

May 24, 2011

**PROFESSOR FRANK POWELL, CHAIR**  
**Academic Senate, San Diego Division**

SUBJECT: Conditions Affecting Academic Freedom at UCSD

Dear Frank:

The charge of the Academic Senate Committee on Academic Freedom (CAF) is to “report to the Division any conditions within or without the University which, in the judgment of the committee, may affect the academic freedom of the members of the University.”

On March 11, 2011, CAF received a complaint from a professor contending that his/her academic freedom rights had been seriously abridged by the UCSD administration. With regret, we have concluded that the administration did indeed violate generally accepted norms of academic freedom.

The complaint arose out of a letter that the professor (“Professor A”) received on June 16, 2009 from the dean of an academic unit at UCSD. The dean told CAF that the letter was drafted with the assistance of lawyers in the Office of the Senior Vice Chancellor for Academic Affairs. The letter was cc’d to the Office of Research Affairs and the Office of the Senior Vice Chancellor for Academic Affairs.

The dean’s letter arose out of a long-running academic disagreement between two faculty members (a dispute in which CAF does not take sides). The dean directed Professor A to cease pursuing a critical re-examination of the other professor’s research and data. The letter said (we here obfuscate identities):

“You are to stop harassing [Professor B]. This means: stop contacting B with questions regarding [name of B’s publication], his/her research methods, or his/her previous research methods; stop contacting others about your re-analysis of his/her data; refrain from discussing ... your re-analysis of B’s data at your presentations at any meetings, including scholarly meetings like the [name of professional association]; and do not publish texts that refer to ... your re-analysis of B’s data.”

The letter also stated:

“If you continue to engage in these activities, you may be subject to formal discipline, which can include written censure, reduction in salary, demotion, suspension, or dismissal.”

On July 30, 2009, the dean e-mailed Professor A, primarily on a different aspect of the case, saying, “You must make your own choices regarding your manuscript [and] its content.” On November 17, 2009, the dean sent a letter to Professor A saying,

“I write to inform you that I cannot rescind the directives given to you in my June 16, 2009 letter. As dean, I am very concerned with protecting academic freedom.”

A longstanding and well-respected faculty member, who was acting chair of Professor A’s department when the initial (June 16<sup>th</sup>) letter was written, communicates the following:

“I was absolutely astonished when I read the dean’s letter to [Professor A]. I saw it as a very explicit set of threats designed to preclude [Professor A]’s publishing anything further on the subject ... , or even speaking to this issue were it to be raised in talks [Professor A] gave on or off campus.

Accordingly, at my next meeting with [the dean], I brought up the subject and asked whether my interpretation of his correspondence with [Professor A] was correct. I was told that it was.”

In attempting to understand the dean’s position, and in some cases at his urging, CAF listened to parties connected to the case and read publications, manuscripts, and regulations relating to it. CAF also, while concealing the identities of those involved, consulted with the systemwide University Committee on Academic Freedom and with a legal academic who is a nationally recognized authority on academic freedom. We cannot avoid the conclusion that the dean’s letter contains clear and unacceptable violations of core academic freedom rights, violations that were apparently implicitly or explicitly supported by others in the University administration at the time.

The dean told CAF that his letter and subsequent actions were a well-intentioned effort to protect reputations and collegial relations, since the letter stemmed from a dispute between two faculty members. However, the UCSD faculty should understand that the dean’s letter did not prohibit just slander, libel, or personal disputes; the dean’s letter prohibited utterance, research, and publication within the academic field of study. Moreover, no faculty body had (or subsequently has) found that either professor had talked or published unprofessionally. To the contrary: a duly-appointed faculty committee involved in the dispute called precisely for continuing discussion through the normal channels of academic debate (publication and oral presentation).

Faculty members’ rights to study, re-analyze, and publish controversial scholarly materials cannot be abridged. These rights to academic freedom cannot be administratively revoked to prevent possible future breaching of professional norms. In our view, the campus administration’s fundamental responsibility is precisely to protect the right of faculty members to research and publish scholarly work even when others, on or off campus, find the work or its conclusions controversial or objectionable.

We call upon the campus administration to promptly and publicly accept responsibility for serious errors of judgment in this case. We further call upon the administration to take concrete steps to prevent future violations of academic freedom rights, such as training for all administrators and their staff on these rights, which lie at the very heart of the University.

Sincerely,

A handwritten signature in black ink, appearing to read "Hal Pashler", with a long horizontal flourish extending to the right.

Hal Pashler, Chair  
Committee on Academic Freedom

Committee Members:  
Petr Krysl, Professor  
Sarah Schneewind, Associate Professor