

FACULTY SENATE MINUTES

UTHSC Faculty Senate Meeting

Zoom Monthly Meeting
March 11, 2025

Attendance: (senators, administrators, and faculty)

Attending: Alex Schaller, Andrea R Franks, Ashton Brooks, Ayman Al Dayeh, Beni Mozhui, Brian Peters, Carmen Coleman, Carriann Bingham, Casey Laizure, Chalet Tan, Chandra D Alston, Cheran Elangovan, Chris Wood, Cindy Russell, Dan Young, David Ashbrook, David W Petersen, Dina Filiberto, Donna Lynch-Smith, Elizabeth A Tolley, Frank Lancaster, Fuming Zhou, Hassan Almoazen, Helmut O Steinberg, Imran Quraishi, Ioannis Dragatsis, James M. Lewis, Jaqueline D Venturin, Jarrod Fortwendel, Jayc Sedlmayr, Jeff Kalmowicz, Jeffrey Bieber, Jenessa McElfresh, Jess Wesberry, Jill M. Maples, Jillian McCarthy, Joanna Q Hudson, Keith May, Kelly C. Rogers, Kevin William Freeman, Kim Carter, Kirk E Hevener, Laura T Reed, Laxmichaya Sawant, Lisa Beasley, Maria Carrillo, Michael Winstead, Mike Ebbs, Molly Erickson, Montrese P. Alleyne, Nina K Sublette, Paul C Gahn, Paul J Koltnow, Peter Buckley, Phyllis Richey, Raajkumar S Kurapati, Rajashekhar Gangaraju, Ramesh Krishnan, Rebecca Reynolds, Reginald Frye, Richard John Kasser, Ron Espinal, Sandeep Chilakala, Sarah J Rhoads, Scott Hollis, Sharon Little, Shaunta' Chamberlin, Shelley White-Means, Stephen Rauls, Steven M Doettl, Tauheed Ishrat, Ted Cory, Terrance G Cooper, Thaddeus A Wilson, Tracy McClinton, Valarie Fleming, Vickie Baselski, Yi Lu, Zheng Fan

Faculty Senate Meeting

Meeting was called to order at 4:00 pm CDT/5:00 pm EDT

Presiding: Dr. Tracy McClinton, President

Business Discussion with Dr. Tracy McClinton Discussion and Approval of the February 11th, 2025 minutes

- The floor was opened for discussion of the February 11th, 2025 meeting minutes. No edits were recommended. Dr. Terry Cooper motioned to accept the minutes as written. Motion was seconded by Dr. Lisa Beasley
- Poll Everywhere Vote:
 - Approve: 37
 - Do not approve: 0
 - Abstain: 0

Discussion on Faculty Academic Freedom with Associate General Counsel Frank Lancaster (Appendix A)

- Academic freedom comes from legal and policy traditions
 - Based on First Amendment
 - Also part of faculty handbook and Board guidance showing faculty have freedom in the classroom
 - Topics can be required by College curriculum
 - Also have full freedom in research and in publication of results
 - There is a difference between punishing speech and funding speech
- Executive orders can cover federal contractors
 - Have removed executive orders on affirmative action
 - Requires certification that no programs promoting DEI that violate any applicable federal anti-discrimination laws
 - Currently an injunction forbidding enforcement of this due to vagueness
 - Future status is unknown, is under appeal
 - Executive order could be revised with different definitions
 - Likely includes hiring people based on race, other activities which were already illegal

- Does not appear to prevent Higher Education institutions from engaging in First amendment speech
- Effects on research
 - Grants can be terminated but has been according to policies which currently exist
 - Future grant applications not likely to include DEIA aspects, existing grants may be subject to modification/termination
- Immigration and federal agents on campus
 - Let UTHSC Police handle it
 - Currently no reason to believe that it will happen
- Public Record acts
 - Tennessee has one of the most open public record acts
 - What the document is matters, not where it is
 - Personal email on a university email is not public record
 - University document on personal email is public record
 - Lots of exemptions exist
 - Sponsored/unsponsored research has protections
 - First amendment scholars privilege
- Questions
 - What about executive orders and gender affirming care, specifically for clinicians working in this area
 - Could impact if the clinic is federally funded, but an independent clinic is likely unaffected
 - Is there a glossary of words for grant writing that could be problematic?
 - Not set terms, but DEIA related topics could impact grant funding/scoring
 - What about statements of diversity in syllabi, other locations?

- AFSA will reach out to people if revisions need to be made
- Can you preemptively label materials as personal to avoid public records?
 - No, exemptions are part of the law
- What about UT being part of Office of Civil Rights
 - No impact on UTHSC, complaint was sent to all Universities which had received complaints
- What about faculty free speech rights?
 - Faculty have free speech rights, but should not represent that they are speaking for the University. Can speak as citizens and non-citizens. Do not use University property/facilities

Discussion on DASH with Associate Vice Chancellor Michael Ebbs

- Overview of where documents that are available in DASH are
 - Leave requests, travel, other reimbursements, total benefits
 - Beneficiary designations from IRIS need to be re-entered with DASH
 - Documentation must still be made for all requests made
- Ledgers
 - Discussion on ledgers and what can be found there
 - Faculty do not have access to all screens, will be looking at access
 - Faculty had access to non-finalized ledgers sent from accounts in previous system. Faculty are not receiving finalized ledgers
- Challenges people are dealing with
 - Aware of reporting/transactional challenges with DASH that existed prior in IRIS
 - Working group has been created with local experts

- Implementation was done at a system level and did not take into account issues at local level
- Will be a website where specific concerns can be reported to the working group
- Working group will be meeting on a weekly basis at minimum
- Working to add encumbrances of salaries to grants
- Time constraints exist for grant spending
- Are PI's receiving accurate recording for orders?
Lab's can't run without knowing ledgers
 - Currently are two months in and have not closed first period from DASH
 - Rollout has not gone as smoothly as some believe that it has
- Concerns with procurement/ordering
 - DASH system is not designed to have shopper access, some colleges have restricted access
- How can faculty be more involved as end users as new features are rolled out? Problems could have been solved with testing
- Concerns with upcoming roll out to other areas of research
- Administration emphasized appreciation on engagement on these issues

New Business Announcements

The meeting was adjourned at 5:04 pm CDT/6:04 pm EDT.

Respectfully Submitted,
Dr. Ted Cory
Faculty Senate Secretary

DEIA Executive Orders & Academic Freedom:

UTHSC Faculty Senate

March 11, 2025



Academic Freedom

- Academic Freedom comes from 2 places:
 - Law – the First Amendment
 - Academic Tradition Implemented in Policy

Academic Freedom: Law

- “Our Nation is deeply committed to safeguarding academic freedom . . . That freedom is therefore a special concern of the First Amendment which does not tolerate laws that cast a pall of orthodoxy over the classroom.” *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).
 - Ruling: State higher education institution faculty members could not be fired for refusing to sign a certificate that they were not a Communist.

Academic Freedom Law in Action

Tennessee “Divisive Concepts” Statute – Statement of Senate Sponsor in the General Assembly: “Thank you Mr. Speaker. I want to add another important difference between this and the bill that we took up last year and that we passed concerning K-12 education. In K-12 education we told teachers what they could and could not teach. *Higher education employees have certain First Amendment rights that we can’t tell them that they cannot teach these. So this bill is not directed at what can or cannot be taught.*”

Academic Freedom in Teaching: UTHSC Faculty Handbook

Section 3.1.1, Paragraph 4: “***A faculty member is entitled to freedom in the classroom in discussing the subject***, but the faculty member should use care in expressing personal views in the classroom and should be careful not to introduce controversial matters that have no relation to the subject taught, and especially matters in which he or she has no special competence or training and in which, therefore, the faculty member’s views cannot claim the authority accorded his or her professional statements.”

Some Notes on Academic Freedom in Teaching

- Topics and some information may be required by College/Departmental curriculum and/or accreditation requirements
- Consistency requirements
 - E.g., all sections of a certain first semester course have to cover the same topics so that all students are ready for the second semester course

Academic Freedom in Research: UTHSC Faculty Handbook

Section 3.1.1, Paragraph 2: “***A faculty member is entitled to full freedom in research and in publication of the results***, subject to the adequate performance of his or her other academic duties, but research for pecuniary gain either within or beyond the scope of his or her employment must be based upon an understanding with the University administration, according to the University’s policies.”

Academic Freedom Law - Caveat

- The law recognizes a difference between ***punishing*** speech and ***refusing to fund*** speech
- *Rust v. Sullivan*, 500 U.S. 173 (1991) upheld federal funding program that prohibited use of grant funds for abortion counseling
- Academic freedom protects your ability to teach, research and publish – but it does not require federal granting agencies to pay for it.



- Executive Order 14151: [January 20 EO "Ending Radical and Wasteful Government DEI Programs and Preferencing"](#)
 - Addresses only ***federal government*** activities
- Executive Order 14173: [January 21 EO "Ending Illegal Discrimination and Restoring Merit-Based Opportunity"](#)
 - Addresses federal ***contractor*** activities, including UTHSC

January 21 Executive Order 14173

- Primary Action of the January 21 Executive Order
 - **Revokes Executive Order 11246** and its amendments – the basis of the federal **affirmative action** plan (AAP) program for race, ethnicity, & gender
 - “The head of each agency shall include in every contract or grant award: . . . A term requiring such counterparty or recipient to **certify that it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws.**”

Status of Executive Orders: Currently Enjoined

National Association of Diversity Officers in Higher Education v. Trump (Federal District Court Maryland)

- February 21 Nationwide Injunction forbids enforcement of the “termination” clause and the “certification” clause
 - Should stop getting stop-work orders on specific grants or categories of grants
 - Should stop getting requests to certify we are not doing “DEI” on grants
- One Ground: “DEI”/”DEIA” is not defined so it’s too vague to be enforced under the Due Process Clause to the US Constitution

Future Status of Executive Orders: Unknown

- Preliminary Injunction could be reversed on appeal
- Revised Executive Order could be issued with a better definition.
- Things are moving so fast – could happen while we're having this meeting . . .

What is “DEI”? Best Effort to Understand

- EO 14173: “The purpose of this order is . . . ending *illegal* preferences and discrimination”
 - “DEI” and “DEIA” are not specifically defined in these Executive Orders but are uniformly linked to the words “*discriminatory*,” “*illegal*,” and/or “*preferences*” in *hiring* and *contracting*
 - Maryland Lawsuit: Federal Government => “[T]he EOs are clear about their limits: *federal law*. . . The vagueness of the EOs rise and fall with that of federal civil rights laws. To the extent that Plaintiffs complain of the lack of clarity regarding the targeted conduct, their qualm is with the federal civil rights laws—not the EOs.”

EO 14173 Effect on Teaching

“Sec. 7. Scope. . . .

(b) This order does **not** prevent . . . institutions of higher education from engaging in First Amendment-protected speech.

(c) This order does **not** prohibit persons teaching at a Federally funded institution of higher education as part of a larger course of academic instruction from advocating for, endorsing, or promoting the unlawful employment or contracting practices prohibited by this order.”

Counterexample: Military Academies
(they know how to impact academic freedom
in teaching when they want to)

Executive Order 14185 (Jan. 27, 2025), Restoring America's Fighting Force: "[T]he United States Service Academies . . . shall be required to teach that America and its founding documents remain the most powerful force for good in human history."

Effect on Research: Individual Agency Stop Work Orders and Certification Directives

- Directives (had been) navigated by the Office of the Vice Chancellor for Research
 - Injunction has stopped
 - Starting to see some terminations that follow an orderly process
- So far – Courts are ruling that the Federal Government has to follow its normal rules to amend or terminate an award and have blocked funding cutoffs

Current Summary

- The key parts of EO 14173 are currently not in effect
- Stated focus is on practices that were already unlawful under federal law
- Stated limitation is not to affect classroom teaching
- Existing grants – may be modified/terminated/non-renewed using standard processes
- Future grants – not likely to include any DEIA aspects

Immigration Issues

- Law Enforcement – Let UTHSC PD Handle
- Phone Number: 901-448-4444
 - x8-4444 from a campus phone

Tennessee has one of the most
wide-open public records statutes
in the nation



What Device You Use Does Not Matter

What matters is ***what*** it is – not ***where*** it is

- ***Personal document*** (e-mail to a friend or family member) on a ***University device*** (your university e-mail)
 - **Not** a public record
- ***University document*** (a text or e-mail about a work-related matter) on a ***personal device*** (your cell phone or your g-mail)
 - **Is** a public record

Key Exemptions for Faculty

- **Research Information**

- Sponsored Research (TCA § 49-7-120(a)-(d))
 - Particularly covers UT's research data/results and sponsor's proprietary information
- Un-sponsored Research (TCA § 49-7-120(e))
 - Protects against premature disclosure of research data/results
- First Amendment Scholar's Privilege / Unpublished Material – ties back into Academic Freedom
 - Some support from cases in other States