

COMMITTEE ON ACADEMIC FREEDOM Annual Report 2019-20

To: Academic Senate, Santa Cruz Division

The Committee on Academic Freedom (CAF) met every three weeks across the academic year as issues arose for discussion and review, with frequent consultations by email and shared documents in between meetings. This year the committee responded to issues that emerged in relation to an extended graduate student strike, the transition to remote instruction due to the COVID-19 pandemic, and both national and local protests around issues of policing, racism, and anti-blackness. We also reviewed policy changes locally and systemwide and initiated discussion and proposals for action with the administration and other Senate Committees on the issues described below.

COMMITTEE ISSUES

I. Graduate Strike and Canvas

In November 2019, graduate students initiated a wildcat strike seeking a cost of living adjustment (COLA) increase. Participating graduate students organized grade withholding for fall quarter across multiple divisions and departments. The grading strike took many forms, including not posting grades to Canvas, removing grades from Canvas and storing them in alternate media/platforms (e.g., external spreadsheets), delivering grades via alternate, non-electronic means, etc. Some graduate students who had moved grades from Canvas to another storage location received student conduct summonses.

CAF discussed the language of these conduct summonses at our meeting on February 3, 2020, as the language included in those conduct summonses seemed to imply that instructors could not change their use of Canvas during the quarter and that grades posted in this system were the property of students. On February 12, 2020, CAF wrote to Kimberly Lau (“RE: Conduct Summons and Canvas) expressing “concern about the university’s claim...that grades belong to students and thus may not be removed from Canvas.” CAF contended that the university’s actions and messaging constituted a “serious infringement on faculty rights,” and asked that Chair Lau communicate the committee’s concern “to relevant parties in the administration in whatever manner you think is best.”

II. Tattlebot

The committee was extremely concerned about messaging that went out on February 7, 2020 from Public Affairs regarding the “Unsanctioned strike by some graduate students.” The email included a link to a Google form titled, “Notification of class and section disruption,” ostensibly designed to permit students to “notify the campus of canceled classes so that the university can help make sure they are getting the education they deserve.” Students were asked to provide information describing where and when any “disruption” occurred, the “type” and “concern” of the disruption, and the names of any responsible member(s) of the teaching team.

Public Affairs responded to campus criticism by removing the question, “What type of disruption occurred?” and its corresponding multiple choice answers that included actions within faculty

members' classroom purview, such as, "Held, but the topic was not as described in the syllabus." CAF felt that the Google form—dubbed the "Tattlebot" by the campus community—infringed academic freedom by both unfairly calling on students to police the teaching practices of their instructors and by implying that faculty did not have the right to make changes to their class syllabus. CAF felt that the very existence of this form, regardless of how the data was used, would have an overall chilling effect on academic freedom.

CAF sent a response ('RE: "Notification of Class and Section Disruption" Google Form) to Chair Lau on February 18, 2020 recommending that UC Santa Cruz Administration "rescind the form altogether and publicly commit to not using any collected data." We wrote that "The UC policy on Academic Freedom (APM-010) upholds the principles that 'protect freedom of inquiry and research, freedom of teaching, and freedom of expression and publication.' Course syllabi, content, and delivery are protected under the purview of "freedom of teaching." Likewise, the Faculty Code of Conduct (APM-015) unequivocally states that faculty maintain the professional right "to present controversial material relevant to a course of instruction" and "address any matter of institutional policy or action when acting as a member of the faculty." These documents, as well as the American Association of University Professor's (AAUP) 1940 statement on academic freedom that undergirds them, grant faculty the freedom to teach our subjects as we see fit, according to our shared professional and ethical standards. Such protections not only give faculty the right to change the material and/or order of activities in order to respond to unexpected circumstances, but also to introduce new or unplanned topics (i.e., those not in the syllabus) that we deem relevant to our courses."

CAF noted: "The form also infringes on academic freedom by being needlessly intrusive about classroom activities. First, there are numerous pedagogical reasons why classes might move to an alternative location, change their delivery methods, cancel exams or assignments, or be taught by another teacher. Second, without proper vetting or oversight, students might use the form to amplify harassment of specific faculty or TAs—harassment that disproportionately targets women, minorities, and other marginalized groups. The very existence of this form contributes to a culture of surveillance that is antithetical to the free exchange of ideas in the classroom."

CAF members also read a portion of this statement on at the February 19th Academic Senate Meeting supporting a separate resolution (proposed by Prof. Gail Hershatter) requesting that the administration "disable the links to the reporting form," "refuse to allow the use of any data collected as grounds for disciplinary measures against any faculty or students," destroy the data, and consult the Senate before using any similar correspondence in the future. On February 21, the Academic Senate reported that the resolution had passed by secret ballot with 105 in favor and 18 opposed.

III. Faculty and online harassment

CAF has had ongoing concerns about a lack of campus preparedness for instances of targeted online harassment of faculty. Around the country, faculty have been subject to [organized smear campaigns and threats](#)¹, and campuses responses have ranged from supportive and helpful to actively damaging to the targeted faculty member and to academic freedom as they seek to distance

¹ <https://onefacultyoneresistance.org/>

themselves from controversies. Here at UCSC, many faculty are increasingly being encouraged to make their scholarship more public-facing, but some faculty, especially faculty who study more politicized subjects, faculty of color, and women faculty, have expressed concerns that they might become subject to a targeted harassment campaign. Further, they are unsure if and how the campus would support them if such harassment were to take place. CAF therefore undertook an assessment of systemwide procedures on this and found very little information from other UC campuses. We did, however, identify several helpful resources, including this [curated page](#)² from Sociologists for Women in Society and this thorough set of [policies and procedures](#)³ developed by the University of Iowa.

We had intended to begin the process of proposing something similar to the University of Iowa document and discussed recommending that the campus develop template language for expressing support for both academic freedom and individual faculty members in advance of any particular crisis. However, with the wildcat strike and COVID-19, we were unable to move these agenda items forward. We hope that the 2020-2021 committee considers taking up this important topic.

IV. Policing of student protest

In light of both the graduate student strike and nationwide activism to defund police, CAF continued to discuss the intersections of free speech, academic freedom, policing of student protest, and the student conduct process. CAF remains concerned that our student conduct process disproportionately harms those students who are facing challenging conditions on our campus and who are, therefore, seeking to have these issues addressed through nonviolent direct action and replicates police racial bias by relying upon police reports and arrests as an initiating factor for disciplinary proceedings. Like the Council of Provosts and CAAD, who have also spoken out on this issue, we have serious questions about the logic of treating political protest the same way that we treat student misconduct such as noise violations, burglary, and hate crimes. CAF has requested data on the conduct process from the Dean of Students Office so that we can better assess if and how the academic freedom of individuals and the overall campus climate for academic freedom are being impacted by the policing of protest and the disciplinary procedures that often follow from such policing. Further details on next steps for addressing this issue are outlined below in the “Carry Forward” section of this report.

V. New Academic Freedom Complaint form

In response to conversations at UCAF regarding the need for greater clarity in how academic freedom complaints are handled across the system, CAF updated our procedures. In consultation with the Committee on Privilege and Tenure (P&T), we created a new google form on CAF’s website for the submission of such complaints with the following statement:

The full committee will meet and discuss the submitted form and any documentation; this process is completely confidential. If the committee decides further review is warranted, the membership will consult with the complainant and make a recommendation on potential remedies including but not limited to Senate consultation with the administration

² <https://socwomen.org/public-targeted-online-harassment/>

³ https://provost.uiowa.edu/sites/provost.uiowa.edu/files/Faculty_Support_Safety_Guidance.pdf

or a recommendation that the complainant file a grievance with the Committee on Privilege and Tenure per established system wide policy.

VI. Online courses:

On June 8, 2020 CAF sent correspondence to the Campus Provost and Executive Vice Chancellor (CP/EVC) and the Vice Provost for Academic Affairs (VPAA) expressing concern about the May 11 call for online course proposals for Fall 2020. Specifically, CAF articulated concerns with the following provision in the call for course proposals: “Faculty whose proposals are awarded agree to share their course materials with instructors of future offerings of the course.”

We noted that U.S. Copyright law holds that lectures, syllabi, and other non-patentable work done in the context of a course offering belong to the instructor, not the university. The policy outlined in the May 11 email violates the spirit, and possibly also the letter, of copyright provisions and we urged the administration to withdraw the proviso or at least make it optional. We argued that serious principles of academic freedom are at stake, in that faculty who sign away rights to the rebroadcast of lectures will have no control of material being disseminated under their names, whether or not the positions expressed within are still those of the author. Nor, for example, would faculty have any say in the matter were their lectures bundled with some others in a course offering, a choice the faculty member might not make. There are also circumstances wherein unanticipated changes to a course’s structure may not suit the course materials’ initial design. For instance, course materials made for a small seminar course are often unsuitable for a large lecture course. Control over course materials is central to the integrity of a faculty member’s teaching, and thus to faculty academic freedom.

CAF received a response on this issue from VPAA Lee on June 11th that indicated that a clearer articulation of this provision was included in the award letters for faculty whose proposals were accepted. VPAA Lee indicated that the university only expects faculty to share their materials with other instructors who request those materials, not with the university writ large and that the requirement to share (if asked by a fellow instructor) sunsets at the end of 2022. While CAF appreciates these newly indicated limits, we continue to disagree with the administration’s effort to legislate peer-to-peer sharing and collegiality. We believe that the administration could, rather than *requiring* faculty members to agree to share all course materials, simply articulate an expectation that faculty members would be willing to work with future instructors for the course toward a mutually-acceptable agreement regarding the use of these materials. We recommend that next year’s CAF ask the VPAA’s office to consult with them before issuing a call for funding online course proposals and that they remain vigilant about this subject, especially as we continue with increases in remote and online instruction due to COVID-19.

VII. Other Issues

CAF, along with other Senate committees, reviewed proposed divisional and systemwide policies or revisions to policies including the Systemwide Revised Native American Cultural Affiliation and Repatriation Policy; Proposed Presidential Policy on Travel Regulations; Proposed Presidential Policy on the Protection of Human Subjects in Research; Proposed Revised Presidential Policy on Copyright Ownership; Proposed Revisions to CAPM 514.285; and the Proposed CCI GSI Appointment Criteria. We also reviewed the Student Success Division Report; the Chancellor’s Memo on ODEI Restructuring; the Draft Campus Internationalization Plan; and

a set of UCAF statements on academic freedom. In these reviews, we expressed especially significant concerns about the Presidential Policy on Copyright Ownership and the Presidential Policy on the Protection of Human Subjects in Research.

Regarding the Presidential Proposed Policy on Copyright Ownership, we noted that the proposed policy would give the University the power to “grant” copyright to academic authors despite the long-standing legal precedent of the “teacher exemption” to the “work for hire model” that gives employers copyright ownership to works created by their employees. Under such precedent, academics hold and maintain the copyright to their own work without implicit or explicit grantorship by the University. This is upheld by law rather than “academic tradition.” An inversion of that relationship is a potential threat to academic freedom if, at some point, the University decided to rescind their “gentleman’s agreement” and enforce their implied copyright ownership. We therefore recommended that the “teaching exemption” be specifically stated, along with clarifications for how and when a “work for hire” exception applies, and that the overall policy language better conform to legal precedent rather than assumed University magnanimity. We also noted that the proposed Policy uses “significant university resources” as a metric for copyright ownership, but significant resources are defined as those that go “beyond the usual support provided by the University and generally available to similarly situated Academic Authors or, as applicable, students.” With such wide variance in support across divisions, departments, labs, and even individual faculty, we wondered how the baseline for “usual support” would be determined? We were concerned that the ambiguity of language could later permit the University to exclude certain works or authors—especially those with less institutional power—from rights to their copyright.

On the Presidential Proposed Policy on the Protection of Human Subjects, CAF noted both national scholarly associations and local concerns about Institutional Review Boards (IRBs) stifling academic freedom and creating undue barriers to research -- even when that research conforms to disciplinary ethical standards, follows conventional research procedures, and presents little to no risk of harm to human subjects. We noted that pursuing the “exemption” to IRB review has become an increasingly arduous process, even for research activities that represent minimal risk and that involve only standard disciplinary research practices. CAF therefore reiterated that when the IRB engages in its review, it should recognize faculty and disciplinary expertise regarding field-appropriate ethical practices so long as the research is in line with the ethical principles outlined in the proposed policy. The IRB could support academic freedom by making its procedures as minimally intrusive and streamlined as possible. CAF therefore made the following specific recommendations:

1. Explicit acknowledgement of academic freedom and the need for IRBs to recognize faculty and disciplinary expertise.
2. Faculty and Senate involvement in development and revision of all local procedures related to the protection of human subjects.
3. Divisional or Departmental Responsibility for Review of Non-Common Rule Human Subjects Research.

VII. Carry Forward

In addition to continued attention to the ongoing academic freedom issues discussed above (targeted harassment of faculty; ownership of online course materials; human subjects policy

revisions; copyright policy revisions), the 2020-2021 CAF should expect responses from a June 8 consultation with Associate Vice Chancellor and Dean of Students Naiman and Chief Campus Counsel Peñaloza. A post-consultation memo sent to these individuals on July 6th outlined the following agreements:

1. **Data on the student conduct process:** Dean of Students Naiman indicated that the planned equity review of the process may begin this summer. CAF requests copies of both the raw equity review data and the final report from the equity review. CAF also requests any other currently available aggregate data on the student conduct process, including the student survey of their experiences with the conduct process. Dean of Students Naiman will look into what data is available and will share the results of this with CAF.
2. **Major Events Policy revisions:** CAF notes that the revision of the major events policy on other UC campuses has included their local CAFs and requests inclusion in the UCSC process. Dean of Students Naiman will reach out to Lucy Rojas about the status of these revisions and will connect her with CAF.
3. **Canary Mission:** In 2018-2019, CAF raised concerns about Canary Mission, a website, largely anonymous, which identifies faculty and students viewed as holding views about Israel which it views as anti-semitic. The views under attack, whether one agrees with them or not, fall clearly within free speech and academic freedom. The site seeks to damage student and faculty reputations and careers. The 2019-2020 CAF requested updates on the action items from both the 2019 Academic Senate Resolution and the May 19, 2019 post-consultation memo on this topic. Campus Counsel Peñaloza will follow up with the Chancellor regarding her response on the pending Chancellor's Cabinet-level issues. Dean of Students Naiman will look into all of the action items from last year's memo. These items are listed again here:
 - Prepare template letter for job files etc. using CAF input (sent last year in the post consultation memo), and publicize its availability to students.
 - Publicize campus resources in relation to doxing (psychological services, hate bias response team, etc.)
 - Include information about doxing in the slide deck for the incoming student orientation.
 - Discuss with Vice Chancellor of Information Technology Van Williams how ITS might assist students in awareness and management of their online profile, and make concrete information available to students about this.
 - Consult with Global Engagement about the effect of Canary Mission website (and others as necessary) in affecting students' access to visas for study abroad.

The next two years promise to be challenging, due to the pandemic, the university's fiscal environment, and other factors, and it will be crucial to give continued emphasis to preserving academic freedom in the face of what may seem to be more pressing concerns. Special attention should be paid to issues around online instruction and course content, as outlined above. The Trump administration's recent attacks on university instruction are also reminders that our academic freedoms are not guaranteed in perpetuity, but must be continually defended.

Respectfully submitted,

COMMITTEE ON ACADEMIC FREEDOM

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August 31, 2020