COMMITTEE ON ACADEMIC FREEDOM
Annual Report, 2007-08

To the Academic Senate, Santa Cruz Division:

The Committee on Academic Freedom (CAF) met this year to work on several issues, in addition to routine considerations of matters brought to our attention from the University Committee on Academic Freedom (UCAF) or other Senate bodies. The following topics received more substantial consideration:

1. Inquiry from the Senate Executive Committee (SEC) about Scholars for Peace in the Middle East (SPME) and concerns with political bias and advocacy in the classroom and events on campus. The report of the findings was sent to SEC.
2. Policy review on CAPM 418 and Non-Consent Access to Electronic Communications.
3. Physics 2 & 75 Courses and possible violation of academic freedom.
4. A visit during academic year 2008-09 from legal scholar Eben Moglen (Professor of Law, Columbia University, and expert on electronic media and privacy).

The inquiry from SPME took most of the Committee's time. This group has protested to many administrators, faculty members and committees against what it claimed was political bias, particularly with regard to Israel, with adverse effects on teaching and scholarship. CAF sought in its report to provide a thorough and complete analysis of this situation, an analysis that could be a point of reference for future discussion of this issue. In brief, our report did not find that courses, lectures, colloquia, or conferences violated academic norms and standards. We also found that existing review procedures for courses, lecture hiring, and other academic affairs were sound guarantors of academic integrity. Our report to SEC cautioned against any efforts to curtail or curb expression of views on controversial issues. A redacted version of our report to SEC is attached; we have excluded copies of e-mails whose authors did not give express permission for inclusion in a public report.

Our position on Non-Consent Access to Electronic Communication, while acknowledging that in rare or extreme situations this access might be necessary, urged that every effort be made to consult with Senate leadership before taking this extraordinary step.

Our work on the Physics courses, in response to complaints from two professors who alleged that a particular viewpoint was being inappropriately censored, found that existing departmental procedures for course approval and scheduling were sound and fair.

One of our members sat on the Information Technology Security Committee (ITSC) this year, to consider possible implications of campus Information Technology (IT) policy on academic freedom. In our discussion of non-consent access to electronic communication, we urged continued vigilance to safeguard faculty rights to privacy. IT issues will be continued areas of concern, and we urge further closer cooperation between relevant committees. To further this aim, the Committee is sponsoring (with funds from another source) a visit from Professor Eben Moglen, who in a lecture and a workshop will outline some general digital technology and has

changed the boundary between private and public. We hope that the Senate will help in publicizing and focusing on this event.

Respectfully submitted,

COMMITTEE ON ACADEMIC FREEDOM
Raja Guha Thakurta
Nicole Paiement
Mary Beth Pudup
Holger Schmidt
Bettina Aptheker (F), Chair
Chris Connery (W,S), Chair

REPRESENTATIVES
David Londow, NSTF
Wendy Ng (F), SUA

August 31, 2008

Appendix A: Report to SEC in SPME inquiry

May 2, 2008

Quentin Williams, Chair
Senate Executive Committee

RE: Inquiry from UCSC Scholars for Peace in the Middle East

Dear Quentin,

On October 12 the CAF received a memo from Quentin Williams on behalf of the SEC asking the committee to respond to an inquiry from Scholars for Peace in the Middle East (SPME), with Professor Ilan Benjamin and Tammi Rossman-Benjamin, a lecturer in Hebrew at UCSC, as co-signatories. In Fall 2007 CAF Chair Bettina Aptheker appointed a subcommittee, who met during winter quarter and discussed the matter. During Winter quarter of 2008, the committee, chaired by Christopher Connery, met with UCSC attorney Carol Rossi for clarification on a number of related issues. The entire committee met twice during spring quarter to discuss this report.

The SPME letter asked for an investigation of what it claimed to be a pattern of "anti-Israel and anti-Zionist bias and political advocacy found in classrooms and at departmentally-sponsored events." The letter concluded that the following situation prevailed at the University:

> "1. Education has become indoctrination.
> 2. Political goals and personal partisan interests have taken precedence over standards of truth, accuracy, and scholarship.

> 3. Scholarly debate, the expression of differing opinions and the dissemination of important information and knowledge have been suppressed."

Referring to Robert Post, former Professor of Law at Boalt Hall, UC Berkeley, and currently on the faculty of the Yale University Law School, who said during a lecture at UCSC that academic freedom is the right of the profession to the "unimpeded application of professional norms of inquiry," the letter of inquiry states that this alleged bias and political advocacy violate those norms.

In this report, the committee will focus on those issues that are most pertinent to our committee's charge 13.9.2:

> The Committee studies and reports upon any conditions within or outside the University which, in its judgment, may affect the academic freedom of the University, with particular reference to the acceptance of positions and resignation from positions in the University, and to the reputation of the University and of individual members of its faculty.

Our desire to clarify some of the issues raised in the inquiry will also lead to discussion of some areas tangential to the committee's direct purview, such as those related to APM 15, the Faculty Code of Conduct. We note at the outset that the terms "anti-Israel" and "anti-Zionist", which are featured in the inquiry, are themselves controversial, and matters of interpretation, and our reference to these terms in no way constitutes a judgment that we agree with the inquiry's claims that these were in fact the positions of speakers or instructors.

Historical and National Context of the Inquiry

Scholars for Peace in the Middle East is an international body, with chapters at many American universities, maintaining that an important component for peace in the Middle East is addressing what it calls "ideological distortions, including anti-Zionist and anti-Semitic slanders" on university campuses. Its literature mentions the "new Anti-Semitism" on U.S. campuses.[1] Other organizations monitoring perceived anti-Israel or anti-Semitic activities on campuses include StandWithUs, whose website has included numerous posts on activities at UCSC[2], and Campus Watch, an organization associated with the Middle East Forum whose mission is "monitoring Middle East Studies on campus."[3] Anti-Israel bias is also a common complaint lodged by the Students for Academic Freedom, an advocacy group spun off from David Horowitz's Center for the Study of Popular Culture, and the main sponsor of the Academic Bill of Rights, a set of principles designed to combat alleged leftist bias in academe through a series of state legislative initiatives mandating political "balance" in hiring and curriculum design. These advocacy organizations have been quite active in recent years on a number of campuses, and with the medium of the Internet are able to draw national and international attention to local issues. Our

[1] Quotations and mission description are from http://www.spme.net/index.html. Accessed April 22, 2008. The organization's activities around one recent tenure case at Barnard College are documented in a recent *New Yorker* article by Jane Kramer, "The Petition: Israel, Palestine, and a Tenure Battle" (April 14, 2008).
[2] . http://www.standwithus.com/news_post.asp?NPI=1153. Accessed April 22, 2008
[3] http://www.campus-watch.org/

committee notes that allegations of anti-Israel, anti-Zionist, or other forms of politically motivated bias have been common occurrences in recent years throughout the UC system, and several of these are referenced in the on-line academic freedom resources referenced in footnote five. Recently, the Ad Hoc Committee to Defend the University[4] was formed in response to perceived threats to academic freedom in the current climate.[5] The points made in the SPME inquiry are similar in position and in wording to positions taken by some of the above organizations in cases around the country. UCSC, named the worst university in the United States by David Horowitz, would be expected to feature prominently in this national discussion.

This is not the first time that SPME or its members have figured in the work of the Committee on Academic Freedom. In 2002-03, responding to a complaint brought by Paul Lubeck, then chair of CAF Barbara Epstein made the following points in a letter to Ilan Benjamin:

> . "It is important that people be able to express views with which others may strongly differ, without fear of being charged with holding attitudes with which few if any would want to be associated (such as anti-Semitism, racism, sexism).
> …
>
> We want to encourage an atmosphere in which even highly charged issues, such as the current situation in Israel/Palestine, can be discussed calmly and without fear, on the part of participants, of accusations which may damage their reputations. We appreciate your concern with issues having to do with Israel/Palestine and your participation in campus discussions, but we would like to encourage you to participate in a way that will encourage further discussion rather than discouraging it. (Epstein, April 24, 2003)"

We note that the inquiry from SPME under consideration here does not accuse anyone of racism or anti-Semitism. It is hoped that this response to the inquiry, in clarifying principles and policies of academic freedom and freedom of speech, and noting procedures in place to promote sound scholarship, teaching, and breadth of inquiry, will contribute further to a civil atmosphere.

Academic Freedom Principles at Stake

Academic freedom differs from freedom of speech. The latter is protected by the Constitution, but does not extend into all institutional situations. Faculty freedom of speech within the classroom, for example, is subject to oversight that would not necessarily obtain were that faculty member speaking outside the university. Academic freedom is inextricably tied to principles of faculty self-governance, first articulated by the AAUP in 1915, and subject to later modifications. Central to academic freedom is the freedom of the faculty as a whole to develop professional standards and norms, and to regulate itself based on those standards and norms.

Presentation of political positions in the classroom or in public forums are not violations of academic freedom, nor is a lack of "balance," real or perceived, a violation of academic freedom. As former UC President Richard Atkinson wrote, "academic freedom is concerned with

[4] . http://defend.university.googlepages.com/home. . Accessed April 22, 2008
[5] . A recent study suggests the widespread perception of this era as one in which academic freedom is more endangered than in the McCarthy era. http://www.insidehighered.com/news/2007/08/15/freedom Accessed April 22, 2008.

protecting the conditions that lead to the creation of sound scholarship and good teaching, not with maintaining political neutrality."6 Particularly when a course or an event touches issues of controversy, there will be those who disagree with views presented by the professor or speaker. Our report will discuss the procedures in place that guard against ideological coercion, which would indeed be a case of faculty misconduct. But absent blatant misconduct, along the specific lines described in the section below, it is in the interest of academic freedom for there to be great latitude allowing the free expression of views, controversial or not, including "partisan" views. Academic freedom has its fundamental interest in the proliferation, not in the restriction of speech. Our committee believes that it is in the campus's interest for there to be debate and dialogue around issues of controversy and concern. This, however, is not a call for balance, pure and simple. Balance, as many scholars have pointed out, is in the eyes of the beholder, and is a notoriously slippery concept. Some feel, for example, that given the national climate, it is only at the university that voice can be given to unpopular or critical points of view. A majority view within the university could be a minority view in the national context, and vice versa. We commend the view of David Hollinger, Preston Hotchkis Professor and recent Department Chair in History at the University of California, Berkeley, who has written a thoughtful critique of the partisan political character of charges of imbalance, arguing that the only relevant criteria for balance is "simply to do an academic project professionally. To be imbalanced is to leave out of account something that the academic norms of evidence and reasoning in the interest of truth require you to take into account."[7] Academic norms of evidence and reasoning are—and here Hollinger echoes positions taken by Robert Post on the basis of academic freedom in professional norms —best determined by professionals in the field, professionals who understand that many fields are marked by controversy and a great diversity of interpretations and viewpoints. As Post wrote, in a report to President Atkinson:

> "Standing Order 105.2 represents the regents' commitment to a principle of academic freedom that is historically and theoretically fundamental: university scholarship, and the teaching that expresses and transmits that scholarship, is to be understood as a matter of professional knowledge. It follows from this principle that evaluation of scholarship and teaching is to be entrusted to the judgment of competent professionals, in the form of the corporate body of the faculty. This principle underlies the academic freedom of the entire university, because it distinguishes the enterprise of scholarship from the political governance of the state. The maintenance of this distinction is one of the great achievements of public higher education in the United States. Modern scholarship is built on a foundation that requires the professional autonomy of the professoriate.
>
> If Standing Order 105.2 expresses a norm of professional autonomy, the Academic Senate, in exercising that autonomy, must be guided by a second fundamental principle of academic freedom: individual faculty are to be accorded broad freedoms independently to think, write, and engage in research. These freedoms are necessary if the university is to fulfill its function of promoting the advancement of knowledge.

---

[6] . Distributed Spring, 2003. For a text of this document, and links to many other documents regarding academic freedom, see http://library.ucsc.edu/~ldjaffe/acfdm.html. Many thanks to UCSC librarian Lee Jaffe for compiling this web resource.

[7] . David Hollinger, "What Does It Mean to be "Balanced" in Academia?" History News Network, February 22, 2005. http://hnn.us/articles/10194.html . Accessed April 22, 2008.

> Analogous freedoms extend to teaching, where faculty report and explore the results of their scholarly endeavors."
>
> ….
>
> Scholarship requires an open mind, but this does not mean that faculty members are unprofessional if they reach definite conclusions. It means rather that faculty must always stand ready to revise their conclusions in light of new evidence or further discussion. Scholarship also requires the exercise of disinterested reason, but this does not mean that faculty are unprofessional if they are urgently committed to a definite point of view. It means rather that faculty must form their point of view by applying professional standards of inquiry rather than by succumbing to external and illegitimate incentives such as monetary gain or political coercion.
>
> There is no academic norm that prohibits scholarship from communicating definite viewpoints about important and controversial questions, like democracy, human rights, or the welfare state. Faculty must be free to communicate these viewpoints in their pedagogy. Political passion is in fact the engine that drives some of the best scholarship and teaching at the University of California, and this is particularly true in the humanities and social sciences.[8] "

There is no threat to academic freedom or to academic integrity in the presentation of a single side of a controversial issue. This is confirmed by all the relevant literature on academic freedom, as well as in UCSC attorney Carol Rossi's comments to our committee, which made clear that the events specified in the SPME complaint were not, even if they were represented accurately, violations of university policy. Our committee feels, then, that there is no intrinsic threat to principles of academic freedom in political speech, advocacy, or taking controversial positions in the classroom, provided that production and dissemination of knowledge adheres to professional norms, the means of whose safeguarding we will discuss below. We agree with attorney Rossi's position that the solution to problems with speech is more speech, not prohibition.

In compiling this report, the committee solicited comments from several faculty members on campus about their interactions with the SPME. We also asked UCSC attorney Carol Rossi to offer an opinion on whether or not letter or e-mail campaigns instigated by SPME (see Hershatter communications in the appendix) could in any way constitute harassment of faculty. The faculty who commented on their interaction with the SPME or its representatives (see communications from Hershatter, Lubeck, Pudup, and Rofel appended to this report) all felt that the organization's complaints were intimidating. One colleague reported that, as department chair, she would be hesitant in hiring a lecturer or scheduling a course that would elicit complaints from the SPME. Another colleague, noting the presence of a member of the SPME—one with no declared interest in Muslim Studies-- at meetings for the organization of a Muslim Studies initiative on campus, wrote that this had a "chilling effect" on this curricular initiative. Another colleague wrote that, facing repeated demands and communications from SPME about a conference she had organized, she had considered hiring a lawyer. It is very

[8] Robert Post, "Academic Freedom and the "Intifada Curriculum.'" Academe, May June 2003. Accessed April 22, 2008, on Academe Online, http://www.aaup.org/AAUP/pubsres/academe/2003/MJ/Feat/Post.htm.

unfortunate that colleagues feel intimidated by this group's activities, and we hope that all parties on campus do their best to maintain civility in their disagreements. Nevertheless, as our committee's meeting with UCSC attorney Carol Rossi suggested, the bar is fairly high for harassment, and there is considerable First Amendment latitude given to the kind of critique pursued by SPME.

There may be cases, as is suggested in attorney Rossi's comments, and noted in the minutes to our meeting, when a faculty member might be justified in filing a grievance with the Privilege and Tenure Committee alleging violations of faculty rights or privilege. In general, though, protections for free speech are many: it is well within the bounds of free speech to call for criticism of an event or a speaker, however uncivil or uncollegial the ensuing criticism might be. Although the behavior detailed in the appended e-mails—and we make no judgment on the accuracy of these reports—does not seem to constitute actionable offense, faculty should decide for themselves whether or not they want to approach the committee on Privilege and Tenure about issues of concern. But more important is that, in the spirit of academic freedom and freedom of inquiry, faculty must not allow themselves to be intimidated by political criticism. They must realize that controversial positions—and controversy is of course often in the eye of the beholder-- will produce controversy. Still, to faculty who would feel intimidated from scheduling a course, speaker, or conference due to an unwillingness to face an expected barrage of inquiry or complaint, and to university administrators who might be the recipients of those complaints, we would like to emphasize the point that no one in the university, and no university administrator, is absolutely required to respond at length to complaints, particularly repeats or near-repeats of complaints that have been previously addressed by senate or other administrative bodies.

Coercion and Violations of the Faculty Code of Conduct, and the Complaint Process

The Faculty Code of Conduct, APM-15, emphasizes in its preamble the centrality of academic freedom to the professorial mission. It explicitly recognizes the faculty right to present controversial material, and emphasizes the importance of shared governance in the preservation of academic freedom and the pursuit of knowledge. The code prohibits "discrimination, including harassment, against a student [or colleague, as specified in the same section in the code] on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, marital status, medical condition, status as a covered veteran, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons," as well as "use of the position or powers of a faculty member to coerce the judgment or conscience of a student or to cause harm to a student for arbitrary or personal reasons." It also prohibits "making evaluations of the professional competence of faculty members by criteria not directly reflective of professional performance." Nowhere in the SPME inquiry is any allegation made of faculty coercion of students, on any basis. Were that the case, and were any student treated in a punitive manner for his/her political views, we hope that the student would file charges. Although SPME has itself questioned the competence of faculty lecturers with whom they have disagreed, it is not evident that this criticism constitutes "harassment… on political grounds," and not simply the exercise of free speech. On the other hand, accusations of racism or anti-Semitism might be cause for grievance [the SPME inquiry under consideration mentioned "anti-Israel" and "anti-Zionist" bias, but not anti-Semitism], either from the accused or the accuser. Established policy does provide faculty with the right to file a complaint against another faculty member if they believe strong evidence exists that the

code of conduct has been violated, and that they are the targets of inappropriate accusations. Such complaints are handled by the Charges Committee of the Executive Vice Chancellor's (EVC) Office. Based on policies specified in the Faculty code of conduct (APM 015 and 016), the aggrieved faculty member completes a complaint form and files it with the EVC's office. The evidence is examined by the Charges Committee, which issues a report and recommendation to the EVC. Should the EVC intend to discipline a faculty member, the report is forwarded to the Privilege and Tenure committee.

Students do not have a right to be taught according to a particular viewpoint. Student academic freedom derives from faculty academic freedom, and does not exist as a separately protected category. Students do have the right to disagree with content presented in a course and faculty typically welcome vigorous debate. If a student strongly objects to the content of a course, she/he has several options. The student can speak directly with the instructor about any concerns related to the diversity of ideas presented in class and/or may seek consultation with the chairperson of the department in which the course is being offered. If the student is emphatic that the student's rights have been abridged or that the instructor has acted inappropriately and, furthermore, believes the instructor and chair offer no recourse, the student may file a complaint under the terms of the Faculty Code of conduct (APMS 015 and 016). Such complaints are governed by a formal process described in the Student Handbook (2007-08) under Judicial 115.00, "Student Grievance Procedures." The student completes and submits a form to the EVC's office and the Charges Committee, which is staffed by the EVC's office, examines the evidence.

In conclusion, we find that the APM is very clear about what constitutes violation of the code of conduct, and provides ample opportunity for the consideration of grievances arising from this.

Procedures for Hiring Lectures and for Determining Course Content and Approval

The SPME inquiry suggests that there are problems in the hiring of lecturers and in approval of course content. As we have stressed throughout this report, academic freedom rests on procedures, administered under shared governance, for ensuring that standards and norms are maintained in determining the work of teaching and research. After close examination, we find the campus possesses a robust set of established policies and procedures already in place that protect the rights of individuals and the academic freedom of professors to teach in an open environment. Our findings in these policy areas are described below.

Hiring of Lecturers

Academic Personnel Office (APO) procedures to hire a lecturer are described on their website at: http://www2.ucsc.edu/ahr/academic_policies_and_procedures/cappm/100500.htm.
These are sound procedures that have been in place for many years. Lecturer recruitments follow many of the same procedures as ladder rank faculty recruitments, including submission of an application letter detailing the applicant's credentials and experience, letters of reference, and curriculum vitae. Many departments operate an ongoing Lecturer Pool to facilitate recruitment of talented potential lecturer candidates. Some departments, such as Community Studies, have the Lecturer Pool CALL posted on its web site, but others are listed at the APO website by Division.

Course Content and Approval

At present, academic quality is regulated through a multi-tiered course approval system. The process of course approval begins at the department level when each department chair vets course proposals submitted by faculty and lecturers, and even students seeking to offer a student directed seminar. After the chair reviews the proposal and, if deemed necessary, requests amendments to the original proposal, the chair then forwards the proposals to divisional deans for review and approval, pending any amendments which are the dean's discretion to require. Only after a course has been reviewed and approved at these two levels is the course proposal submitted for a final, thorough review in the Committee on Educational Policy (CEP), whose decision authorizes the course to be offered at UCSC. The CEP's charge can be viewed in the UCSC Senate Manual at: http://senate.ucsc.edu/manual.htm

Summer session course approvals are handled somewhat differently because summer session has operated as a separate enterprise. The process begins each fall when summer session puts out a CALL to departments for courses to be offered the following summer. This CALL is transmitted to professors, lecturers and eligible graduate students, all of whom commonly teach summer courses. Departments submit a rank ordered list of courses to the Summer Session office. This list may include courses already on the books (i.e., already reviewed and approved) or proposed courses to be offered on a one-time basis. Summer session instructors are not required to hold a PhD, but they must have demonstrable teaching experience. All summer session teaching appointments of non-ladder rank faculty are made through the summer session office. The summer session office makes all decisions about what courses are offered during summer session without any further input from the department. This includes submitting to CEP for their review and approval any new courses to be offered during the summer. All summer session courses are approved by the Dean of Summer Session.

The procedures in place for hiring lecturers and determining course content mention no specific procedures for complaints from third parties (i.e., neither instructor nor student) about the outcomes of those procedures. We can conclude that the university and Senate deem existing procedures to be sufficient guarantors of adherence to academic norms, and see no reason for additional safeguards or avenues of appeal from external bodies. These are procedures that have developed over many decades, with faculty rights that have been, in many cases, hard won. Changes to these procedures, such as instituting additional levels of review or scrutiny, would of course be matters for the whole Senate. We see no need to move in that direction.

Outside Speakers, Conferences, and Colloquia

Many units on campus schedule talks, conferences, and colloquia, and these have a variety of aims: to present new knowledge, to stimulate debate or foster discussion on controversial issues, or for more general pedagogical aims. It is of course in the campus's interest that students be exposed to a range of perspectives, partisan and non-partisan. Some members of the university community feel that it is particularly important that students and faculty are exposed to viewpoints that are under-represented in the mainstream media or in the society at large. Others feel that the university itself should present all points of view on controversial issues. It would appear that those who hold either of the above positions value access to a wide range of viewpoints and positions. Although the SPME mentions a number of events with viewpoints with which they disagree, there is no reference to SPME encountering difficulties in scheduling

events of its choosing. We would encourage all groups on campus who want specific voices and positions to be heard on campus to schedule events featuring those positions.

Conclusion

We believe that the SPME are deeply sincere in their complaints about bias and indoctrination, but we note that there is great latitude for political speech on campus, and sound grievance procedures in place to protect students from coercion or intimidation. We hope that members of the SPME gain a better understanding, from this report, of the nature of academic freedom, the place of "balance" therein, and of the near absence of restrictions on advocacy per se. We do not find that any of the events about which the SPME complains constitute threats to academic freedom, or to the academic integrity of the university, which itself depends on the protection of academic freedom. We also uphold the right of SPME, on freedom of speech grounds, to make their opinions and viewpoints heard. In the future, the SPME or some other organization might want to object to a particular course, or to procedures for course approval. But it should be noted, as this document has tried to make clear, that lack of balance, real or perceived, is not in itself grounds for action.

The administration and Senate, in responding to future complaints from the SPME or related organizations, should bear in mind the toll taken on faculty members, committees, and administrators arising from the need to respond to repeated inquiries. We hope a consideration of this report, and of the relevant APM sections, will facilitate future administrative or Senate response, or lack of response.

Sincerely yours,

COMMITTEE ON ACADEMIC FREEDOM
Raja Guha Thakurta
Nicole Paiement
Mary Beth Pudup
Holger Schmidt
Christopher Connery, Chair
David Londow, NSTF Rep

Appendices
E-mails from Hershatter, Lubeck, Pudup, and Rofel

Note: These e-mails refer to appended e-mails that, owing to CAF's concerns for privacy, are not included in this report. Our original letter to the SEC, on file at the CAF and SEC offices, contains all mentioned appended material.

Inquiry Email from CAF Chair Connery

Dear Angela, Bettina, Gail, Lisa, Paul, Ronnie, and Terry, and Mary Beth,

This year the Senate Executive Committee charged the UCSC Committee on Academic Freedom to respond to complaints about Anti-Israel bias in campus events and curriculum. This complaint was brought by the Scholars for Peace in the Middle East, whose signatories are Tammi and Ilan Benjamin. The complaint mentions no faculty by name. I am writing to you because you are known to have had interactions with the Benjamins or SPME around Israel-related issues. Our committee does not plan to investigate incidents of this alleged bias, but seeks rather to determine if, connected to the complaint in any way, including the activities of those making the complaint, there is anything that threatens academic freedom on our campus. Academic freedom--the freedom for faculty to pursue the production of knowledge without outside political, commercial, or other forms of interference--is a precious and vital resource on our campus, and our committee is charged with its safeguarding.

To help us in our final report to the SEC, I wanted to ask you to inform our committee of any issues of concern to academic freedom that may have arisen in your own interaction with Professor and Ms. Benjamin, with SPME, or with related groups. If you choose to reply, it would be most useful if you could write a non-confidential reply, which I could append to the committee report to the SEC. If you would prefer a confidential reply, that is of course fine, though it might limit its utility. If you would prefer to speak by telephone, that is also fine. We are not seeking excessive documentation, such as e-mails you may have received, but relatively concise statements, if applicable, pertaining to issues of academic freedom. If you know of others to whom I should write, please let me know.

The CAF response to the SEC request is intended as information only. We are not a disciplinary body, and nothing our committee does will result in disciplinary action for anyone. We are an advocacy committee, and the object of our advocacy is academic freedom on this campus.

We would be very grateful to have your e-mail by the end of this week (Saturday). If you would like to speak with me about it, please call 459 9362 (home) or 459 2761 (office).
(I have copied Susanna Wrangell, our Senate staff member, on this request).

Gratefully yours,
Chris

1)Hershatter Email

Dear Chris: thank you for your request. I am pleased that the CAF is considering this issue. During the academic year 2006-07, the Center for Cultural Studies co-sponsored with a small amount of funding an appearance at UCSC by veterans of the Israeli Defense Forces speaking about their experiences, as part of a national tour entitled "Breaking the Silence. The Institute for Humanities Research provided minor co sponsorship funding to a conference on Alternative Histories of Zionism, featuring a number of prominent Jewish scholars. I have on record by rough count (I may have deleted some) 9 emails protesting the former event, and 41 protesting the latter event. They came from around the country and were apparently in response to a posting on the web site standwithus.com by Tammi and Ilan Benjamin, or an alert issued by that organization (I did eventually locate the text, but I do not have the exact URL) asking people to let UCSC know that our campus had "crossed the line." Some of these emails were respectful in tone (if misinformed and composed mainly of cut and paste from the web site); some were abusive. After receiving some especially disturbing emails, I initiated a correspondence with Tammi Benjamin, which I am forwarding under separate cover (you will have to read from the bottom up). I would be willing to forward all of the outside emails to you if your committee requires it.

The "Breaking the Silence" event was the sort of eyewitness report that UCSC hosts in the dozens every year, from people who bring perspectives on various international events around the world. The Zionism conference was an academic presentation of research, which of course has bearings on controversial contemporary political issues. It was especially disturbing, in the latter context, to see the research denounced as anti-Semitic, anti-Israel, appropriate for German beer halls, genocidal, etc., by people who were not present (in some cases, I cannot tell where they were, given the email addresses). It seems to me that a web site call for this sort of bombardment of researchers and campus organizing units can be considered an infringement of academic freedom. It is certainly an attempt to raise the harassment factor so that campus units will avoid sponsorship of such discussions in future. This distresses me, as my correspondence with Tammi Benjamin makes clear.

I look forward to hearing the results of your investigation.

All best,

Gail Hershatter
Professor of History
Director, Institute for Humanities Research
Co-Director, Center for Cultural Studies

Humanities Academic Services
University of California

1156 High St
Santa Cruz, CA 95064
831-459-4041 (phone)
831-423-4780 (fax)
gbhers@ucsc.edu

2) Lubeck Email

Date: Wed, 23 Apr 2008 08:48:34 -0700
To: cconnery@ucsc.edu
From: Paul Lubeck <lubeck@ucsc.edu>
Subject: Corrected Version of Lubeck Letter to CAF. Fwd: submission to CAF regarding harassment and attacks on academic freedom
Date: Tue, 22 Apr 2008 17:56:02 -0700

To: cconnery@ucsc.edu

From: Paul Lubeck <lubeck@ucsc.edu>

Subject: submission to CAF regarding harassment and attacks on academic freedom Cc: lubeck@ucsc.edu

Dear Chris,

I am writing to inform you about the behavior of Ilian and Tammi Benjamin and the threat they pose to academic freedom at UCSC. For a number of years, they have engaged in a pattern of intimidation, misrepresentation and personal attacks on a faculty members and students at UCSC. All of which constitutes a vicious threat to academic freedom at UCSC. Your committee is aware of my formal complaint against Ilian Benjamin. The documentary evidence I submitted is overwhelming proof of my allegation. If you require more supporting documents to confirm the pattern of intimidation Ilian Benjamin and others engaged in, please contact me. Your committee and the administration should also be aware of the fact that Tammi Benjamin attends the organizational meetings for the Muslim Studies initiative chaired by the Deans of the Divisions of the Humanities and Social Sciences. She takes hand written notes on the participants public statements including mine. This has a chilling effect on free expression of ideas. I mention this intrusive behavior because I and others are uncertain what she does with the notes. To whom does she forward them is the question. What are they used for? Does she intend to intimidate? Is there a history of spying and transfers of information you may wish to ask?

To answer the last question, it is important for your committee to realize that during the 1980's and 1990's, students engaged in the anti-apartheid movement asked me to be the faculty sponsor for a campus student group affiliated with the African National Congress and the ANC leader,

the Nobel peace prize winner, Nelson Mandela. The exact name of the student group escapes me now but it was affiliated with the ANC youth organization.

Accordingly, after serving as faculty sponsor, in 1993 I received a letter from the San Francisco Police Commission informing me that the commission was conducting an investigation into a violation of their guidelines, and further that they were required to notify me that "we have discovered that information about you may have been gathered, stored and/or disseminated in violation of the guidelines." (Letter dated May 26,1993). When I wrote them they sent a small paper listing the youth group of the African National Congress and no other explanation.

I am forwarding you a scan of this letter by separate email and various articles explaining surveillance and dissemination of information by another zealot organization (Anti-Defamation League) which was sued in the San Francisco spying case, which continues to harass, intimidate and block Professors from practicing their right of academic freedom. The case of Tony Judt of NYU provides all the evidence your committee will need for documenting how and why these these vicious attacks on academic freedom have continued unabated.

I am also forwarding you a variety of journalistic articles on the behavior of the San Francisco police toward

anti-apartheid and other groups. My point is that there is a long standing pattern of intimidation, spying and attacks on academic freedom carried out by self appointed zealots who share the Benjamin's views.

Finally, I wish to make absolutely clear that the Benjamins' behavior constitutes a threat to my right of academic freedom and most importantly that their pattern of harassment is actively intimidating faculty from speaking freely in classes or organizing forums on controversial issues on campus. Rather than risk being smeared personally, often via the Internet, or spending vast amounts of time as I did in preparing my submission to your committee several years ago, many faculty simply avoid dealing with these issues. I urge you to do all in your power to end this pattern of intimidation and overt attack on academic freedom.

Sincerely,

Paul M. Lubeck

Professor of Sociology

Founding Director, Center for Global, International, and Regional Studies

Director, Global Information Internship Program

College Eight, University of California, Santa Cruz, 95064

Tel: 831 459 2906, 459 2833, Fax: 831 459 3518

http://giip.ucsc.edu

lubeck@ucsc.edu

3) Pudup Emai
April 20, 2008

Chris Connery, Chair
COMMITTEE ON ACADEMIC FREEDOM

Dear Professor Connery:

Thank you for the opportunity to share with you and other senate members my experiences related to the organization Scholars for Peace in the Middle East (hereafter SPME).

As you know, I was contacted last summer (2007) by two SPME members, Professor Ilan Benjamin and Lecturer Tammi Rossman-Benjamin, in regard to a summer session course then being taught by Dr. Dalit Baum.[9] The SPME made a variety of allegations about Dr. Baum's course and her fitness to teach the course and, ultimately, about my fitness as department chair in approving the course for summer session. I did not respond to SPME because I believed their allegations lacked merit. Because of my non-response, SPME took the issue to Dean Sheldon Kamieniecki for his review, again on the same grounds (Dr. Baum's course, her fitness to teach it and my fitness as department chair). Dean Kamieniecki felt compelled to respond to SPME and therefore conducted an investigation into the allegations. He also found they lacked merit and reported thusly to SPME. Professor and Lecturer Benjamin expressed their disagreement with the Dean's conclusion and vowed to pursue the matter further. I should note for the record that communications among SPME, me and Dean Kamieniecki were copied to higher level administrators including the EVC and Chancellor.

In the ensuing months, this experience has ramified in my work as a professor and department chair. During the fall, my continuing role as department chair necessitated that I once again conduct a call for summer session (2008) courses. At the time, I was unsure what I would do if Dr. Dalit Baum proposed courses (the same or different) to be offered through the department. If she did propose the courses and I approved them, I worried that I would again be subject to allegations that are both time-consuming and, frankly, potentially threatening to

[9] I had received earlier communication from SPME related to Community Studies sponsorship of a campus event during the previous year, but in this memorandum will focus on SPME actions directed exclusively at me and my department.

my professional advancement. As a long-standing department chair, such concerns have never entered into my decision making about summer session courses. I believe the simple fact that I had such doubts about whether I would again green light Dr. Baum's course is an abridgement of academic freedom. Courses and instructors should be judged solely on their merits, not on whether their teaching and presence may be deemed controversial by third parties.

I have engaged in the same line of thinking with respect to requests for campus events (lectures, films, visiting speakers, etc.). More than once I found myself evaluating requests through the lens of how this might or might lead to allegations being made against me and/or the department because of our sponsorship. Again, as a long standing chair who holds the position that the promotion of free speech is essential function of a higher education institution—particularly a public one—the fact that I even engaged in this kind of thinking demonstrates how academic freedom can too easily be abridged in small but cumulatively large ways.

During the winter (2008) quarter, I was approached in my office by a student then enrolled in my Economic Justice seminar about the allegations made by SPME. As fate would have it, this same student was then enrolled in a Hebrew language course being taught by Lecturer Rossman-Benjamin. It was actually through this student that I learned about how the email communications from SPME to me had been posted on the SPME website. I was shocked and saddened that a student—one of my own academic advisees, no less—in some way was drawn into this matter and appeared deeply conflicted about it. For the record, I told the student that I did not believe it appropriate to discuss faculty matters with students (formally or informally), so I did not ask the student about his motivation for printing out the SPME weblinks related to the email I received from SPME or did I offer my own ideas or commentary. It would be impossible for me to describe the concatenation of feelings that overtook me during this meeting.

During the current quarter (Spring 2008), one of our very best Community Studies undergraduate students is conducting a student directed seminar for his senior thesis capstone project, under the direction of Professor Paul Ortiz, on the Middle Eastern Diaspora. Given the array of events over the past several years around classes and events related (in whole or part) to the Middle East, late in winter quarter I became very concerned that the student's course could become a focus of SPME action. Let me hasten to say immediately that to date and to my knowledge, there have been no SPME actions related to this course. My point here is that based on my prior experience, and my knowledge of the experience of others on campus, I felt compelled to meet with Professor Ortiz and ask that he maintain a careful eye for any third party attempts to disrupt and/or monitor the student's course. Such discussions are indicative of the kind of chilling effect on academic freedom that can be caused by actions taken by SPME.

In sum, my experiences with SPME have had measurable effects on the conduct of my work both as a professor and department chair. My experiences suggest

how a new and insidious calculus can easily insinuate itself into decision making processes related to course approvals and special event sponsorship, a process that must be checked if academic freedom is to endure as a fundamental tenet of higher education. Furthermore, SPME actions have the potential to compromise faculty-student relations in ways that are not easily resolvable.

Please don't hesitate to contact me with any questions. Because I have specifically mentioned experiences related to students, I am concerned about the question of how this document may affect them. I would appreciate your advice on the confidentiality matter.
Yours sincerely,

Mary Beth Pudup
Associate Professor and Chair

Rofel Email
Date: Sun, 13 Apr 2008 06:24:47 -0700

To: Chris Connery <cconnery@ucsc.edu>

From: Lisa Rofel <lrofel@ucsc.edu>

Subject: Re: academic freedom issues

Dear Chris,

I would like to respond to your request for information on my experiences concerning academic freedom as they relate to the matters you raise below. Unfortunately, I will only be able to respond briefly, as I am on leave and doing research in China at the moment. I wish I could develop a lengthier response, as I believe the matter deserves one. I have experienced a great deal of harassment at the hands of the Benjamins and their SPME. The issue of Israel/Palestine is a sensitive one that deserves a lot of considered dialogue. It is also a controversial topic. The academy is the best place to explore sensitive and controversial topics, in a scholarly manner. Whenever I have invited speakers to campus, the Benjamins have done a number of things that I consider to be harassment. I do not mind at all an engagement with one another over our disagreements, but I think that their actions have gone beyond that. First, they have written letters of complaint to the EVC and my Dean. These letters do not just state their intense disagreement with the speakers I have invited but have invited the EVC and the Dean to take disciplinary action against me by trying to argue that I have broken the rules of academic freedom by having speakers who disagree with their position on the matter of Israel/Palestine. Second, they have put my name up on their website and invited people from all over the world to write me with their complaints about the events I have organized. I have been flooded with emails from all over the world describing me as akin to Hitler and Goebbels. These are from people who have only the Benjamins' description of the events, people who did not attend these events. I consider all of these activities to be pure harassment, designed to

stop me and others from inviting speakers who disagree with the Benjamins' position on Israel/Palestine. The harassment got so bad at one moment I considered hiring a lawyer. I believe our campus should vigorously condemn such harassment, as it is precisely designed to stop me from exercising my academic freedom. As has always been true historically, one sees this issue most clearly when the issues are most controversial.

I hope this response suffices for now.

Best,

Lisa Rofel