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Californians Redefine Academic Freedom

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<https://escholarship.org/uc/item/2dn8x3ph>

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Publication Date

2005-08-04

Californians Redefine Academic Freedom¹

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This Spring (2003) University of California President Richard Atkinson forwarded to the U.C. Academic Senate a proposed revision of the existing regulation bearing on how university teachers should treat contentious and disputed issues, both political and academic, in their classrooms. The existing regulation on this matter, APM-010, had been introduced into the university regulations under the presidency of Robert Gordon Sproul in 1934. The operative section of the existing APM 010, now to be replaced, reads as follows.

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

¹ Forthcoming in Academic Questions, Fall 2003.

prestige by unqualified persons or by those who would use it as a platform for propaganda.

In his letter to the Academic Senate in support of the proposed revision, President Atkinson argued that the existing regulation was “outdated,” and suggested that it was “not useful” when applied to a contentious case of a course at Berkeley. The replacement for APM-010 put forward by the President had been drafted at his request by a Berkeley law professor, Robert C. Post. The proposed revision was endorsed by the Academic Council of the Senate at their meeting in June of this year, and will be submitted to the Assembly of the Academic Senate at its July 30, 2003 meeting. The proposed Revision reads as follows:

PROPOSED REVISIONS TO APM 010 -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 guarantee 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, both inside and beyond the classroom. 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 within 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. The contours of these duties are more fully set forth in The Faculty Code of Conduct (APM--015).

Academic freedom requires that teaching and scholarship be assessed only by reference to the professional standards that sustain the University's pursuit and achievement of knowledge.² 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.

²The original language of § 10 of the APM, 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 § 10 supersedes this standpoint. It 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 § 10 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 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. Competent scholarship can and frequently does communicate definite and politically salient viewpoints about important and controversial questions. [This footnote is the Academic Council’s interpretation of the new “revised” version of APM-010. See letter from President Atkinson to the Academic Council, March 21, 2003, which includes the text of the proposed revision and the Council’s gloss on it in this footnote. Also see [APM-010, Proposed Amendment to the Academic Freedom statement](#) (rev. 6/18/03) at the Senate website.]

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Academic freedom requires that the Academic Senate be given primary responsibility for applying academic standards 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.

President Atkinson reported to the Academic Assembly on March 12th that in the process of reviewing events surrounding a controversial writing course at Berkeley last fall, it became clear that the existing statement on Academic Freedom was not useful in addressing contemporary questions. The course in question, "The Politics and Poetics of Palestinian Resistance," was offered as a writing course on Palestinian poetry. Its course description stated that "Conservative thinkers are encouraged to seek other sections." That exclusionary requirement was not acceptable to the University. But there was widespread discussion beyond the University about the course, during which it became clear that the course was strongly committed to the Palestinian perspective in its conflict with Israel, and was taught without any special obligation to present alternative views or inconvenient facts about the same issues. But "the controversy over to what extent faculty should incorporate personal political viewpoints into their curriculum remained."³ Under the existing APM--010, this treatment of the Israel/Palestine conflict was at odds with the requirements of "objectivity," and formal objections could be raised to the course not just about its exclusionary criterion (which was modified) but to the treatment of the issues discussed. The revision of the regulations bearing on the treatment of such issues in UC classrooms takes care of that problem. The instructor now can be as biased as he wishes, subject only to his or her own

³The Daily Californian, June 20, 2003, p.1

“competent” judgment, so long as s/he comes to be “urgently committed to a point of view.” And that would make the revised regulation “more useful” in dealing with contentious courses because challenges to instructor bias based on APM--010 would no longer be possible.

Another objection to the existing APM-010 is that the regulation is largely unknown to the faculty and ignored in practice. The revision therefore merely brings the regulation into line with widespread if not universal practice in the University – this is perhaps what the President meant when he said that the existing regulation was “outdated.” But this begs the question of the wisdom of a regulation of faculty behavior that no longer demands “objectivity” in the treatment of material in the classroom, and merely legitimates any degree of deviation from it that can be covered by the broad reference to the “competence” of the instructor.

This requirement that they be “competent” is a qualification without substance. All UC faculty are assumed to be “competent” in their teaching merely by evidence of their appointment and retention through the stringent procedures that are involved in the appointment and promotion of academic staff. So a reference to teachers’ “competence” is no criterion at all; it does not even preclude teaching quite outside one’s formal disciplinary field of competence. We all know that in the search for knowledge and truth we must transcend disciplinary boundaries and seek to link one perspective with others ordinarily outside the boundaries of an individual’s presumed competence. Far from earning criticism or condemnation, teaching across disciplinary lines, outside the boundaries of one’s scholarly or scientific “competence,” is likely to earn a teacher an accelerated promotion or election as teacher of the year rather than a censure.

What are we are losing or gaining in replacing APM-010 by the proposed Revision?

1. First, contrary to what has been said about the old APM-010, it did not require a teacher to surrender personal views on the matters under discussion, or preclude presenting those views to the class. What "objectivity" meant was the moral obligation to make students aware of alternative facts and views on the issue, the obligation to make them aware of what we might call "negative evidence," ideas, arguments and knowledge that were – as Max Weber put it in his classic essay "Science as a Vocation," "inconvenient for [the teachers'] party opinions."⁴ And he meant by that phrase not the formal party affiliation of the teacher, but any political or ideological tendency or preference that might affect the way the teacher presented that material in a class.

Weber, or any university teacher, would understand that it is not realistic to require or expect that teachers conceal their own preferences on issues where their preferences would affect their treatment of the material. Indeed, Weber thought it to be wholly legitimate for a teacher's values and political preferences to influence their choice of subjects to study. But having chosen a subject for study, then while they are free to present their own views in the course of that study or presentation, they are not free to exclude alternative views. On the contrary, they then have a moral obligation to bring those alternative views to the attention

⁴ "The primary task of a useful teacher is to teach his students to recognize "inconvenient" facts -- I mean facts that are inconvenient for their party opinions. And for every party opinion there are facts that are extremely inconvenient, for my own opinion no less than for others. I believe the teacher accomplishes more than a mere intellectual task if he compels his audience to accustom itself to the existence of such facts. I would be so immodest as even to apply the expression "moral achievement," though perhaps this may sound too grandiose for something that should go without saying." (Max Weber, in H.H. Gerth and C. Wright Mills, eds., From Max Weber, (New York, Oxford University Press, 1946), p. 147.

of their students. Weber, writing just after WW I at a time of nationalistic fervor in defeated Germany, when many German academics were using their lecture podiums to forward political doctrines, strongly criticized this tendency of academics to use their podiums as political platforms. Weber reminded academics of the difference between their calling and that of politicians; while it is expected that politicians will present their own views as persuasively as possible, for academics it is “their damned duty” to make their students aware of alternative ways of seeing an issue, and of “inconvenient” facts and arguments that bear on it. And that is precisely what the revised APM-010 would no longer require of teachers in UC.

2. The proposal to replace the existing APM-010 with the revised version can be ignored by a large part of the university, because the issue is really only problematic in those subjects where the discipline itself does not have built into it the requirement to confront negative evidence. A large proportion of UC faculty teach in science and math subjects or science/math- based professions which are ultimately founded on experiments or their methodological equivalents. And that may help explain why this proposal has moved so quickly through the Senate, and with so little response from the academic community. The issue arose in connection with a politically committed course, and will apply only to other politically committed courses like “The Politics and Poetics of Palestinian Resistance.” Many academics might imagine that to be a small fraction of our course offerings, having effect only on a few marginal courses. They would be wrong.
3. The problem of negative evidence is acute where the burden of objectivity rests wholly on the shoulders of the instructor, without the help of an experimental tradition or the quantification of data – as in the soft social sciences and humanities. Those subjects have over time developed their own strategies and mechanisms for sustaining a measure of objectivity in their treatment of their subjects – not out of lofty moral or ethical considerations, but out

of a general recognition that without such constraints on personal bias and preference, the discipline would rapidly become an instrument for the demonstration of the correctness of a position, rather than a search for a deeper or wider understanding of the issues in question. The pursuit of truth would be a victim of the conviction that the truth had already been discovered, and needed only to be effectively taught and demonstrated; factual “evidence” could be chosen to illustrate a position rather than to test it.

The costs of such a posture for a discipline are large: a loss of credibility in the intellectual community, a loss of standing with students and prospective scholars, and a general decline in the power and standing of the discipline in the academic community. It would be invidious to give examples here; the reader can surely supply them.

4. The fact that the issue of objectivity of the instructor about the substance of a course is only problematic in a minority of disciplines in the university may account for why it has not raised more opposition – and indeed among scientists, a puzzlement about why these words are necessary at all, given the considerable machinery of science for finding and correcting error, not least error which arises from ideological bias. The costs, both to science and to Soviet society, of a Stalinist biology as practiced by Lysenko and his followers are known to all scientists, as were similar costs of a Nazi physics free of Jewish contributions. So the problems of sustaining a measure of objectivity in the non-experimental and non-math based subjects are not widely understood throughout large sections of the university. Those vulnerable subjects have in the past tried to protect themselves against politicization, their subordination to the politics of the “urgently committed” teacher alone in the classroom, in a variety of ways. Among these were :
 - The socialization of graduate students. This was done by precept, by readings, and by example. The Weberian dictum was visible on the reading lists, in the lecture hall and seminar room, and

most powerfully, in the instructor's marginal notations on essay drafts and term papers.

- The efforts to find approximations of the experimental method in the soft disciplines, as for example, through randomization and quantification in survey research.
- The commitment by teachers to requiring their students to read books and studies which present facts and arguments at variance with those held by the instructor.
- The habit of inviting visiting lecturers whose views are critical of, or at least different from, those held by the instructor.
- At the departmental level, the tendency to appoint new faculty to the department who reflect different social/political/moral/ethical perspectives, ensuring that students would be likely to hear differing views in different courses if not in a single course.

Teachers who adhere to the Weberian conception of the norms of teaching are not necessarily more moral or ethical than those who prepared or approve of the revised APM-010. On the contrary, the Weberian requirement accepts the propensities of teachers to teach the versions of controversial social and political issues that are closest to their own preferences. And those who accept Weber's requirement - to present negative evidence and positions at odds with one's own "party position" -- can only do so by accepting methodological constraints into their research and teaching, thus forcing themselves to confront awkward findings in some of the ways cited immediately above - and these do not exhaust the possibilities. To the extent, for example, that researchers set forth procedures for the selection of respondents for interview or survey on some issue, and then actually select respondents according to those procedures, they are more likely to learn from the results rather than merely use them to illustrate what they already know to be true. And in the design of courses, a teacher can resolve to include the

work of those authors and researchers whose research and writings reflect a sensitivity to the dangers of personal bias, and includes ways of limiting that bias. Much depends on whether the teacher feels morally obliged to balance personal preferences with research and writing at odds with those preferences.

That commitment was present in APM-010; it is absent from the revised version, which drops the requirement of objectivity, and accepts as legitimate any presentation of material that the competent (and urgently committed) teacher chooses. The Academic Council's gloss on the text in the footnote to its presentation of proposed APM--010 (quoted in full above), is revealing of its meaning and intent:

Although competent scholarship requires the exercise of reason, 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. Competent scholarship can and frequently does communicate definite and politically salient viewpoints about important and controversial questions.

The central question in the new regulation is not what material teachers present to the class, but how their views were derived from the material. If they applied "professional standards of inquiry," and were not motivated by "monetary gain or political coercion" then competent scholarship "can communicate definite and politically salient viewpoints about important and controversial issues." The teacher is under no obligation to inform the students that there are other different viewpoints, held by other equally "competent" scholars, who are also "urgently committed to a definite [though perhaps different] point of view" about the same issues.

Another section of the Academic Personnel Manual, APM-015 (The Faculty Code of Conduct, nominally imposes some general restrictions on extreme types of "unacceptable conduct". In particular, it is unacceptable for faculty to "coerce the judgement of a student", or to "discriminate" against a student on the basis of over a dozen personal criteria (e.g. marital or veteran status), one of which is "political grounds". However, in any realistic case, the teacher would deny having used "coercion", and this denial might be credible. Nonetheless, it would still be possible that most of the course lectures and discussions, the assigned readings, the writing assignments, and the examination questions had excluded (or granted only token consideration of) views contrary to those of the instructor's. A student not persuaded by this one-sided presentation would face an uphill challenge in expressing contrary opinions in speech or writing, because they were not supported by anything present in the course as taught. Even if the student's work was not explicitly downgraded because of disagreements with the teacher, his or her academic freedom would still have been undermined by the exclusion of dissenting viewpoints from the course. APM-015 merely protects an individual student from a personal vendetta "on political grounds". That abuse is so extreme, that we are unaware of any actual enforcement actions taken on that basis in recent years. The far more common problem is infringement of the academic freedom of all students in a class. There are many more subtle ways a teacher can restrict the range of viewpoints available to students to bring them into agreement with his or her own. The only relevant safeguard against that must be in the official statement on Academic Freedom. And that, provided in APM-010, trumps other less specific ones such as APM--015. The proposed revision of APM-010, however, fails to acknowledge that academic freedom is a two-way street. Faculty cannot assert their claim to free academic inquiry without defending that same basic freedom for their students.

But even if there is little diversity of perspective in a single course, is it not likely that a student will at some point be exposed to these other perspectives in the classrooms of other teachers of the same or related subjects? Is not diversity of perspective ensured by the diversity of the political views of the academics themselves?

A study reported in The American Enterprise magazine,⁵ of the political affiliations of members of social science and humanities departments in some leading research universities shows the heavy bias – the near absence of political diversity – in these departments. The researchers visited Boards of Elections in the areas of 21 colleges or universities, including such institutions as Cornell, Brown, Harvard, Penn State, Stanford, Syracuse, Berkeley, UCLA, the State University of New York at Binghamton and the University of Colorado.

They looked at party registration for faculty members in various disciplines. Even discounting that the researchers had only limited registration records in some places, there is little doubt their statistics capture the general political picture in the humanities and social science departments in this cross-section of American research universities..

The study divided the parties into right or left: Republican or Libertarian on the right, and Democrat, Green or the like on the left. At Cornell, they found one English Department member in a party of the right as opposed to 35 registered on the left. In Cornell's History Department they found no one registered on the right, but 29 on the left.

At Harvard, the researchers found one member of the Political Science Department on the right versus 20 on the left. Roughly the same held true for Economics and Sociology. At the University of California at Santa Barbara, the ratio across five departments was 72

⁵ Sept. 2002 issue. See also the Wall Street Journal ,“One Faculty Indivisible,” August 30, 2002.

to one. The nearest thing to a conservative bastion is the Stanford Economics Department, where seven of 28 members (25%) belong to parties of the right.

If we report here only the results from some UC campuses, we find the following distribution of political preferences in humanities/social science departments on four of our campuses.

	Left leaning	Right leaning
UC Berkeley:		
Economics	20	3
Political Science	24	4
Sociology	15	0

UCLA

English	29	2
History	53	3
Journalism	12	1
Political Science	16	1
Womens' studies	31	2

UC San Diego

English	28	4
History	26	1
Journalism	11	0
Political Science	27	0
Sociology	7	1

UC Santa Barbara

English	21	0
History	28	1
Journalism	8	0
Political Science	13	0

None of this will surprise academics in research universities. The same pattern can be found in every leading American research university - including Cornell, Harvard, Stanford and Brown - as well as in the leading liberal arts colleges which both supply and hire a disproportionate number of their graduate students. And the pattern persists in second rank research universities like Colorado and New Mexico. These figures suggest what President Atkinson may have meant when, in his letter to the Academic Council, he said, "I believe that the University's stance on academic freedom should reflect the modern university and its faculty." The figures above describe a significant part of "the modern university and its faculty." This is the context in which the University proposes to eliminate these words from its revised APM-010 defining academic freedom:

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.

In fields such as natural science, mathematics, engineering and medicine, the political attitudes of the faculty may be completely irrelevant to classroom instruction. But in some social science and humanities subjects, this separation of political attitudes from the