

Session 2: Academic Freedom and Free Speech

Brian Soucek

Martin Luther King Jr. Professor of Law

10:20 – 10:40am

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 Appointees¹

² 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**

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
- **SUBJECT ONLY TO APM-015 LIMITS**

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.”*

UC's Academic Freedom Policy

APM-015: Faculty Code of Conduct

Discipline is allowed only for actions that are inconsistent with the AAUP's *Statement on Professional Ethics* and significantly impair the University's central functions: sharing, extending, and critically examining knowledge and values, and furthering the search for wisdom

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

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THE CLASSROOM

A photograph of an empty classroom. In the foreground, there are several rows of black, curved seats. At the front of the room, there is a wooden podium on the left and a small table in the center. Behind the podium and table, there are four large whiteboards. Above the whiteboards, there are two large posters of the periodic table of elements. The walls are light-colored, and the floor is polished wood.

*content
discrimination*

*viewpoint
discrimination*

*compelled
speech*

*require
reasoned
arguments*

*meet
professional
standards*

*require
respectful
engagement*

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



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.

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

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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...](#)

[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”



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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”

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 displays the official website of the University of California Board of Regents. At the top left is the University of California seal, followed by the text "UNIVERSITY OF CALIFORNIA" and "Board of Regents". A navigation menu on the left includes "About", "Members and Advisors", "Officers", "Committees", "Regents Emeriti*", "Upcoming Meetings", "Past Meetings", "Public Comment", "Minutes", "Governance", "Policies", "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" with an approval date of "Approved July 18, 2024". Below this is a section titled "POLICY SUMMARY/BACKGROUND" which states that upholding the values of freedom of speech and inquiry are core values of the University of California. It further explains that under the First Amendment and principles of academic freedom, faculty members have the right to express their views, and that this policy sets forth the responsibilities and procedures for Academic Campus Units when issuing public statements.

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“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



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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!



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“Leadership Public Statements”

UC Davis Policy and Procedure Manual

Chapter 310, Communications and Technology

Section 05, Leadership Public Statements

Date: 6/5/2024

Supersedes: New

Responsible Department: Strategic Communications

Source Document: State of California Educational Code Section 92000, Name of the University

I. Purpose

- A. This section outlines the policy and procedures for UC Davis Administrative Leaders to issue a Public Statement.
- B. This policy does not apply to the following:
 - 1. Routine messages related to University academic or administrative activities, initiatives, and resources.
 - 2. Statements from individual members of the UC Davis community made on their own behalf. The University supports academic freedom and the constitutional right of individual students and employees to express their personal opinions regarding political and social issues or events occurring within or outside of the community. See [Section 400-01](#).

II. Definitions

Public Statement--any message from Administrative Leaders (i.e., executive, unit, and department heads) on behalf of the University and distributed, disseminated, or posted via UC Davis mass distribution channels.

“Leadership Public Statements”

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BY-LAWS OF THE FACULTY OF THE SCHOOL OF LAW UNIVERSITY OF CALIFORNIA, DAVIS

1.3 Statements on Behalf of the School of Law

- A. The Dean is authorized to make Public Statements and Discretionary Statements, as those are defined in Regents Policy 4408, on behalf of the School of Law. Any Discretionary Statements made by the Dean shall include a disclaimer that the statement should not be taken as a position of the University of California or UC Davis, and, if posted online, it must be placed on a webpage other than the School of Law's main homepage.

- B. The Voting Members of the Faculty are authorized to make Public Statements and Discretionary Statements, as those are defined in Regents Policy 4408, on behalf of the School of Law if the statement is put to an anonymous vote at a regular or special faculty meeting and receives a majority vote of the voting members of the faculty, as those are defined in Article II. Any Discretionary Statement by the faculty must include a disclaimer that it should not be taken as a position of the University of California or UC Davis; it must be accompanied by an explanation that the statement represents the views of a majority of the voting members of the faculty of the School of Law; and, if posted online, the statement must be placed on a webpage other than the School of Law's main homepage.

QUESTIONS

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UC Davis School of Law

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