



OFFICE OF THE SENIOR VICE PRESIDENT—
BUSINESS AND FINANCE

OFFICE OF THE PRESIDENT
300 Lakeside Drive
Oakland, California 94612-3550

February 17, 1998

HUMAN RESOURCE DIRECTORS

Employee Associations/Advisory Groups

Questions have arisen concerning the operation of University employee associations and advisory groups in light of Proposition 209 with regard to membership in these organizations. As a result of these queries, we thought it would be useful to remind locations that pursuant to the enclosed *Guidelines for Relations with Employee Associations/Advisory Groups*, all local employee associations and advisory groups should have up-to-date bylaws or official statements of purpose. In addition, please ensure that the associations/groups are open to employees regardless of race, sex, color, ethnicity, or national origin.

If you have any questions, please feel free to contact me at (510) 987-0846 or Director Carmen Estrada at (510) 987-9098.

Lubbe Levin
Assistant Vice President--
Human Resources

Enclosure

cc: Associate Vice President Boyette
Assistant Vice President Switkes
Executive Director Chandler
Director Cieszkiewicz
Director Estrada
Director Okada
University Counsel Thomas
EEO/AA Administrators

University of California
Office of the President
August 28, 1979

Guidelines for Relations with Employee Associations/Advisory Groups

Academic and staff employee associations/advisory groups are established as organizations which aid the administration in gathering the views of affected employees regarding professional activities, operations, salaries, benefits, personnel policies and practices, and other matters of concern to employees and administrators in the University. Also, the associations may serve as sources of interested employees to help staff task forces and advisory committees, participate in the academic review process (where appropriate), and help publicize policy, procedures, and other information of interest to employees.

Unlike employee organizations (unions) the associations do not exist, in whole or in part, for the purpose of dealing with the University concerning grievances or labor disputes or representing members in their employment relationship. Associations may not: (1) act as advocates or represent individual employees or groups in negotiations, grievances, complaints, or other disputes with management; (2) encourage employees to join or elect unions or interfere with the rights of employees to make an informed choice; or (3) advocate economic, political, public, or other pressures upon the University, disrupt operations, or otherwise injure the valid interests of the University. Should an employee association/advisory group engage in any of the above advocate activities, it could then be identified as a union and become subject to the Guidelines for Relations with Employee Organizations. All management support and endorsement must then be withdrawn.

Distinguishing between union activity and association/advisory group activity is important also because under the Higher Education Employer-Employee Relations Act (HEERA), management is prohibited from (1) dominating or interfering with the formation of administration of any union, or contributing support to it; (2) encouraging employees to join one union in preference to another; or (3) consulting with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who have an exclusive representative or for whom a union has filed a request for recognition or certification. Therefore, as a matter of law, the University does not support or endorse one union in preference to another, either directly or through an association which is under a union's influence.

In order to achieve status as an Employee Association/Advisory Group and to receive approval and support from the administration, associations must be registered and provide:

1. The name and mailing address of the organization;
2. The names, departments, and work telephone numbers of the principal officers;
3. A copy of the bylaws and/or official statement of purpose.

Guidelines for Relations with Employee Associations/Advisory Groups

August 28, 1979

Page 2

Management support of the approved associations may include:

1. Recognizing and encouraging association activity and officers, exchanging information of interest, and considering as fully as reasonable communications from association members;
2. Allowing a reasonable amount of time on pay status to be devoted to legitimate association activities by officers and members;
3. Allowing associations to use University facilities, supplies, and equipment (telephone, meeting rooms, duplicating equipment, mail service, paper, etc.) at no cost; and
4. Funding appropriate operating expenses.

CUCSA mtg
Dec 2001
again Sept 2002

Tips/Reminders for Staff Advisory Groups

In order for Staff Advisory Groups to serve the significant collegial goals within the University of California and to receive University support and assistance, they must be mindful of certain restrictions under HEERA which assist in defining the appropriate types of interactions with University management.

1. Staff Advisory Groups do not want to fall within the definition of an “employee organization” under HEERA:

[An] “employee organization” [is] any organization of any kind in which higher education employees participate and which exists for the purpose, in whole or in part, of dealing with higher education employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of employees. (Gov. Code § 3562(g).)

“Dealing with” means “a bilateral mechanism entailing a pattern or practice in which a group of employees, over time, makes proposals to management, and management responds to these proposals by acceptance or rejection by word or deed.”

If an organization is found to exist for the purpose of “dealing with” the University concerning grievances, labor disputes, wages, hours or other terms and conditions of employment, then any University financial or other support of the organization would be unlawful and have to stop.

2. Staff Advisory Groups must also be careful not to “consult with” the University on any matter within the scope of representation (hours, wages, terms and conditions of employment) for employees who are exclusively represented or petitioned for:

It shall be unlawful for the higher education employer to . . . ‘consult with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative or for whom an employee organization has filed a request for recognition or certification as an exclusive representative until such time as the request is withdrawn or an election has been held in which “no representative” received a majority of the votes cast. This subdivision is not intended to diminish the prohibition of unfair practices contained in subdivision (d). For the purposes of this subdivision, the term “academic” shall not be deemed to include the academic senates.’ (Gov. Code § 3571(f).)

“Consult with” means “to seek advice; confer; to deliberate together.” A staff advisory group may lawfully “consult with” the University about issues of policy which affect terms and conditions of employment for non-represented employees only. Or, a staff advisory group may “consult” lawfully on behalf of all employees on matters entirely outside the scope of representation. Otherwise, a staff advisory group may “discuss”, “share information” or seek information on all employment matters for all employees.

Attached is a summary of permissible and risky interactions which may come in handy as a quick reference.

Relations With Staff Advisory Groups

I. Purpose of Group:

Permissible

Networking & support
Information clearinghouse
Mechanism for communication
between employees & administration
Forum for discussion

Risky

Inclusion of staff in decision-making
process of University
Participation in governance structure
of University

II. Avoidance of "Dealing With": (A bilateral mechanism entailing a pattern or practice in which a group of employees, over time, makes proposals to management about wages, hours or terms and conditions of employment and management responds to these proposals by acceptance or rejection by word or deed.)

Permissible Activities

Dialogue
Question and answer session
Brainstorming
Information sharing
Develop ideas
Exchange ideas
Give feedback
Give reaction
Gather information
List concerns

Risky Activities

Suggestions
Recommendations
Proposals
Provide a detailed analysis of survey
information

III. Avoidance of "Consult": (Employer may not consult with an employee advisory group about any matter within the scope of representation for employees who are represented by an exclusive representative.)

Permissible Activities

Discussion
Question and answer sessions
Passive role of Rep at meetings
Share information

Risky Activities

Advise
Consider and advise
Address issues
Discuss pros and cons
Provide detailed employee feedback
Result of discussion is agreement
Exchange views
Make recommendations
Provide input