November 1, 2013

Professor Jan Reiff
Chair, UCLA Academic Senate

Re: Senate Item for Review: Academic Freedom Task Force: Council on Planning and Budget
Response

Dear Professor Reiff,

The Council on Planning and Budget reviewed the Faculty Resource Guide at their meeting on October 21, 2013 with respect to resource implications. Members raised the issue of legal fees and the cost of putting requested material together. The guide does address the cost of legal fees which is borne by the University but not specifically about additional costs, if any, for gathering requested materials. Additionally, CPB noted that intellectual property should be added to exemptions.

No other items were noted.

Sincerely,

Rosina Becerra
Chair, Council on Planning and Budget

cc: Joel Aberbach, Vice Chair, Academic Senate
    Linda Sarna, Immediate Past Chair, Academic Senate
    Jaime Balboa, Chief Administrative Officer, Academic Senate
    Linda Mohr, Assistant Chief Administrative Officer, Academic Senate
    Members of the Council on Planning and Budget
Dear Jaime and Janice,

the Committee on Academic Freedom met on Wednesday and fully endorses the final report from the joint Administration-Senate Taskforce on Academic Freedom. The Committee also feels that may be useful to have educational resources on the report and the issues it deals with, so that faculty can be educated on these issues. Those of us that served on the Committee on Academic Freedom in the past were obviously very familiar with the issues related to Public Requests, having seen this document and other documents related to it multiple times. However, members of the Committee that served for the first time felt that a better education on these issues should be beneficial to all faculty.

Best regards,
Marco

Marco Iacoboni, MD PhD
Professor, Dept. of Psychiatry and Biobehavioral Sciences
Director, Transcranial Magnetic Stimulation Lab
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On Sep 30, 2013, at 10:33 AM, Balboa, Jaime <jbalboa@senate.ucla.edu> wrote:
Attached please find the final report from the joint Administration-Senate Taskforce on Academic Freedom. As some of you will recall, we saw an earlier version of the first part of the report last year, and the Senate’s response (as well as those committees which opined) can be found online here: [http://www.senate.ucla.edu/documents/02-07-13SarnatoGoldbergandTeplow_re_AcademidFreedomPrinciples.pdf](http://www.senate.ucla.edu/documents/02-07-13SarnatoGoldbergandTeplow_re_AcademidFreedomPrinciples.pdf). The second part of the report, the Faculty Resource Guide for Public Records Requests, is new and has not been reviewed by the Senate.

I ask that each committee please review the documents with the specific mandates of your committee in mind. Responses are most helpful when they include a statement of endorsement, a statement of endorsement contingent upon revisions (please state revisions), or a statement of opposition (please specify reasons). The Executive Board, which speaks for the Senate on such matters, will review the not only the taskforce report but also the reviews of the various committees. Please send your responses to Academic Senate Chair Jan Reiff (with a copy to me) by no later than November 1, 2013.

Thank you in advance for your assistance with this.

Best Regards,
Jaime

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Jaime Ronaldo Balboa, Ph.D.
Chief Administrative Officer, UCLA Academic Senate
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<06-04-13 Golberg to Sarna & Waugh re._Academic Freedom.pdf>
To: Jan Reiff, Chair, UCLA Academic Senate
Fr: Christina Palmer, Chair, College Faculty Executive Committee
Date: October 29, 2013
Re: College FEC response to the proposed “Faculty Resource Guide for Public Records Requests”

The College FEC appreciates the opportunity to review and opine on the proposed “Faculty Resource Guide for Public Records Requests.” Our discussion at the FEC’s October 18, 2013 meeting was aided by Amy Blum, Campus Counsel, who joined us for a productive conversation about the guide as well as the history behind the need for such a document. As the principal architect of the document, the committee appreciated having Ms. Blum as a resource for our discussion.

While the committee did not elect to endorse the guide with a formal vote, I can report that the conversation was overwhelmingly positive. The members felt the resource guide was clear, concise, and accomplishes its goal of educating faculty about public records requests as they relate to research and teaching. During our discussion, members raised a number of questions, including several related to activities that fall outside the categories mentioned in the document. These include:

1. Are personnel actions, including matters related to tenure and promotion, subject to public records requests?
2. How are public records requests handled in situations involving IRB confidentiality agreements or other instances where the University has entered into a confidentiality agreement?
3. Are shared governance activities or faculty committee work considered ‘protected’ from disclosure?

While Ms. Blum addressed these questions and others during our meeting, I raise them here because our members felt they warrant further consideration in any future iteration of the guide.

As always, our membership appreciates the consultative process and welcomes the opportunity to opine on important matters like this. You are welcome to contact me at cpalmer@mednet.ucla.edu with questions. Kyle Stewart McJunkin, Academic Administrator, is also available to assist you and he can be reached at (310) 825-3223 or kmcjunkin@college.ucla.edu.

cc: Jaime Balboa, Chief Administrative Officer, Academic Senate
   Lucy Blackmar, Associate College Dean, College of Letters and Science
Dr. Jan Reiff
Chair, Academic Senate

Dear Dr. Reiff:

We thank you and the members of the Academic Freedom Task Force not only for crafting the Statement on the Principles of Scholarly Research and Public Records Requests, but also for creating a Faculty Resource Guide for California Public Records Requests. Academic freedom is an issue of utmost importance to UCLA faculty and, in particular, to the mission of the Council on Research (COR). The COR considered these documents at our meeting on October 4. Due to the importance of the issues, we invited Senior Campus Counsel Amy Blum to discuss the statement with us at our November 1 meeting.

The COR is in accord with, and endorses, the principles and recommendations presented in these documents. We do suggest some alterations to the Statement as follows, but our endorsement is not contingent on adoption of these revisions:

Frank exchange among scholars is essential to advancing knowledge. Scholars frequently frame and interrogate ideas in exaggerated form in order to explore possibilities through hypotheticals, a rhetorical approach known sometimes as *reductio ad absurdum*. In the course of exploring alternative possibilities, scholars may play "devil's advocate," making claims they may not themselves believe in, employing edgy, casual language not intended for public circulation or publication. These communications are frequent and diverse in nature because scholarship is a competitive and fast-paced process, requiring intensive communication among a diverse array of participants.

The potential harms of public records requests for scholarly records
Frank and honest academic exchange depends on the maximum protection of the informal and everyday work of university scholars, personal emails, drafts, and records related to research and teaching. It is essential that regular and frequent communications among faculty within UCLA and with colleagues in other institutions remain within faculty control. Such communication is essential if faculty are to conduct unbiased research and engage in fair and impartial peer review. Public records requests can lead to unnecessary and unwarranted increased time commitments necessary to monitor all that is written or said in case of potential public disclosure. A lack of protection from such requests can directly impinge on academic freedom (the "chilling effect") by causing faculty to avoid investigating or engaging in debate on controversial issues.

Free communication is a crucial component of a strong academic environment. Scholars at the University of California must enjoy the same privileges in communication as our colleagues at other leading private universities. When the free flow of ideas is restricted, our faculty will be
placed at a competitive disadvantage, in an environment that will feel hostile to academic inquiry and scholarship. To the extent that this is restricted, many leading faculty members may choose not to stay, while others will choose not to come, when they have the option to work in more realistic environments. Given its’ issues with general funding and support, UCLA is at pains already to keep the faculty we have.

These suggested alterations do not change the spirit of the documents and as stated above, the endorsement of the COR is not contingent on adopting these alterations. They are intended to help clarify the nature of scholarly research and the potential costs of inadequate protection of academic freedoms, including harming individual scholars and slowing the advancement of knowledge in domains of critical importance.

Sincerely,

Karen Lyons, PhD
Chair, Council on Research
Department of Molecular, Cell & Developmental Biology
Department of Orthopaedic Surgery
klyons@mednet.ucla.edu
To: Jan Reiff, Chair, UCLA Academic Senate

From: Jean-François Blanchette, Chair, GSE&IS Faculty Executive Committee

Date: October 31, 2013

Re: Senate Item for Review—Report by the Task Force on Academic Freedom

On behalf of the Faculty Executive Committee of the Graduate School of Education and Information Studies, I write in response to your request for comments on the Statement on the Principles of Scholarly Research and Public Records Requests and on the Faculty Resource Guide for California Public Records Requests, as drafted by the joint Administration-Senate Task Force on Academic Freedom. The Committee was grateful for the opportunity to discuss the two documents at its October 16, 2013 meeting and felt that the Statement cogently articulated the need to prevent the chilling effect of politically motivated public records requests on frank scholarly exchange.

Committee members were enthusiastic that the Task Force had added a Faculty Resource Guide, providing much needed guidance to UCLA faculty with respect to the scope of California public records requests, along with some suggested practices with respect to the management of the records faculty generate in their scholarly and administrative endeavors. However, members of the committee expressed concern with respect to the guidance provided on electronic communications (section 8 of the Guide). In particular:

Section 8.F states that faculty should “Have a retention and disposal practice that makes good business, educational and research sense,” further suggesting that “if you do not need to keep communications, routinely dispose of those records.” But how does one dispose of one’s electronic communications, emails for example? Indeed, the Chancellor himself reminded faculty in an email dated October 29, 2007 (attached) that “emails may not simply ‘disappear’ by a press of the ‘delete’ button.” At GSE&IS, for example, the default arrangement is for faculty’s files to be held on a shared server rather than individual workstations. Does the scope of public records requests extend then to backup tapes? To departmental or university servers? Does the University itself have a sensible retention and disposal practice for backup tapes?

The Committee thus felt that, even after reading the Guide, there remained confusion for faculty as to how they might go about disposing of their records. Unimplementable policy is not sound policy: if the Guide is indeed intended to help
faculty reduce their exposure to frivolous public records requests, then there is the need for further clarification of disposition of electronic records within the context of the University.

As well, section 8.E states that “other electronic devices are subject to the same obligations.” Faculty would also benefit with advice on how to implement a sensible retention and disposal policy that covers social media, commercial email providers, mobile devices, etc. Furthermore, as faculty increasingly rely on software tools (such as course management software) to conduct their pedagogical activities, they generate new kinds of data such as time and duration of logins, specific pages viewed, etc. The abundance, variety and technical evolution of new communication technologies creates an incredibly complex and fast-moving environment for recordkeeping, where legal rules for discovery are being determined by courts right now. The Committee felt there was a strong need for constant monitoring of such issues—for example, whether data generated from online education platforms would be considered public records, etc. The Guide could thus be usefully revised on a yearly basis, so that faculty is best equipped to navigate this new environment.

If you have any questions concerning this response, please do not hesitate to contact me.

cc: Jaime Balboa, CAO, Academic Senate
    Marcelo Suárez-Orozco, Dean, GSE&IS.
November 1, 2013

TO: Jan Reiff, Chair Academic Senate

FROM: Scott J. Brandenberg, Chair, HSSEAS Faculty Executive Committee

RE: Report of the joint Administration-Senate Taskforce on Academic Freedom

The Faculty Executive Committee in the Henry Samueli School of Engineering and Applied Science discussed the report of the joint Administration-Senate Taskforce on Academic Freedom during our FEC meeting this morning. Feedback from our FEC was positive, and we endorse the report. We also appreciate the guide that accompanies the report, and believe this will be a valuable resource for faculty who receive public disclosure requests.