 'UNIVERSITY OF CALIFORNIA'. To the right is the title 'Board of Regents'. Below the header is a navigation menu with 'About' selected, and other items like 'Members and Advisors', 'Officers', 'Committees', 'Regents Emeriti\*', 'Upcoming Meetings', 'Past Meetings', 'Public Comment', 'Minutes', 'Governance', 'Blaws', 'Committee Charters', 'Standing Orders', and 'Regents Policies'. The main content area features the title 'Regents Policy 4408: Policy on Public and Discretionary Statements by Academic Units' and the date 'Approved July 18, 2024'. Below this is a section titled 'POLICY SUMMARY/BACKGROUND' with a paragraph of text.

UNIVERSITY OF CALIFORNIA Board of Regents

About

Members and Advisors  
Officers  
Committees  
Regents Emeriti\*  
Upcoming Meetings  
Past Meetings  
Public Comment  
Minutes  
Governance  
Blaws  
Committee Charters  
Standing Orders  
Regents Policies

Contact  
Home

**Regents Policy 4408: Policy on Public and Discretionary Statements by Academic Units**

*Approved July 18, 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.

# “Discretionary Statements” must

- include a disclaimer stating that it should not be taken as a position of the University or Davis as a whole
- appear on a page other than the department’s main homepage
- result from written, publicly available policies “governing the practice of issuing Discretionary Statements



UNIVERSITY  
OF  
CALIFORNIA

## Board of Regents

### Regents Policy 4408: Policy on Public and Discretionary Statements by Academic Units

*Approved July 18, 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.



# Policies on “Discretionary Statements”

- decide who gets to make them:
  - the chair?
  - the faculty (+ staff?, + students?)?
- votes must be anonymous
- statements should state that they don't reflect the views of all members **OR** state what views they do reflect (*e.g.* a majority of the faculty)
- beware of bulletin board law!



UNIVERSITY  
OF  
CALIFORNIA

## Board of Regents

### Regents Policy 4408: Policy on Public and Discretionary Statements by Academic Units

Approved July 18, 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.

Contact

Home



# QUESTIONS

**Brian Soucek**

UC Davis School of Law

[bsoucek@ucdavis.edu](mailto:bsoucek@ucdavis.edu)