

March 21, 2013

VIA ELECTRONIC MAIL AND USPS

Dr. Alison Galloway
Campus Provost and Executive Vice Chancellor
University of California, Santa Cruz
1156 High Street
Santa Cruz, California 95064

Dear Provost Galloway:

We are writing with respect to the case of [], professor of [] at the University of California, Santa Cruz. She has requested the assistance of the American Association of University Professors in addressing her dispute with the UCSC administration over a recent requirement that she assign to the university all patent rights growing out of all her future research. The dispute has led to your March 19 notification that your administration had withdrawn her grant application to the National Institute of General Medical Sciences (NIGMS) of the National Institutes of Health because she had declined to sign the Patent Amendment and that the university's Office of Sponsored Projects would "not accept any further proposals" from her until she signed it. Professor [] has forwarded to us copies of her correspondence with you and with the vice chancellor for research, Dr. Bruce Margon. We also have copies of relevant University of California policies and documents.

According to the information in our possession, late in 2011 the UC system began to distribute to faculty the Patent Amendment, a comprehensive waiver of all future patent rights, with instructions that all faculty recipients must sign "as a condition of employment." When Professor [] declined to sign, Vice Chancellor Margon wrote on November 19, 2012, to inform her that "the campus will not submit on your behalf new sponsored research proposals or accept awards for previously submitted proposals, nor execute certain IP-related actions such as patents and licensing."

On February 19, you wrote to Professor [] regarding her [] a proposal pending before the NIGMS. You informed her that "the University does not intend to accept the

award if it is offered” and directed Vice Chancellor Margon “to withdraw the proposal from consideration for funding” if he did not receive a “signed Patent Amendment by 5:00 pm on Friday, March 1, 2013.”

In response to these communications, Professor [] reiterated her commitment to comply with the review and assignment procedure to which she had agreed when she was initially appointed, a procedure that we understand has been in force in the UC system for many years. She has also made several other offers that would seem to us to fulfill any university obligations relevant to her current grant proposal while protecting her academic freedom. The UCSC administration rejected these alternatives, and, as already noted, on March 19 you informed her of the withdrawal of her grant application.

Professor [] regards this action as a violation of her academic freedom to pursue research of her own choosing. The university administration, of course, has the authority to refuse contracts for sponsored research that cannot be feasibly implemented or that fail to meet applicable professional standards, but such concerns hardly apply to her NIGMS proposal. We wish to be on record as objecting to the administration’s actions and as agreeing with Professor [] argument that the comprehensive ban on her research proposals imposed on March 19 is in violation of her present and future academic freedom rights.

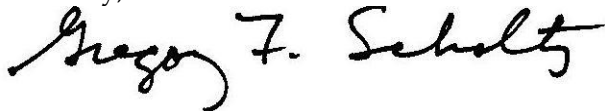
The fundamental principle of a professor’s independent right freely to choose his or her own research agenda has been recognized throughout the history of the modern university. The AAUP asserted that right in its 1915 *Declaration of Principles on Academic Freedom and Academic Tenure*, the first policy document issued by the Association. We have consistently supported the right of faculty members to seek the funding necessary to support the research they choose to do. The actions that the UCSC administration has taken can cause long-term damage to Professor [] career, can make it impossible for her to do sponsored research that not merely contributes to her own professional advancement but also serves the common good, and can have a potentially chilling effect on all UCSC faculty members and on the UC system as a whole.

In addition to the foregoing, we believe that the present assignment of patent rights to the results of research not yet even conducted eliminates a basic distinction between faculty members and corporate employees and is thus at odds with the definition of faculty independence established in the 1915 *Declaration* and reiterated many times since, as pointed out in the AAUP’s recently issued *Recommended Principles and Practices*

to *Guide Academy-Industry Relationships* (see especially Principles 11–24, in Part III, “General Principles to Guide Management of Intellectual Property,” pp. 137–40). There is added support for faculty inventor rights in the US Supreme Court’s 2011 *Stanford v. Roche* decision, which it seems to us the Patent Amendment seeks to evade.

We shall be following this case closely and may well wish to comment on future developments. Meanwhile, we would welcome your response to this letter and will be pleased to review information that you think will enhance our understanding of the administration’s position in the matters of concern. Based on the information currently available to us, we would call on the UCSC administration to allow Professor [] to submit research applications under the previously existing terms and to allow all UCSC faculty who object to the Patent Amendment to submit research applications without being required to sign it.

Sincerely,

A handwritten signature in black ink that reads "Gregory F. Scholtz". The signature is written in a cursive, flowing style.

Gregory F. Scholtz
Associate Secretary and Director
Department of Academic Freedom, Tenure, and Governance

cc: Dr. George R. Blumenthal, Chancellor
Dr. Bruce Margon, Vice Chancellor for Research
Dr. Sheldon Kamieniecki, Dean, Division of Social Sciences
Professor Heather Bullock, Chair, Department of Psychology
Professor Henry Reichman, Chair, AAUP Committee A on Academic Freedom and
Tenure
Professor Cary Nelson, Chair, Committee A Subcommittee on Intellectual Property
and Academic Freedom