

# Contract and Grant Manual

## ACADEMIC POLICY

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Section 10.1 of the Bylaws of The Regents of the University of California, list seven standing committees of the Board: Audit; Educational Policy; Finance; Grounds and Buildings; Investments; Hospital Governance; & Oversight of the Department of Energy Laboratories.

Section 12.2 of the Bylaws establishes the responsibilities of the Committee on Educational Policy. The Committee's duties relevant to contracts and grants are as follows:

\* \* \*

(c) Consider and report to the Board on matters relating to the research, training, and public service activities of the University and recommend to the Board the establishment or disestablishment of organized research units and other major research activities, special training programs, and public service undertakings, except for matters assigned to the Committee on Oversight of the Department of Energy Laboratories.

(d) Consider and recommend to the Board on the solicitation and acceptance or execution of grants and contracts for research, training, and public service, except as otherwise provided in the Bylaws and Standing Orders, provided, however, that all actions relating to research that require the appropriation of University funds not already appropriated, or that would commit the University to an appropriation of its funds, shall be subject to approval by the Committee on Finance.

\* \* \*

(f) Consider and recommend to the Board policies relating to organized efforts to solicit grants, pledges, and gifts for any University purpose from multiple sources such as individuals, firms, corporations, foundations, groups, and/or organizations.

**1-120 REGENTS' RESOLUTION ON RESEARCH**

On July 17, 1970, The Regents adopted the following resolution on University research:

WHEREAS, research, both basic and applied, jointly carried out by university professors and their graduate students has become an indispensable part of the educational process leading to advanced degrees in all major American universities;

WHEREAS, demonstration of research ability is a stipulation for the doctorate and many other advanced degrees in most fields of knowledge, and the graduate student's involvement with his professor in a research activity is an all-important part of the learning process;

WHEREAS, research carried out by the University of California makes a vital contribution to the defense of the United States, the social and community needs of the State of California, and its people; and the health and well-being of all mankind;

WHEREAS, the financial support of university research has come to be increasingly shared by extramural sources, notably agencies of the federal government—foundations and private donations;

NOW, THEREFORE, The Regents of the University of California reaffirm the importance of research in teaching, national defense, and public service; and resolve to continue direct sponsorship of research projects and administrative support of extramurally funded research programs, and to continue to encourage state, federal, and private active support of research activities.

## 1-200 ACADEMIC SENATE

### 1-210 MEMBERSHIP

Standing Order 105.J, Organization of the Academic Senate, Section (a) states:

(a) The Academic Senate shall consist of the President, Vice Presidents, Chancellors, Vice Chancellors, Deans, Provosts, Directors of academic programs, the chief admissions officer on each campus and in the Office of the President, registrars, the University Librarian on each campus of the University, each lecturer who has full-time teaching responsibilities in any curriculum under the control of the Academic Senate and whose academic title is Senior Lecturer with Security of Employment or Lecturer with Security of Employment, and each person giving instruction in any curriculum under the control of the Academic Senate whose academic title is Instructor, Instructor in Residence; Assistant Professor, Assistant Professor in Residence, Assistant Professor of Clinical (e.g., Medicine); Associate Professor, Associate Professor in Residence, Associate Professor of Clinical (e.g., Medicine), Acting Associate Professor; Professor, Professor in Residence, Professor of Clinical (e.g., Medicine), or Acting Professor; however, Instructors and Instructors in Residence of less than two (2) years' service shall not be entitled to vote. Members of the faculties of professional schools offering courses at the graduate level only shall be members also of the Academic Senate, but, in the discretion of the Academic Senate, may be excluded from participation in activities of the Senate that relate to curricula of other schools and colleges of the University. Membership in the Senate shall not lapse because of leave of absence or by virtue of transference to emeritus status.

### 1-220 DIVISIONS OF THE ACADEMIC SENATE

According to the By-Laws of the Academic Senate, Part III, Divisions of the Academic Senate, Title I, Membership and Authority, Section 305, Divisions: "The Academic Senate has nine Divisions: Berkeley, Davis, Irvine, Los Angeles, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz." Each Division determines its membership in accordance with the Bylaws of the Academic Senate and with the Standing Orders of The Regents. Each Division also may establish appropriate standing

committees to deal with matters in various areas, including research.

### 1-230 *STANDING COMMITTEES OF THE ACADEMIC SENATE*

One of the Standing Committees of the Academic Senate is on Research Policy. (Bylaws of the Academic Senate, Part III, Title IV, Section 200) This Committee consists of nine members, one from each Division, including the Chair and Vice Chair. Members normally serve three-year staggered terms and should have served at least one year on their Divisional Committee. The Chair of the Academic Senate Standing Committee on Research Policy also serves as a member of the Academic Senate Standing Committee on Planning and Budget. One member or former member of the Committee on Research Policy serves as a delegate to the Intellectual Property Advisory Council. (Refer to Contract and Grant Manual Chapter 11, Sections 11-220 and 11-999 for the duties of the Intellectual Property Advisory Council.)

The duties of the Academic Senate Standing Committee on Research Policy are to consider matters pertaining to:

1. Fostering research;
2. Formulating, coordinating, and revising general research policies and procedures;
3. Advising the President on research. Questions of policy and their implementation may be initiated by this Committee, referred to it by the President, or brought to its attention by Divisions;
4. Report annually to the Assembly concerning its policies and practices.

### 1-300 *PRESIDENT' DUTIES AND STATEMENTS ON ACADEMIC POLICY*

#### 1-310 *PRESIDENT' DUTIES*

Standing Order 100.4, Duties of the President of the University, Section (j), states:

(j) The President shall consult with the Chancellors and the Academic Senate regarding the educational and research policies of the University, and shall keep the Chancellors and the Academic Senate informed about significant developments within the University and within the State and Federal governments which may have serious consequences for the conduct of education and research within the University. The President shall present recommendations to the Board concerning the academic plans of the University and the several campuses. The President shall transmit to the Board any memorial which the Academic Senate may address to The Regents.

#### 1-320 *UNIVERSITY REGULATION NO. 4, SPECIAL SERVICES TO INDIVIDUALS AND ORGANIZATIONS*

University Regulation No. 4, Special Services to Individuals and Organizations, establishes the basic framework of University policy regarding the types of acceptable activities and the conditions under which the University will perform services under contract involving the use of University facilities. The following are excerpts from pertinent sections of Section II of Regulation No. 4:

#### II. SERVICES INVOLVING THE USE OF UNIVERSITY FACILITIES OR CONDUCTED THROUGH UNIVERSITY BUREAUS OR OTHER ORGANIZATIONS, AND UNDER

## CONTRACTS BETWEEN SUCH ORGANIZATIONS AND THE REGENTS

### 1. *Presidential approval*

Research for the benefit of Federal, State, industrial or other projects is to be undertaken only under conditions approved in advance by the President. Prior to execution of a contract, expenditures or commitments of any kind are prohibited except as may be authorized by specific regulations of The Regents of the University.

### ✓ 2. *Character of Undertakings*

University participation in tests and investigations shall be limited to activities which lead to the extension of knowledge or to increased effectiveness in teaching. Routine tests of a commonplace type will not be undertaken.

University laboratories, bureaus and facilities are not to be used for tests, studies, or investigations of a purely commercial character, such as mineral assays, determination of properties of materials, the performance efficiencies of machines, analyses of soils, water, insecticides, fertilizers, feeds, fuels, and other materials, statistical calculations, etc., except when it is shown conclusively that satisfactory facilities for such services do not exist elsewhere. Those requiring such tests or services should apply to business firms or to such public agencies as the State Division of Mines, the State Department of Agriculture, or the State Food and Drug Laboratory, etc.

Commercial tests or investigations involving controversial elements may be undertaken only at the direct and unanimous request of representatives of all parties to the controversy.

### 3. *Expenses incurred by the University*

For all tests and investigations made for agencies outside the University, a charge shall be made sufficient to cover all expenses, both direct and indirect.

4. [Note: This paragraph was superseded by Academic Personnel Manual Sections 660-0, 660-16, 664, 667, and 750.]

### 5. *Publicity of results*

All such research shall be conducted so as to be as generally useful as possible. To this end, the right of publication is reserved by the University. The University may itself publish the material or may authorize, in any specific case, a member or members of the faculty to publish it through some recognized scientific or professional medium of publication. A report detailing the essential data and presenting the final results must be filed with the University. Notebooks and other original records of the research are the property of the University.

### 6. *Use of the name of the University*

The use of the name of the University for advertising purposes shall not be permitted.

### 7. *Patent Agreements*

For those projects in which patentable ideas may result, in the opinion of the President or of the

chairman of the department concerned, patent agreements between the sponsor and the University shall be made. Employees of the University will be required to execute agreements, before the work begins, in which the position of the employee, the University, and the sponsor shall be clearly set forth.

8. *Appropriate Arrangements* Will be made by the President for the Administration of the policy herein set forth.

#### 1-330 PRINCIPLES UNDERLYING REGULATION NO. 4

Concurrent with the issuance of Regulation No. 4, the President issued the Principles Underlying Regulation No. 4. The following is the text of the Principles Underlying Regulation No. 4:

*Faculty Service.* To accomplish its aims of providing higher education, of advancing knowledge and of contributing to the welfare of the State, the University invites to its faculty scholars whose interests, learning, and accomplishments give promise of continued effective service to these ends. The service of the individual member of the faculty may include varied types of activities, such as classroom teaching, conference with students, writing, research, committee work, administrative service, and public service. To these various activities the relative time allocations will vary with individuals, and for the same individual at different periods. It is not desirable or feasible to arrange them in a fixed regimen applicable to all persons at all times. Teaching is one of the essential functions of the faculty and the teaching "load" is intended to be moderate to provide time for fulfilling other obligations, the most evident of which are professional improvements and scholarly activity.

Certain commitments directly affecting other persons, as, for example, classroom teaching and administrative engagements, will naturally involve specific schedule and other obligations, but the University in general leaves the time allocations of such activities as study, writing, research, and public service to the discretion of the individual. It is assumed that fulltime members of the faculty are devoting their time and energies (full "working" time) to the services of the University. (See further, Regulation No. 3.)

Regulation No. 4 deals with services to individuals and organizations outside the University. In the spirit of the above-outlined principles, such service may be justified if it does not interfere with University commitments and if 1) it gives the individual experience and knowledge of value to his teaching or research; 2) it is suitable research through which the individual may make worthy contributions to knowledge; or 3) it is appropriate public service.

*Contract Research.* The University enters into certain contracts to carry out research projects for outside agencies when it is convinced that the project is an appropriate University activity, that conditions of space, etc. are adequate, and that faculty personnel is available, competent, and interested in undertaking the work. No one is required to undertake such work, but it may present a welcome opportunity to one who is interested in the research problems involved, as supplying the necessary assistance and equipment which he otherwise might be unable to obtain. In general, the time which the regular member of the faculty gives to the work is that which he would normally have available for study and research.

The University has had the policy for many years of giving added compensation to faculty members who undertake scheduled obligations in the summer period (summer sessions), and on that analogy has, with the concurrence of contracting agencies, allowed compensation for summer contract work.

The point is sometimes raised that a faculty member may undertake individual work for an outside agency at a rate higher than that allowed by the University; also that certain contract agencies would be

willing that higher payments be made from the funds they supply. Nevertheless, it would be a very unsatisfactory policy for the University, in dealing with its regular staff, to set up for individuals two rates of pay for different parts of the year, or to compensate for some of the projects it undertakes at higher proportional rates than for others.

*General:* It is expected that those administering or otherwise taking part in projects, or rendering services covered by University Regulation No. 4, will act in the spirit of the principles of service to the University, and interpret any detailed statement of the regulation in the light of these principles.

### 1-340 GUIDELINES ON UNIVERSITY-INDUSTRY RELATIONS

In recognition of the importance and complexity of relations between the University of California and private industry, the President issued Guidelines on University-Industry Relations on May 17, 1989. Following are the Guidelines:

#### ✓ *Guideline 1: Open Academic Environment*

The Administration and the Academic Senate are responsible for assuring that an open environment exists throughout the University. It is the responsibility of the campus administration, departmental faculty, and the Academic Senate to establish appropriate norms and to assure the existence of an open environment.

#### *Guideline 2: Freedom to Publish*

Freedom to publish is fundamental to the University and is a major criterion of the appropriateness of a research project.

#### *Guideline 3: Outside Professional Activities*

Faculty are encouraged to engage in appropriate outside professional activities. Responsibility rests with each faculty member to assure that such activities do not interfere with the performance of University duties.

#### *Guideline 4: The Obligation to Avoid Conflict of Interest*

Faculty may not engage in any activity that places them in a conflict of interest between their official University activities and any other interests or obligations.

#### *Guideline 5: Disclosure Responsibilities*

Principal Investigators who have a financial interest (such as equity, directorship, or consultant relationship) in any non-governmental sponsor proposing to fund their research must disclose this interest prior to acceptance of funding.

#### *Guideline 6: Responsibility to Students*

Faculty members must not allow any outside professional activities or interests to adversely affect their responsibilities to students as teachers, mentors, or supervisors of research.

#### *Guideline 7: Patent Policy*

All University employees and others who use University funds or facilities must sign patent agreements and must adhere to the University of California Patent Policy.

*Guideline 8: University Practice on Licensing the Use of Technology Resulting From Research*

University practice permits the licensing of technology resulting from its research as long as the University retains the right to disseminate the results publicly. The principle of the right of open dissemination of research results must not be compromised.

*Guideline 9: Copyright Policy*

All University employees and others who use University funds or facilities must adhere to the University Copyright Policy.

*Guideline 10: Tangible Research Products*

The University will permit the licensing of tangible research products as long as no inappropriate restrictions are placed on publication or dissemination of research results and materials.

*Guideline 11: Use of University Facilities*

University facilities and resources should be devoted to activities that support teaching and research and that lead to the advancement of knowledge. They should not be used for routine tasks of a commercial character. Unique or special facilities may be made available to outside users on a fee-for-use basis.

*Guideline 12: Recovering Costs from Research Sponsors: Gift/Grant Distinctions*

The proper distinction between gifts and grants, with the different obligations in each case, is important to the integrity of the University's sponsored research program.

*Guideline 13: Organizational Arrangements*

In general, it is not appropriate for the University to invest directly in enterprises when such investment is tied to the commercial development of new ideas created or advanced through University research.

**1-350 GUIDANCE ON UNIVERSITY ACADEMIC POLICY**

Full text copies of University Regulation No. 4 and the Principles Underlying Regulation No. 4 are reprinted in the *Faculty Handbook*, September, 1986, Appendix, p. 52, and in the *Academic Personnel Manual*, Section 020. The Guidelines on University Industry Relations were distributed to campus and Laboratory contract and grant offices by Contract and Grant Memo. General academic policy questions relating to extramurally sponsored projects or programs treated by this Manual, including questions of appropriateness and suitability, are in the province of the Provost and Senior Vice President--Academic Affairs. The Senior Vice President--Business and Finance, Vice President--Agriculture and Natural Resources, and Vice President--Health Affairs may also be concerned.

**1-400 PUBLICATION POLICY AND GUIDELINES ON RIGHTS TO RESULTS OF EXTRAMURAL PROJECTS OR PROGRAMS**

**1-410 POLICY**

✓ It is a long-standing University policy that freedom to publish or disseminate results is a major criterion of the appropriateness of a sponsored project, and particularly of a research project.

Normally a contract or grant is unacceptable if it limits this freedom. Examples of limitations a sponsor may attempt to impose are:

- a. assigning ownership of results to the extramural fund source;
- b. assigning the final decision as to what may be published to the extramural fund source;
- c. placing an unreasonably long or unlimited delay period on the publication or dissemination of the information resulting from the work under the project.

✓ Chancellors, Laboratory Directors, and Vice Presidents, in their areas of responsibility, may make exceptions to this policy, or recommend exceptions in cases where contract or grant authority has not been delegated, when one or more of the following conditions is met:

- a. security considerations in the national interest are involved;
- b. the sponsor reserves first right of publication, but only if there is a provision surrendering this right to the University after a reasonable interval of time, in the event the extramural fund source has not published within that time;
- c. the statement of work is so written that the work to be done under the project or program comprises the production of a manual, book, film, videotape, or the like, and it is clear that this product is what the sponsor is "buying" from the University;
- d. special or extraordinary circumstances prevail which do not involve censorship of the results of the project. Agency for International Development programs in foreign countries may, for example, require restrictions on the timing or character of publications, to protect the national interest. Such projects or programs should be judged on their merits in light of the reasons given by the sponsor for any restriction on publication.

If there is any doubt concerning an exception in a particular case, it should be resolved either by refusing to accept an award containing a restrictive clause, or by referring the problem to the Office of the President for resolution.

#### ***1-420 PRESIDENTIAL POLICY STATEMENT ON RESTRICTIONS ON RIGHTS TO PUBLISH OR DISSEMINATE INFORMATION RESULTING FROM WORK UNDER SPONSORED PROJECTS***

In a memoranda dated August 3, 1970 to Chancellors, Subject: Restrictions on Rights to Publish or Disseminate Information Resulting from Work under Sponsored Projects, the President issued the following clarification of the publication policy:

A long-standing University policy...states that "freedom to publish results is a major criterion of the appropriateness of a research project."...Chancellors, Vice Presidents, and the University Dean of University Extension...make exceptions to this policy under conditions, one of which is stated...as being when *special or extraordinary circumstances prevail which do not involve censorship of the results of the project* (emphasis added).

Recently the U.S. Department of Interior has refused to allow the University to release the results of a study contract, basing the decision on a restrictive "Rights in Data" clause, incorporated into the contract. Thus the University has been denied the right to reveal the results of the work performed. The acceptance of the restrictive clause by the campus, and the subsequent refusal by the Department of Interior to release the information is inconsistent with the University's duties as the principal research agency of the State of California.

The exception authorized in [the Contract and Grant Manual] is not intended to authorize the acceptance of grants or the execution of contracts which give the sponsoring agency the right to prevent, for an unreasonable or unlimited time, the release for publication in the open literature, or the release in some other manner, of the results of the work performed. Thus, the Department of Interior "Rights in Data" Article which requires approval by the Project Officer before any information can be disseminated or published is unacceptable, and any clause like it from any other agency is also unacceptable, unless there is a strong overriding reason, acceptable to the University, why the information in the report must be sequestered.

If there is any doubt in a particular case, the doubt should be resolved either by refusing to accept such a restrictive clause or by referring such cases to the President for resolution.

#### 1-430 ACADEMIC SENATE RESOLUTION ON FREEDOM TO PUBLISH RESEARCH RESULTS

The following resolution was approved by the Legislative Assembly, Academic Senate, Southern Section, April 30, 1962, and by the representative Assembly, Academic Senate, Northern Section, May 22, 1962:

Whereas, the freedom of the investigator to disseminate the results of his research is a vital part of academic freedom, and is a traditional right of scholars.

Be it resolved that: The Academic Senate affirms the right of all persons with academic appointments, except registered students, to make public the results of their research, whether orally or in writing, free from direct or indirect restraint or censorship by any representative of the University.

With regard to a staff member's obligation concerning copyrights, it is University policy that a copyright is the property of the individual author unless the work has been produced under specific contractual obligations to the contrary. Unless there are such obligations, the author is free to do with his writings as he wishes.

#### 1-500 PRINCIPAL INVESTIGATOR GUIDELINES

##### 1-510 SOLICITATION AUTHORITY

No solicitation or application for extramural support of research, training, or public service programs or projects shall be made officially in the name of the University without the prior approval of the Board of Regents or of an authorized Officer or official of the University, as set forth in Chapter 13, Legal Authorities and Principles, of this Manual. This approval should be based on a review of an adequately prepared written proposal, submitted by an individual authorized to do so in accordance with the following sections 1-520 and 1-530.

University officials empowered to approve proposals for research, training or development contracts or grants may authorize investigators to make informal approaches to extramural funding agencies for the

purpose of determining whether preparation of a formal, written proposal for a specific project is warranted, providing that preliminary estimates of the full cost of the project (including employee benefits and indirect costs) have been made, and the project is otherwise in accord with University policy.

#### 1-520 LEADERSHIP OF A SPONSORED PROJECT

An essential qualification of the individual who proposes to head an extramurally supported research, training, or public service project is that he or she will *personally participate* in it to a significant degree. It is contrary to University policy, and is viewed with extreme disfavor by sponsoring agencies, to list as head of a project the name of an individual, however prestigious that person may be, who will contribute only a minimum or nominal portion of their own time and effort to the furtherance of the work. Within this basic qualification:

- a. The head of a research project is called a Principal Investigator. On occasion, he or she may have one or more Co-Principal Investigators who share with him or her responsibility for participatory conduct of the project.
- b. The head of a training or public service project is called a Project Administrator or Project Director.
- c. A program involving more than one project is headed by a Program Administrator.

#### 1-530 WHO MAY SUBMIT PROPOSALS

A research project proposal may be submitted only by academic appointees (singly or jointly) who will personally participate in the project in a significant manner and also serve as the Principal Investigators. A training project proposal may be submitted only by an academic appointee who will personally participate in the project and also serve as the Project Director or Administrator. A proposal for a research or training program involving more than one project may be submitted only by an academic appointee who will personally participate in the projects and also serve as the Program Administrator.

a. Academic appointees in the following title groups are eligible to submit proposals for research or training contracts or grants, subject to conditions, restrictions, and review procedures which may be established by a Chancellor, the Vice-President--Agriculture and Natural Resources, or the Dean of University Extension after he or she has obtained advice from the appropriate committees of the Academic Senate. Such conditions, restrictions, and review procedures shall include considerations of educational policy and academic, fiscal, and physical planning. Furthermore, a Chancellor may restrict the privilege to submit proposals, by personnel not members of the Academic Senate and not appointees in the Agronomist series, to those individuals for whom special justification has been established. Those who submit proposals should be encouraged to plan the projects to be educationally and financially helpful to students whenever possible. Projects which interfere with the regular instructional and research responsibilities of the University shall not be accepted.

1. Members of the Academic Senate, including emeriti.
2. Appointees in the Agronomist series, including emeriti.
3. Appointees at 50 percent or more of full time in the Adjunct Professor series.
4. Appointees at 50 percent or more of full time in the Clinical Professor series.

## Senate Concurrent Resolution No. 66

## RESOLUTION CHAPTER 83

Senate Concurrent Resolution No. 66—Relative to postsecondary education.

(Filed with Secretary of State September 11, 1996.)

## LEGISLATIVE COUNSEL'S DRAFT

SCR 66, Kopp. Postsecondary education: academic research: "gag clauses."

This measure would urge the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing board of each community college district in the state to prohibit the institutions under their jurisdiction, or any of the staff or component parts of those institutions, from signing any agreement that requires the permission of an entity outside the institution to publish or otherwise communicate the results of academic research, unless the research involves proprietary information, the release of which would negatively affect the commercial value of the research of the sponsor, if the research does not affect the public health or welfare, or unless national security considerations require confidentiality. The measure would also urge the regents, trustees, board of governors, and governing board of each community college district to contest vigorously the enforcement of any such "gag clause" that may be a part of a contract previously executed by an institution under its jurisdiction or any of the staff or component parts of that institution.

WHEREAS, Recent revelations demonstrate to the Legislature that attorneys for the University of California recently advised one of its distinguished researchers, Dr. Betty Dong, that it could be detrimental to her and the university to contest a contract that she had signed with the corporate sponsor of her research permitting the corporation to suppress an academic manuscript that was to have been published by the Journal of the American Medical Association; and

WHEREAS, The results of the suppressed study would have likely been harmful to the financial interests of a major pharmaceutical manufacturer that had financed the study; and

WHEREAS, The contract for the study, entered into between the pharmaceutical manufacturer and Dr. Dong, included a so-called "gag clause"—a provision prohibiting publication of results of the study without the permission of the manufacturer; and

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WHEREAS, The existence of a "gag clause" relating to academic research is antithetical to the spirit of free inquiry that must prevail at all publicly funded California universities; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That, to ensure academic freedom, the Legislature of the State of California urges the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing board of each community college district in the state to prohibit the institutions under their jurisdiction, or any of the staff or component parts of these institutions, from signing any agreement that requires the permission of an entity outside the institution to publish or otherwise communicate the results of academic research, unless the research involves proprietary information, the release of which would negatively affect the commercial value of the research of the sponsor, provided that the research does not affect the public health or welfare, or unless national security considerations require confidentiality; and be it further

*Resolved,* That the Legislature also urges the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing board of each community college district in the state to contest vigorously the enforcement of any such "gag clause" that may be a part of a contract previously executed by an institution under its jurisdiction, or any of the staff or component parts of that institution; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to each member of the Regents of the University of California, each member of the Trustees of the California State University, each member of the Board of Governors of the California Community Colleges, and the presiding officer of the governing board of each community college district in the state.

University of California  
University Regulations (Revised No. 5)

### ACADEMIC FREEDOM

The following announcement was originally made by the President of the University before the Northern Section of the Academic Senate on August 27, 1934, and is to be regarded as a setting forth of the principles which guide the President in these matters and accordingly stand as, in a certain sense, the policy of the University.

The function of the university is to seek and to transmit knowledge and to train students in the processes whereby truth is to be made known. To convert, or to make converts, is alien and hostile to this dispassionate duty. Where it becomes necessary, in performing this function of a university, to consider political, social, or sectarian movements, they are dissected and examined--not taught, and the conclusion left, with no tipping of the scales, to the logic of the facts.

The University is founded upon faith in intelligence and knowledge and it must defend their free operation. It must rely upon truth to combat error. Its obligation is to see that the conditions under which questions are examined are those which give play to intellect rather than to passion. Essentially the freedom of a university is the freedom of competent persons in the classroom. In order to protect this freedom, the University assumes the right to prevent exploitation of its prestige by unqualified persons or by those who would use it as a platform for propaganda. It therefore takes great care in the appointment of its teachers; it must take corresponding care with respect to others who wish to speak in its name.

The University respects personal belief as the private concern of the individual. It equally respects the constitutional rights of the citizen. It insists only that its members, as individuals and as citizens, shall likewise always respect--and not exploit, their University connection.

The University of California is the creature of the State and its loyalty to the State will never waver. It will not aid nor will it condone actions contrary to the laws of the State. Its high function--and its high privilege, the University will steadily continue to fulfill, serving the people by providing facilities for investigation and teaching free from domination by parties, sects, or selfish interests. The University expects the State, in return, and to its own great gain, to protect this indispensable freedom, a freedom like the freedom of the press, that is the heritage and the right of a free people.

For the President of the University

F. C. Stevens,  
Executive Secretary.

Approved:

Robert G. Sproul,  
Berkeley, June 15, 1944.

### **Academic Freedom**

The University of California is committed to upholding and preserving principles of academic freedom. These principles reflect the University's fundamental mission, which is to discover knowledge and to disseminate it to its students and to society at large. The principles of academic freedom protect freedom of inquiry and research, freedom of teaching, and freedom of expression and publication. These freedoms enable the University to advance knowledge and to transmit it effectively to its students and to the public. The University also seeks to foster in its students a mature independence of mind, and this purpose cannot be achieved unless students and faculty are free within the classroom to express the widest range of viewpoints in accord with the standards of scholarly inquiry and professional ethics. The exercise of academic freedom entails correlative duties of professional care when teaching, conducting research, or otherwise acting as a member of the faculty. These duties are set forth in the Faculty Code of Conduct (APM - 015).

Academic freedom requires that teaching and scholarship be assessed by reference to the professional standards that sustain the University's pursuit and achievement of knowledge. The substance and nature of these standards properly lie within the expertise and authority of the faculty as a body. The competence of the faculty to apply these standards of assessment is recognized in the Standing Orders of The Regents, which establish a system of shared governance between the Administration and the Academic Senate. Academic freedom requires that the Academic Senate be given primary responsibility for applying academic standards, subject to appropriate review by the Administration, and that the Academic Senate exercise its responsibility in full compliance with applicable standards of professional care.\*

Members of the faculty are entitled as University employees to the full protections of the Constitution of the United States and of the Constitution of the State of California. These protections are in addition to whatever rights, privileges, and responsibilities attach to the academic freedom of university faculty.

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\* The original language of APM - 010, which was drafted in 1934, associated academic freedom with scholarship that gave "play to intellect rather than to passion." It conceived scholarship as "dispassionate" and as concerned only with "the logic of the facts." The revised version of APM - 010 holds that academic freedom depends upon the quality of scholarship, which is to be assessed by the content of scholarship, not by the motivations that led to its production. The revision of APM - 010 therefore does not distinguish between "interested" and "disinterested" scholarship; it differentiates instead between competent and incompetent scholarship. Although competent scholarship requires an open mind, this does not mean that faculty are unprofessional if they reach definite conclusions. It means rather that faculty must always stand ready to revise their conclusions in the light of new evidence or further discussion. Although competent scholarship requires the exercise of reason, this does not mean that faculty are unprofessional if they are 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. Competent scholarship can and frequently does communicate salient viewpoints about important and controversial questions.