

# **Can There Be Anything Equivalent to Academic Freedom, an Attribute that UC Management Supposedly Brings to the National Laboratories, in the Context of Classified Research?**

**Academic Council Special Committee on the National Laboratories (ACSCONL)**

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The University of California is committed to assuring a climate of academic and intellectual freedom in the laboratories it manages. The management contracts between UC and the U.S. Department of Energy contain explicit clauses protecting intellectual and scientific freedom.\* In addition, the Laboratories themselves have developed and adopted administrative policies on intellectual freedom that reinforce the contract clauses. These policies encourage and support the freedom of employees to pursue professional interests, to participate in open debate, and to disseminate the results of research, consistent with their job descriptions and assigned duties. However, because the work of the Laboratories involves matters of national security, an employee's intellectual freedom is necessarily tempered by contractual and programmatic requirements—including security classification, intellectual property rights, and technology transfer restrictions.

The UC policy on academic freedom is supplemented by the Faculty Code of Conduct, which delineates professional responsibilities, ethical principles, and unacceptable faculty conduct. A major intent of the Faculty Code is the guarantee of academic or intellectual freedom. Although Laboratory employees do not have the rights and privileges of UC Academic Senate membership, they are accorded specified privileges that possess many of the attributes of academic or intellectual freedom. These include the right to question Laboratory regulations and policies without fear of penalty or retaliation; the right to speak as a private citizen, provided laboratory time and resources are not used; and the right to file a grievance with the university against the Laboratory, if they believe their intellectual freedom has been unfairly curtailed or denied.

Historically, instances exist where Laboratory employees have questioned or opposed Laboratory or even national policies—on issues of stockpile reliability, ballistic missile defense, nuclear use policy, and nuclear testing, among others—and had their right to voice a dissenting opinion protected by the University. In some cases, the individuals involved have testified that the fact their intellectual freedom was so protected was an important determinant in their decision to speak out. Some have also expressed doubt that this ability to speak the truth to power—“to be a skunk at the picnic,” in the words of one— would continue to exist were the Labs no longer to be managed by a university.

At the same time, national security concerns impose constraints upon laboratory employees that do not exist at a university. Thus, while the Laboratories encourage the widest possible dissemination of research results, before a scientific paper can be published it must first undergo a group-level management review as well as a classification review. Failure to adhere to this policy can result in disciplinary action.

The Laboratories themselves argue that the ability to carry out their national security mission with the highest quality and integrity has always depended integrally upon the maintenance of intellectual freedom for their employees. In addition to the right to publish, Laboratory employees have the freedom to engage in non-programmatic research and analyses, and to seek outside funding for such work. Arguably, the insulation from bureaucratic and political pressures provided by UC management has made it possible for researchers at Livermore and Los Alamos to operate with a degree of independence and objectivity uncommon in the defense sector.

While official policy makes it clear that the Laboratory director presents the official position of the Laboratory, Laboratory employees, because of their scientific expertise and their status as University employees, are frequently asked to speak on important public policy issues. In that capacity, employees are advised to avoid any impression that the opinion they express represents an official position of the Laboratory, the University, or the U.S. Department of Energy. An index of the intellectual freedom that exists at the Laboratories is that, on some significant policy issues, Laboratory employees have reached a position in disagreement with that of the consensus view of the federal government.

Intellectual freedom extends also to the Laboratory directors, who have the right and the obligation to present their views on the safety, effectiveness, and reliability of the U.S. nuclear weapons stockpile to the President and the Congress without regard to politics or partisanship. In so doing, the Laboratories provide a unique, long-term perspective on national security issues. The Laboratory directors have repeatedly affirmed in public that the President of the University and the Regents expect them to place the national interest above partisan concerns. It is with this understanding that the directors routinely testify before Congress on issues of nuclear safety and nuclear testing, and annually sign a letter to the national administration, attesting to the adequacy and reliability of the U.S. nuclear stockpile.

\* EXCERPTS FROM THE CONTRACT BETWEEN THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AND THE U.S. DEPARTMENT OF ENERGY

CONTRACT CLAUSE H.005: INTELLECTUAL AND SCIENTIFIC FREEDOM

- (a) The Parties recognize the importance of fostering an atmosphere at the Laboratory conducive to scientific inquiry and the development of new knowledge and creative and innovative ideas related to important national interests.
- (b) The Parties further recognize that the free exchange of ideas among scientists and engineers at the Laboratory and colleagues at universities, colleges, and other laboratories or scientific facilities is vital to the success of the scientific, engineering, and technical work performed by Laboratory personnel.
- (c) In order to further the goals of the Laboratory and the national interest, it is agreed by the Parties that the scientific and engineering personnel at the Laboratory shall be accorded the rights of publication or other dissemination of research, and participation in open

debate and in scientific, educational, or professional meetings or conferences, subject to the limitations included in technology transfer agreements and such other limitations as may be required by the terms of this Contract. Nothing in this clause is intended to alter the obligations of the Parties to protect classified or unclassified controlled nuclear information as provided by law.