

December 19, 2025

Mark Stacey, Chair
Berkeley Division of the Academic Senate

Thomas Philip, Vice Chair
Berkeley Division of the Academic Senate

Dear Mark and Thomas,

To begin, I want to thank you for sharing your understandable concerns about our commitment to academic freedom and recent public reports regarding a disciplinary matter. While I am precluded by law from sharing any case-specific personnel information, I can and will share general information that I believe will be helpful in terms of understanding our actions and the extent to which the disciplinary process includes multiple levels of due process that provide our employees with ample opportunity for appeal. I also want to share ideas for how the Senate and administration can and should work even more closely to clarify and seek consensus regarding the meaning and enforcement of Regents Policy 2301.

Regents Policy 2301 Enforcement and Academic Freedom

In those rare incidents when a line has been crossed, if it is a first offense, our approach has consistently been to ensure awareness of the rules and not to impose discipline; this has meant educational conversations, a letter of warning, or, if the offense is especially egregious, a letter of censure. Our administration has never imposed anything more severe on a first offense, nor would we wish to do anything more severe, particularly given that recurrences by the same instructor are vanishingly rare.

In those exceedingly rare instances when there is a report of a repeat violation, and an incident becomes a more consequential disciplinary matter, it is important to know that all instructors are protected by many levels/steps of due process. For example, for a Unit 18 lecturer, our process involves a number of steps in the review of allegations; followed by, if a disciplinary action is recommended, a Skelly review prior to the imposition of discipline. Lecturers also have the right to contest discipline through the negotiated grievance and arbitration process, including two steps of grievance review at the campus level, followed by a third step at the UCOP level (Executive Director of Labor Relations); and, ultimately, after the grievance process is exhausted, the union can appeal a grievance related to a disciplinary action to arbitration. Similar protections exist for ASEs (GSIs). You are, of course, familiar with the extensive processes and protections for our Senate faculty. It should be noted that the administration always reminds employees who face discipline of their rights, including the due-process options they have for appealing or grieving any disciplinary decision.

What is, perhaps, not widely known is that we continually manage complaints from students, parents, and others about course content. When complaints are related to content that is legitimately part of a course, we have made clear, time and time again, that no matter the reaction of students or others, such content is protected by academic freedom. Because we do not wish, in any way, to be seen as chilling academic freedom, we rarely share these complaints with instructors, because even a simple heads up from Cal Hall can be misconstrued as pressure. I would also note that when we have faced public demands to take action against faculty for their writings, their social media activity, and the like, we have also pushed back. We are all aware of calls, including from elected officials, for us to discipline or dismiss faculty for their writings and social media posts. We have never done so, nor will we. Indeed, as you know, we have gone to considerable lengths to defend and protect our faculty in such situations.

The bottom line: Berkeley is and has been committed to academic freedom — the freedom to discover, to teach, and to learn. We have also been viewpoint-neutral in the enforcement of our policies and do not disfavor some expression relative to other viewpoints. The issue is addressing misuse of the classroom, not suppressing or promoting any specific viewpoint.

The Road Ahead

I share the Senate's commitment to academic freedom and so seek an even deeper partnership to ensure our campus is doing everything it can to preserve academic freedom and free speech; I know these are matters on which the Senate is already actively working via its Academic Freedom Committee and a separate Task Force on Academic Freedom, Free Speech, and Campus Climate.

Looking to the future, two things are critical. First, that the guidance to instructors on these matters be as clear as possible. Second, that our campus community has understanding of, and confidence in, the way allegations of classroom misuse are handled. I invite the Senate to work with campus leadership on ensuring that our standards and procedures for protecting classroom academic freedoms are as transparent as possible so that cases of classroom misuse, while infrequent, can be handled in a principled and consistent manner. The objective of this undertaking is to ensure that lines are drawn as clearly as possible. Among the issues that I would propose for discussion are:

- What would be the best process for addressing allegations of violations of Regents Policy 2301 and related strictures? When an instructor is alleged to have veered into discussion of controversies unrelated to the course content, who should initially decide whether the statements were germane to the course? The department chair? A campus administrator? A committee of the Senate?
- A basic principle of a free society is that people should not be compelled to listen to political/partisan speech. Instructors hold power over their students, notably via their control over grading, which can make students feel compelled to listen to speech. Under what circumstances would it be reasonable to believe students felt compelled to listen to speech that is unrelated to the course and that seeks to promote the instructor's non-course-related agendas?
- Where should the line be drawn between an instructor's sharing of personal information that is humanizing versus compelling a class to listen to off-course topics that promote non-course-related agendas?
- What amount of communication of off-topic views by an instructor would cause students to fear that expressing disagreement with those views would adversely affect their grade or other interactions with the instructor (e.g., a needed letter of recommendation)?
- How should we assess non-verbal or non-spoken communication, such as having a Zoom background in an online course that advocates for a particular point of view, vis-à-vis Regents Policy 2301 and related strictures?
- What is the appropriate escalation of consequences when an instructor is found to have repeatedly misused the classroom after warnings or prior discipline?

The above is not intended to be an exhaustive list of the questions that might be addressed. If the Senate is interested in partnering on this exploration with the administration, we can work together on refining the scope of the charge.



I look forward to our further discussion of this matter. Additionally, I note I will be meeting with the Senate's Committee on Academic Freedom on January 27, 2026, as well as with the Senate's Task Force on Academic Freedom, Free Speech, and Campus Climate on February 20, 2026. Meanwhile, I look forward to hearing from you about how we best move forward.

Regards,



Benjamin E. Hermalin
Executive Vice Chancellor & Provost

cc: Richard K. Lyons, Chancellor
Andrea Lambert-Tan, Assistant Executive Vice Chancellor and Chief of Staff
Jocelyn Surla Banaria, Executive Director, Academic Senate

