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**Author**

Brint, Steven

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STEVEN BRINT\*

RESPONSE TO  
COMMENTARIES OFFERED ON THE CSHE ROPS  
**Is the University of California Drifting Toward Conformism?  
The Challenges of Representation and the Climate for Academic Freedom**  
by Steven Brint and Komi Frey – ROPS CSHE.5.2023

October 2023

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I thank the commentators for their responses to “Is the University of California Drifting Toward Conformism?” I welcome this opportunity to address their arguments. I will address the first four sets of commentators – Henry Reichman, Johnnella Butler, Sharon Inkelaar/Erwin Chemerinsky, and Uma Jayakumar - at some length. I will respond more briefly to the commentaries by David Hollinger and Georgia Warnke because I am largely in agreement with them.

***Henry Reichman***

Professor Reichman shares our concerns about quite a few issues. He thinks we are right to be concerned about the use of diversity statements to winnow applicant pools, their potential for misuse in other searches, the likelihood that some DEI offices pose real challenges to academic freedom, and in our recognition that not all appeals to DEI are compatible with academic values. He agrees that academic freedom supports only speech based on professional expertise and that a climate supportive of people who think differently is one factor among many on which intellectual progress depends. In general, he welcomes our effort to address the missteps and overreach of UC policies to improve representation and to foster diversity, equity and inclusion.

He finds other parts of our argument tendentious, off target or, in a few cases, just plain wrong. Let’s begin with what Prof. Reichman finds to be the weakest part of our argument – that scholar-activists’ emphasis on the denunciation of power in the service of social justice ideals has contributed to a climate in which labeling and ostracism have on too many occasions substituted for debate and discussion. Professor Reichman’s objection to this argument inspired what we find to be the most vivid line in his commentary: “But here the authors descend into a fog of vague and clichéd accusations and arguments, with minimal evidentiary support, that are typical of those embraced by stridently conservative critics of higher education and their political allies.” Fortunately for us, it is an unfair association. Many of the people who have offered critical analyses of the sources of discourse problems on campus are liberals (Kwame Anthony Appiah, Mark Lilla, Greg Lukianoff, Yascha Mounk, Helen Pluckrose, Jonathan Rauch) or

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\* Steven Brint is Distinguished Professor of Sociology and Public Policy, Director, Colleges & Universities 2000 Project, University of California, Riverside, and a CSHE Faculty Associate and Principal Researcher with the SERU Consortium. Komi Frey is a new mother of twins and could not join fully in writing this response.

socialists (Frederick deBoer, Walter Benn Michaels, Adolph Reed, Jr., Alan Sokal). These are the writers with whom we align ourselves.

The national data is in any case supportive of the idea that many students and faculty members are afraid to speak their minds for fear of repercussions.<sup>1</sup> A 2022 survey of students found that some 80 percent said they have self-censored their beliefs and two-thirds said they feared damage to their reputations because someone misinterprets something they have said or done (Stevens 2023). A majority of faculty surveyed by Foundation for Individual Rights and Expression (FIRE) also in 2022 said they worried about losing their jobs or reputations because someone misrepresented their words. A third said they self-censor out of concern over the responses of staff, students, or administrators. It's no wonder these faculty members worry. In the same survey, a significant portion of faculty surveyed – one quarter or more in response to most of the scenarios presented – favored sanctions against colleagues who made statements that some on campus might interpret as harmful. These restrictions included formally condemning their views; applying pressure to require them to take training they philosophically oppose; and supporting administrative investigations. While certainly preferable to termination, these softer forms of sanctioning can nevertheless create a chill in the campus climate for expression (Honeycutt, Stevens & Kaufmann 2023).

Faculty surveys have also found that discrimination against people with non-conforming views may be rampant. A 2022 national survey found that some 45 percent of liberal faculty indicated they would be willing to discriminate against conservative job candidates. (Honeycutt 2022). (A study of California State University faculty showed a similar pattern. See Honeycutt & Freberg 2016.) Research by the Center for the Study of Partisanship and Ideology found that one in five faculty members admitted to having followed through on these biases by discriminating against a grant proposal they considered right-leaning and one in ten said they had discriminated against conservative candidates in paper submissions and promotional opportunities. Self-identified conservatives admitted to discriminating in roughly similar proportions against liberals (Kaufmann 2021).

These discriminatory attitudes have likely helped to legitimize a rash of disciplinary actions by administrators against dissenters. The results of a FIRE survey showed that nearly one-fifth of professors said they had either been disciplined or threatened with discipline for their speech, teaching, or research. Seven percent they had been investigated, and more than one-quarter said they had been pressured by administrators to avoid controversial research. Altogether, between 2014 and 2023, FIRE's Scholars Under Fire database documented nearly 1,000 attempts to have professors fired, punished, or otherwise silenced. (This is likely an under-estimation because not all of such attempts are reported.) About two thirds of these attempts were successful, according to FIRE, resulting in consequences from investigation to termination (Frey & Stevens 2022). Even unsuccessful attempts matter, of course, because of their potential influence on the climate for speech on campus. These restrictive actions have occurred in spite of the fact that a sizable majority of faculty members say that professors should be able to express their ideas and convictions on any subject (Honeycutt, Stevens & Kaufmann 2023).

We have not been able to disaggregate these data to determine the extent to which University of California faculty do or do not fit the national patterns. But we find support for our contentions about

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<sup>1</sup> It is important to read the survey data reported below with caution. Although they are the best data currently available, response rates are not always high, non-response bias is not reported, and margins of error are not always reported. Typically margins of error in representative surveys with sample sizes of 1500 would be plus or minus four percent. We do not know in every case how representative the sample population is. In addition, the extent to which the views of some researchers and organizations are non-partisan is potentially subject to dispute.

the climate for speech on UC campuses in our own, admittedly small scale studies (German 2020; Brint, Webb, & Fields 2023). Our interview subjects – 100 faculty members on one UC campus – cited instances in which they held their tongues to avoid being labeled or ostracized; where terms like “white supremacist” were used to silence dissent; where colleagues left the campus because of the administrations’ limited interest in accomplishments relative to diversification and/or because of the climate for discourse on campus. Some cited instances in which they have been summoned to administrative hearings based on unsubstantiated claims of bias for expressions of protected speech. We do not want to sensationalize the findings. Most of our subjects mentioned no such incidents. It is clearly an empirical matter to determine how often and with what effect these kinds of incidents occur. Moreover, these incidents may well have peaked during the pandemic/protest era of 2020-22.

At the same time, it should be clear that these incidents do not need to occur with great frequency for the message to get across. Indeed, this section of the essay was motivated in large measure by our concerns that a spiral of silence was developing on some UC campuses. The idea of a spiral of silence was proposed by the German public opinion analyst Elisabeth Noelle-Neumann in 1974 (see, e.g., Noelle-Neumann & Petersen 2004). The main tenets of her theory are as follows: Most people are afraid of social isolation. Therefore, people constantly observe other people’s behavior in order to find out which opinions and behaviors are met with approval or rejection in the public sphere. People exert “isolation pressure” on other people, for instance, by frowning or turning away when somebody says or does something that is rejected by public opinion. People tend to hide their opinion away when they think that they would expose themselves to isolation pressure by expressing their opinion. People who feel public support, by contrast, tend to express their opinions loud and clear. Loud opinion expressions on the one side and silence on the other side sets the spiral of silence into motion. The process is typically ignited by emotionally and morally laden issues. The actual number of partisans of an opinion is not necessarily decisive for their weight in the spiral of silence. The opinion of a minority may be perceived as majority in the public sphere if their partisans act assertively enough and defend their opinion with enough emphasis in public.

We were counseled by some reviewers to focus solely on DEI policies and especially the policy of winnowing applicant pools based on diversity statements. We decided against this approach, even though we realized that the UC evidentiary base related to the prevalence and consequences of silenced speech was potentially subject to criticism. Our concerns about the climate for discourse are not due simply to administrative policies. They are due to the combined force of administrative policies and the consequences of social movement activism. Our research and analysis suggest that the two together have encouraged the spiral of silence with which we are concerned. As we write in the essay, “(t)he two movements – the University’s determination to expand DEI policies and the activist challenge – are intertwined despite their divergent aims and methods.” Given this analysis, it seemed important to consider both strands of influence.

Professor Reichman argues that our emphasis on power-oriented epistemologies is vague and clichéd. It is a matter for debate whether concerns about harm to marginalized populations or the discounting of presumptively powerful groups is the chief reason why the new speech norms have emerged on campus. The two are often entangled in social justice discourse. Wounding behaviors do continue to happen on campuses, as we argue in the essay, and efforts to prevent harms consequently continue to be warranted. It does not follow, however, that a general discounting of the actions and positions of presumptively powerful groups is also warranted. In our experience, power-oriented epistemologies have often been

invoked to promote both legitimate efforts to support vulnerable populations and overly-generalized frameworks centered on oppressors and oppressed.

Perhaps we should also clarify that we are aware that power-oriented epistemologies have their merits. Michel Foucault, after all, is one of the most cited social thinkers of our time and it's not because he was vague or clichéd. The difficulty comes in the reductionism that so often accompanies invocation of thinkers such as Foucault. Power is a factor in social life, including in academic life, but so too are the conceptually distinct tools of science and scholarship. Foucault (1964) wrote insightfully, for example, about the power/knowledge systems behind the treatment of what we now call as mental illness. But it is also the case that the tools of science and scholarship have led to concrete advances in understanding and treatment within our current cultural frame. Thousands of studies of mental illness – Foucault's preferred term is "madness" – have led to pharmacological treatments for depression (see, e.g., Kramer 1993), better understanding of its triggers, cognitive-behavioral therapies that have shown measurable results (Hoffmann et al. 2012), coping strategies that help individuals to remain on an even keel (Lazarus and Folkman 1984), and awareness of the psychological damage done by solitary confinement in prisons (Haney 2006).

Prof. Reichman argues that our discussion of the culture of rationalism is "at best, deeply flawed." He observes that rationalist inquiry has been invoked in the past for exclusionary purposes - that it has been used "as a weapon of privilege." Provost Butler shares this critique and notes biases in the work of Columbia University historians and political scientists in the 1930s and 1940s. Professor Jayakumar has a similar view. We recognize that appeals to rationalism have been used at times as a tool for exclusion and have in many instances to legitimize biased research. He considers our discussion of the problems with rationalism as merely "obligatory." As a reminder, here's what we wrote: "Science and scholarship are far from perfect systems. They have on many occasions been subject to the social and political biases of their time, as anyone who has read the history of the eugenics movement (Farber 2008) or intelligence testing (Gould 1996) can testify. Nor is it difficult to find contemporary examples of bias in science, including, to name just two, the failure of medical scientists to understand differences between men and women in the expression of symptoms of cardiovascular disease (Woodward 2019) or the failure of computer scientists to train face recognition software on non-White faces (Furl, Philips & O'Toole 2002). At the same time, the tools of science and scholarship also provide the means to criticize and correct failures like these."

I do not think this statement can be fairly characterized as obligatory, but I do think it is incomplete. We did not expand on it because to do so would take many more pages than a single essay should be allotted. The deficiencies of science and scholarship, as they have developed historically, are discussed in many book-length treatments, and they deserve more. At a general theoretical level, intellectual historians and sociologists such as Lorraine Daston and Peter Galison (2010), Thomas Kuhn (1962), Bruno Latour (1987), and Mary Poovey (1998), have done some of the work required, and of course there are also many histories that take up more specific disciplinary blind spots and biases. What is missing in Prof. Reichman's criticism is a treatment of what he thinks would be a better substitute for rationalism as the principal tool of academic scientists and scholars.

Surprisingly, Professor Reichman does not mention social movements as influences on research and curriculum. (Provost Butler and Professor Hollinger do mention those influences.) As we indicate, social movements have been important forces for bringing submerged topics to the attention of scholars. The impressive outpouring of scholarship on race and gender since the 1970s would not have been produced without the impetus of the Civil Rights and feminist movements. Although scholarly work is often

influenced by forces outside of academia, as well as by developments in the disciplines, the work itself ideally remains tied to rationalist methods of empirical study and empirically informed theorization.

Prof. Reichman believes that conformism has been a constant in academic life. We suppose this depends on what he means by conformism. It is true that most academics conform to the prevailing norms in their disciplines. It is also true that many do not ask questions about administrative policies. As one of our interview respondents told us, “If it’s in the books, engineers will follow it.” But these are not the kinds of conformity that we worry about. What we worry about is conformity against one’s own judgment about the issues we discuss in the essay. Again, we acknowledge that it is an open question how much of this type of conformity exists on UC campuses. However, with respect to some aspects of DEI policy and social-justice activism, the evidence suggests that the numbers may be quite high. When FIRE asked a large national sample of professors whether they approved of diversity statements, half said they did not (Honeycutt, Stevens & Kaufmann 2023). Similarly, a faculty vote on diversity statements at UC Davis several years ago yielded only a very narrow majority in favor (Soucek 2022).

In general, I am skeptical of Prof. Reichman’s bleak assessment that the great majority of faculty are “conformists at heart” – at least as it applies to the stratum of productive research scientists and scholars. Creative work seems almost to require non-conformity, if only to see the problems in prevailing views and to apprehend what might be better approaches and better understandings. But fear in the face of administrative dictates and social-movement activism may nevertheless silence many a tongue.

Professor Reichman argues that for the AAUP the intellectual mission of academics is embedded in the concept of “the common good.” For this reason, among others, he sees less tension between the intellectual and civic missions of universities than we do. It is a view shared by Provost Butler. As she writes, “Rather than (being) political, (diversity content) is a necessary component of advancing new knowledge.” It is certainly true that the AAUP finds the ultimate purpose of research and teaching to be contributions to “the common good.”

“The common good” is a concept that has proven to be notoriously difficult to define (see, e.g. Hussain 2018). Even so, I consider it to be a valuable anchor for the work of academic scientists and scholars. However, I see two types of dubious reductions in UC’s currently dominant understanding of “the common good.” The first is a reduction of “the common good” to mean diversification. This is surely only one feature of any viable definition of contributions to “the common good” as that concept applies to universities. Wouldn’t this notion also encompass understandings of nature, society, and texts that provide greater or more valid insight? Wouldn’t solutions to other problems of society be a contribution to “the common good”? Perhaps the production of new technologies to bring new jobs and new wealth to communities would be an aspect of “the common good.” And what about the cultivation of future leaders from among today’s students? The second reduction is of diversity to mean racial-ethnic and (to some degree) gender and LGBTQ+ diversity when so many other kinds of diversity also exist.<sup>2</sup> In short, we cannot agree with the idea that the common good, as conceived by Arthur Lovejoy, John Dewey, and other founders of the AAUP, is identical to diversity content (on Dewey, see, e.g., Festenstein 2023) or

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<sup>2</sup> Candidates seem to have received the message that diversity means race (and to some degree) gender and sexual orientation) judging from what researchers have found that they write in their diversity statements. References to race figure much more prominently than references to any other identity categories. See Baker et al. (2016) and Honeycutt and Jussim (2022).

that the current truncated menu of identities is inclusive of the range of human diversity that should be relevant to universities.

I will mention in passing one final, minor but telling issue in relation to Professor Reichman's commentary: Professor Reichman argues that we have made an egregious error in our interpretation of the Free Speech Movement of the 1960s. The movement, he writes, was fundamentally a struggle against discrimination. This reflects the racial lens through which he and others choose to interpret the past. It is a lens, as we emphasize, that is often appropriate. But in this case it is Professor Reichman who has made the egregious error. The Free Speech Movement was a net containing many strands of thought. Opposition to racial discrimination was one of those strands; the Freedom Riders certainly played a role as heroes of the movement. Quite a bit of scholarship, some of which we cite, has established the dominant themes in the movement. Opposition to the university's policies of restricting student speech was certainly one. If we accept Mario Savio as the leader of the movement – and it was he who attracted throngs – the impetus seems to have been mainly a *cri de cœur* by students against being treated as cogs in the university's machinery. The theme appeared prominently in Savio's speeches (see, e.g., Savio 1964). Recall also the famous saying pinned to the shirt of one demonstrator: "I am a UC student. Please do not bend, fold, spindle, or mutilate me." And in the words of a Free Speech Movement flyer: "The source of our strength is, very simply, the fact that we are human beings and so cannot forever be treated as raw materials--to be processed" (Vietnam Generation, Inc. 1993; see also Wolin & Schaar 1967).

#### ***Johnnella E. Butler***

Before I discuss the central arguments in Provost Butler's commentary, I should clear up one misreading I found in her critique because others may have made the same mistake. We do not argue anywhere in the essay that anti-racist activists shape DEI, as she states. Instead, we see DEI policies and anti-racist activism as two separate phenomena, different in aims and methods, that tend to support one another. It is their combined force that has led us to raise concerns about the trajectory of the University in this domain.

Provost Butler thinks we unfairly malign diversity statements. She argues that our discussion of diversity statements would benefit from a description of the prompt itself and from a survey of departments that are supportive of and using the process of reducing applicant pools based on diversity statements.

The prompts are usually straightforward. One typical prompt reads as follows: "A diversity statement is required with your application and will be read by the search committee. This statement should describe your past, present, and planned contributions to equity, diversity, and/or inclusion." Many of the prompts include guidance about what kinds of contributions may be relevant. From our perspective, the rubrics that have been used on some campuses to evaluate diversity statements are more worthy of attention than the prompts. The rubric used at UC Santa Cruz, for example, included three ratings: one for knowledge of DEI; one for experiences with DEI; and one for the candidates' plans for advancing DEI. Candidates are ranked 1-5 on each rating. The knowledge rating focuses solely on a subset of racial-ethnic and gender categories, including no reference to religious, national, or political identities. High marks were awarded for discussing "the need for all students and faculty to work to identify and eliminate barriers..." (UCSC 2021). As noted in our essay, some rubrics prescribed the lowest ratings for applicants who write that all students should be treated equally.

Also as noted in the essay, the number of departments that have used diversity statements to reduce applicant pools cannot be determined from UC documents, but as we indicate this approach has been used by departments on at least five of the UC campuses. Given what we can discern from UC documents, it is a reasonable estimate that the number of departments awarded funds to pursue the experimental

program in hiring may be in the dozens. It is a likelihood that many more departments applied for than were awarded funds.

Provost Butler argues that we have been unfair to UC Merced Professor Tanya Golash-Boza's (2016) article on how to write an effective diversity statement and accuses us of "cherry-picking" phrases and sentences to paint the article in an unflattering light. Golash-Boza does write that some candidates may not wish to submit an effective diversity statement and that some committees may not care if they do. However, in a prominent passage that we do not quote she writes, "I can assure you that many faculty members truly care about diversity and equity and will read your statement closely. I have been in the room when the diversity statement of every single finalist for a job search was scrutinized. The candidates who submitted strong statements wrote about their experiences teaching first-generation college students, their involvement with LGBTQ student groups, their experiences teaching in inner-city high schools and their awareness of how systemic inequalities affect students' ability to excel. Applicants mentioned their teaching and activism and highlighted their commitment to diversity and equity in higher education." I leave it up to readers to judge whether these scrutinized beliefs and commitments represent a type of compelled speech that the relevant First Amendment case law disallows or whether these commitments are both allowable and essential to good teaching and mentoring in the University.<sup>3</sup> My view is that the rationale may be sound if a variety of forms of diversity count, but the use of diversity statements in practice can and has in some and probably many cases constituted compelled speech.

Provost Butler believes that we have "pre-conceived views" that are not acknowledged and that a better approach would have been to raise questions for dialogue and debate rather than to impose these pre-conceived views. The truth is that our views about these matters have until recently been very much supportive of UC policies and progressive politics. I organized my campus's opposition to SP-1 and SP-2, the precursors to the affirmative action ban passed as Proposition 209. I have been a long-time supporter of affirmative action, and I was responsible as vice provost at UC Riverside for the introduction of many programs that aimed to improve student success, notably for under-represented students. I have worked on numerous occasions to recruit scholars of color, and I have helped dozens of students of color gain admission to graduate and law schools and to prepare for prestigious competitions. I have also written extensively about racial inequality (see, e.g., Brint 2016). Komi Frey also started her career in the University of California as a political progressive and a supporter of UC DEI policies.

What happened? It is simply that what we observed over the last several years raised concerns in our minds about the climate for discourse in the University. I never considered that affirmative action would be associated with prescriptions about how students and faculty should think. Instead, I viewed affirmative action as justified by the terrible history of American racism and assumed it would bring in many more talented people who would express a wide range of views and who would pursue scholarly and scientific eminence in the typical way. I am grateful for the extent to which this has been true.

Notably, unlike Provost Butler, I do not think that the addition of diverse students and scholars has been the major impetus for the changes we describe. White administrators and faculty members have been primarily responsible for promulgating the policies we discuss in the essay. We discuss some likely motivations toward the end of the essay. Others have noted the prominence of high SES Whites among

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<sup>3</sup> On how students learn, see Bransford, Brown, & Cocking (1999). For the fundamentals of effective college teaching in the humanities, see, e.g., Delbanco (2012). For the fundamentals of effective college teaching in the social and natural sciences, see, e.g., Wieman & Gilbert (2014).

social-justice progressives and have analyzed their views in relation to their locations in the intellectual field (see, e.g., Buruma 2023; Hawkins et al. 2018; Park & Denton 2009).

I also disagree with Provost Butler that our presentation discourages dialogue. These are emotional issues for many people and the relative lack of heat people experience reading cold type is an approach that, I believe, has a higher probability of stimulating debate and discussion under the circumstances. As we say at the beginning of the essay, “This essay is intended to stimulate discussion, not to be the last word on the issues we examine.” I note that a dialectical approach, the approach we adopt, is a form of dialogue. We have observed dueling theses and proposed a way to balance the two.

I recognize an important topic that Provost Butler has identified, what she refers to as “the elephant in the room.” She writes, “(D)iverse faculty and students bring diverse content, and their presence often affects social and academic behavior on campus: (including) classroom interactions... academic and student life (curricula); expansion of and different perspectives on scholarship; questioning of or conflicts with traditions.” As I note above, we doubt that students and faculty of color have been the main drivers of change over the last decade. Our other thoughts about this topic are sprinkled throughout the essay. I can draw them together in response: In their teaching, we hope professors will be aware of and engage students’ backgrounds and experiences, in the many cases where it makes sense to do so. This is one method to bring subject matter alive in students’ minds. We welcome the new topics and new knowledge that has been produced as a result of the university’s efforts to diversify. At the same time, we hope the mechanisms and processes of scholarship and science to hold, as well as their exacting standards, and we expect faculty members to be open to vigorous debate and discussion of their ideas. When theories and topics become totems rather than objects and stimulators of inquiry, the integrity of academia suffers.

### ***Sharon Inkela and Erwin Chemerinsky***

The critique by Inkelas and Chemerinsky cannot be read as a normal scholarly exchange. It is full of misrepresentations, wild accusations, and evidence-free assertions – all seemingly advanced in an effort to marginalize our argument. Because they engage in an unprofessional, *ad hominem/ad feminam* attack, I feel compelled to adopt a firm tone and a suitably assertive stance in response.

The first sign that something different is afoot comes in the fifth paragraph of their response. Here Inkelas and Chemerinsky use the adjective “despicable” to describe a thesis that we do not advance –that hiring faculty from previously historically excluded groups lowers the intellectual quality of the university. We do not argue this and it’s irresponsible to say we do. In many places we suggest the opposite. Here’s what we write: “Many of UC’s Diversity, Equity, and Inclusion (DEI) policies have proven to be valuable means to attract talent...” (p. 2); And: “Most important, UC’s commitment to diversity has brought new talent and ambition into the University and has expanded the range of scholarly topics and academic knowledge” (p. 9). And: “As we have emphasized, the consequences of the University’s commitment to diversity as a core value have been very positive in some ways. Outstanding students and faculty members have been recruited who would not have been recruited in the past and many important topics related to racial and gender inequalities have been addressed that might otherwise have remained unexamined.” (p. 16). We also include an endnote discussing the accomplishments of some of the faculty of color who have been recruited to the university through the Presidential Postdoctoral Fellowship Program (endnote 8).

When senior university administrators use such unprofessional language, particularly to criticize a thesis that the authors not only do not make but argue against in several places, it is easy to guess that faculty members who hold less secure positions than we do will simply shut up and fall in line. This might be especially true when hostile language is advanced by such a person as Erwin Chemerinsky, who is the dean

of a well-regarded law school and quoted frequently in the press. It is very disappointing that Dean Chemerinsky has decided to engage in this basement-level form of polemics. I would have expected much more from him.

My disappointment extends to essentially all of the points Inkelas and Chemerinsky purport to make. Instead of making an argument, they seem to want to batter us (or more likely our readers) into submission. I was astonished by the number of times in their response Inkelas and Chemerinsky felt it was their prerogative to put words into our mouths. Discussing each one of these misrepresentations would be tedious. I will focus on just a few for purposes of illustration.

We do not conjure “an epic battle” between progressives and traditionalists. We recognize that many people are in the middle or uninvolved and discuss the distribution of faculty view on p. 14. On the other hand, we are worried about the drift of the university and we make that clear. We also suggest a middle way between the opposed positions. Based on our research (cited on p. 14), our best guess is that something like one-fifth to one-quarter of UC faculty desire a far-reaching transformation of the university in the direction of stronger social justice commitments, another quarter are supportive of UC policies but do not otherwise desire a far-reaching transformation, another one-quarter to one-third are not engaged with the issues or feel ambivalently, and another one-fifth to one-quarter are academic traditionalists. Brint, Webb, & Fields (2023) discuss the characteristics and beliefs of faculty in the middle who are supportive of UC policies and also support (albeit with some hesitations) principles of academic freedom and free inquiry. Many of the bridging faculty in this study held administrative positions in the University at one time or another.

We do not make “an implicit assumption” that “scholar” means a “white scholar.” Many scholars of color have conducted studies and made arguments about the covariates of mobility at the individual and group levels (see, e.g., Alcantara, Chen & Alegria 2013; Chetty et al. 2014; Sakamoto & Wang 2020; Sowell 1996). We do not claim that it is a violation of academic freedom when someone disagrees with a statement about these covariates. Instead, we are concerned about the effects of labeling (or fears of being labeled) on the climate for discourse. That can lead, as we say, to an environment that is inhospitable to free inquiry and robust discussion.

We do not use the term “culture of rationalism” in an arbitrary way. We define what we mean by it (on pp. 10-11). We also provide references to support this definition. Inkelas and Chemerinsky make the outrageous claim that we consider everyone who agrees with us as rational and everyone who disagrees as a social activist. This is yet another example of vitriol substituting for serious attention to what we actually write in the essay. We find no passage where we claim that what we write is rational and everyone who disagrees with us is a social activist. For the record, I gladly admit to having been wrong on numerous occasions in my work and in my life and to being grateful for the correction of colleagues and others. Our appreciation for scholar-activists who have made contributions to knowledge are sprinkled throughout the essay.

Inkelas and Chemerinsky write that no tension exists between rationalism and diversity and claim that we argue for an inherent tension. Again, this is not remotely close to what we argue. Here’s what we write: “Indeed, many faculty members and campus administrators argue that diversity and scholarly excellence go hand in hand, and very often they do.” (p. 9). And: “As we have emphasized, DEI priorities and traditional academic values are often mutually supportive. But they are not always mutually supportive.” (p. 13). And: “These two positions are mutually supportive when DEI-oriented scholars abide by the

canons of discourse we have described or when traditional academics take up topics of interest to DEI-oriented scholars. These are frequent occurrences." (p. 18).

Some obvious questions arise: Are academic administrators such as Inkelas and Chemerinsky too busy or too invested in a framework to read a moderately complex argument carefully? Perhaps they think we are trying to besmirch the reputation of an institution they represent and feel the need to leap to its defense in this belligerent way. If so, they completely misunderstand our intent.

The catalogue of their misrepresentations is very long. We'll just mention one more – a minor one – because it leads to worries about their capacity to read plain English. We do not say that guidance about how to write diversity statements is unavailable. (In fact, on p. 8 we talk about one piece of guidance.) Instead, we say that the rubrics used to assess the statements have not always been available. We believe that statement is true.

In other places, Inkelas and Chemerinsky attack us by offering unsupported assertions and generalizations. Let's examine a few of these: How do they know, for example, that a vast array of views about the issues we address are expressed on the Berkeley campus every day – or more to the point that people feel comfortable expressing dissenting views in public?

They argue that the fact that our essay was published is "proof by demonstration" that our free speech rights continue to prevail. Perhaps this is meant to imply that the concerns we raise are a myth. I note that there are many ways to squelch speech. In our case, the essay was reviewed by five critics prior to acceptance. These reviewers put forward 200 separate marginal comments on our manuscript and more than a dozen single-spaced pages of additional comments. We assumed that we were expected to respond to all of them and we did. We were advised to leave out parts of the essay that the editors and some of the reviewers disliked. We resisted this advice. The essay was also edited heavily -- mainly to good effect, but also in ways that unintentionally subverted our meaning and had to be rejected. Once the essay was accepted, we were then asked to respond to critiques by four sets of commentators, none of whom were sympathetic. We know from the research cited in the essay that many people in the university *are* sympathetic to what we have written. Until we resisted, we were initially (albeit briefly) told that we would not be able to write a rejoinder to our critics. Neither one of us has experienced anything like it. We were tempted to give up many times and we finally requested that the editors try to find a couple of additional commentators who would be able to read the essay more carefully than Inkelas and Chemerinsky do.

Inkelas and Chemerinsky might wonder if these obstacles were placed in our way because of the low quality of the original submission. I respectfully disagree. If anything, this experience has demonstrated how difficult it is to publish work that raises questions and concerns about the issues we address. One needs a strong stomach and a stout heart, apparently. Also considerable patience. The essay was submitted in April and the end point kept moving back in time, with new critical commentators being approached as late as the end of September. But, yes, if you possess these qualities, it is not impossible to have an essay like ours published.

Inkelas and Chemerinsky are free to say that many types of diversity are valued by the University, but the evidence (such as it is) suggests that they are probably wrong. Theirs is indeed one common defense the University advances – that there are any number of valid answers to a prompt about a candidate's contributions to diversity. One clever experiment by Honeycutt (2020) put this proposition to the test. He conducted an experiment in which faculty were randomly assigned to evaluate one of a number of different DEI statements, each one focusing on a different type of diversity. He found that DEI statements

failing to discuss race and gender were not recommended for advancement at a much higher rate than those that did discuss race or gender. Socioeconomic status was not recognized as valid by 35 percent of the subjects and viewpoint diversity was rejected as a criterion by a majority of the subjects.

Based on the available studies, we think the administrative claim that all types of diversity count in hiring at UC is a rhetorical cover for what happens in practice. We hope we are wrong about that because if we are wrong it would put UC in alignment with its own stated policy. We would be happy to be proven wrong. But Inkelas and Chemerinsky do not claim to know any more than we do. Instead, they make yet another of their evidence free assertions. They say that all the types of diversity we mention on p. 5 (drawing on Regents Policy) are in practice “relevant” to assessing candidates. I would be very happy to review the evidence, if they can provide it.<sup>4</sup>

Inkelas and Chemerinsky argue that instances we consider abridgements of academic freedom are nothing of the sort. Of course, faculty and students are free to protest when administrators tell them phrases that they should not use or when departments post political statements on their websites. But let's think about the power structure and the rights of minorities. When administrators stipulate policy, many people worry about the repercussions of protesting. I think it would be advisable for administrators to be very careful about prescribing what is and is not acceptable speech. When departments post statements that do not reflect the views of all members of the faculty, the views of the majority hold sway over minority rights. I think the right approach would be for members to be asked to affix their signatures to statements rather than departments making statements without supporting signatures. A tougher question is whether the non-partisan status of the university is brought into question when these kinds of statements proliferate on university websites. I do think that the non-partisan status of the university is a remarkable asset that should be protected.

Inkelas and Chemerinsky deny that a policy existed at Berkeley to winnow applicants based on diversity statements, then discuss precisely this policy in the next paragraph. At the same time, they mistakenly refer to this policy as “a search” when it was a series of searches. They accuse us of using “bad math” in our analysis of these searches. As justification, they offer an argument based on the commutative property of arithmetic. The commutative property would be relevant only if all of those who were advanced based on their research and teaching statements were eliminated in a second round based on their diversity statements. Then and only then would  $A+B$  equal  $B+A$ . This is implausible if acceptable search procedures were followed from the beginning, and candidates were evaluated on the basis of their entire file, including research, teaching, service, letters of recommendation, and diversity statements. And of course that's not what happened.

Inkelas and Chemerinsky write in a couple of places that Berkeley hires exceptional faculty and has exceptional faculty. They seem to be suggesting that we think otherwise. We don't. Berkeley is one of the leading institutions in many fields. We make no claims to the contrary in the essay. However, judging from this very poor effort by two senior UC Berkeley administrators, doubts are beginning to creep into my mind about how the campus is being managed. Their evident desire to enforce conformity by coming down hard and in furious terms on an essay intended to stimulate debate and discussion tends to support an affirmative answer to the question we pose in the essay's title. It is sad to see senior university

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<sup>4</sup> We do think they may have found one error in our essay. We do not have evidence that diversity statements are required in all UC, including all Berkeley, searches. It's possible that they have more up to date information than we do.

administrators at a place like Berkeley substituting baseless *ad hominem/ad feminam* attacks for careful and well-reasoned discourse.

### ***Uma Jayakumar***

I am grateful for the generally civil tone and substantive content of most of Professor Jayakumar's commentary. It is a response that draws on research literature and she makes some points with which I strongly agree. At the same time, her reading also errs in some of the same ways as Inkelas and Chemerinsky as well as in some novel ways. And she resorts on a few occasions to language that is as offensive and unjust as anything Inkelas and Chemerinsky write.

I want to begin with an appreciation for the research she has done on one set of the experimental searches we discuss in the essay. She looked into who was hired at Berkeley in the life science searches we discuss. It turns out that the hires were Asian and white and a mix of men and women. We did not think to dig into these data and I am glad that she did. Even so, it does not vitiate our main point: Winnowing applicant pools at first cut by rating their diversity statements skirts the fundamental rationale for academic freedom and tenure – that people are chosen on the basis of their expertise in research and teaching. Apparently, the UC Berkeley administration came to agree. A document from February 2020 issued by the then vice provost of the faculty at Berkeley stated that all searches in the future must include at the initial stage of evaluation evidence of the applicant's qualities as a researcher and teacher (Hermalin 2020).

We favor greater representation of under-represented faculty of color. However, we think that there are better and worse ways to achieve this outcome. We discuss what we consider to be the better ways on p. 15 where we write: "Universities should therefore maintain extensive efforts aimed at preparing, recruiting, and retaining talented students and faculty who are as representative as possible. Investments in effective K-12 programs, robust outreach programs, summer study opportunities, minority fellowships, and programs like the Texas Leadership Network designed to enhance the success of students from under-represented groups have proven to be valuable approaches." Putting a thumb on the scale through using diversity statements to winnow candidate pools, whether at the beginning of searches or in motivated readings later in the process, is not a way to achieve this end in a way that is beneficial to the University.

We want to examine closely one of the propositions Professor Jayakumar puts forward as established truth. She writes that we do not "debunk the considerable research that shows that diversity among faculty, and the ability to participate and facilitate conversations and collaborations in diverse groups are crucial to the intellectual endeavors of research, teaching, and learning." She also cites a body of research supporting this view. We see significant merit in what she writes and we indicate as much on p. 9 of our essay where we write that diversity and scholarly excellence "very often" go hand in hand. We go on to write: "The landmark U.S. Supreme Court case, *Grutter v. Bollinger* (2003), ruled that institutions of higher education have a compelling interest in achieving a diverse student body to enhance learning for all students. This decision was influenced by a compilation of research on the educational benefits of racial diversity" in the work by Patricia Gurin (1999).

Our views on this topic are based fundamentally on our conception of what fairness entails in a democratic society. Higher education should be in the reach of all and should encourage the achievement of people from all walks of life, with high levels of support for those who have faced significant disadvantages.

Racism and sexism (and classism) exist in American society and universities can do things to reduce their impact. I also agree that college graduates need to know how to work successfully in diverse groups.

However, the issue is not quite as simple as Professor Jayakumar presents it. There is now a long line of research to which we nod in endnote 7 indicating a difference in group performance between those organized around what researchers refer to as “surface diversity” based on immutable characteristics like race and gender as opposed to those organized around “deep diversity” based on functionally relevant sets of attitudes and experiences (Ruffner 2023). The results of studies of unusually creative groups in science and art come to similar conclusions. What counts, apart from penetrating insights, is not the mix of immutable characteristics among members of teams of collaborators but rather the distinct set of roles members of the group can play as intellectual leaders, community builders, technical experts, devil’s advocates, and bridges to the outside world (Parker & Corte 2017). In addition, quite a bit of research also challenges the idea that color-consciousness as opposed to color-blindness helps diverse groups work well together. A meta-analysis of 296 studies by Leslie et al. (2020) found that “color-blindness is negatively related to stereotyping” and “is also negatively related to prejudice.” Perhaps surprisingly, the authors also found that support for meritocracy is negatively related to discrimination.

Other aspects of Professor Jayakumar’s argument are characteristic of some of the orientations of academic progressives that worry us. She provides no appreciation of the accomplishments of UC faculty members in areas other than those related to race. One of the wonderful features of a university is that research is conducted on an extremely wide range of phenomena. These efforts have led to breakthroughs in such areas as gene editing, cancer treatment, and quantum computing to name just a few. As we indicate, some of the results of applying this culture have led also to a better understanding of injustices and inequalities related to race and gender and other marginalized identities. Following the normal canons of science and scholarship has yielded results. That’s why the culture of rationalism, as we call it, is so important.

Prof. Jayakumar’s contribution, in so far as it is representative, inadvertently undermines the argument of Inkelaas and Chemerinsky that diversity means many things in UC. Like many other social-justice oriented UC colleagues, Professor Jayakumar is centrally concerned about race. She mentions race, racial, or racist 37 times in her commentary; gender, sex, or sexist three times; and social class or classist not at all. Perhaps she is unusual in this regard. We don’t think so, but again the evidence would be important to know. Racial injustices have been a terrible stain in American history. Universities should have an obligation to do something to cleanse that stain, but the evidence is that other disadvantaged groups, including working class whites (and to some degree also working-class people of color), feel alienated from the university at least in part because they do not see themselves as fitting into its circle of concern. We think they should be part of its circle of concern.<sup>5</sup>

It is very problematic to assert, as Professor Jayakumar does, that universities, as opposed to professors, have academic freedom and can therefore choose whatever values they wish to put into place. The members of university boards and senior management are not researchers and teachers. If universities have academic freedom, they could, as so many university presidents did in the 19<sup>th</sup> and early 20<sup>th</sup> centuries, ban subjects they abhor such as Darwinism or the treatment of workers and immigrants by their employers (Metzger 1955). Or to put it in contemporary terms, they could ban the teaching of critical

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<sup>5</sup> The progressive journalist Paul Tough (among others) has argued that Americans are losing their faith in the value of college and that perceptions of bias are one of the reasons and help to explain why college enrollments have been declining (Tough 2023). We would argue with some of the conclusions Tough draws, but the issue of perceived bias comes up in public polls often enough for us to think it is worthy of more investigation.

race theory, which state authorities have now done in several states (PEN America 2023) and which I have publicly critiqued (Brint 2023). Indeed, I heard exactly this argument – that institutions have academic freedom - from a leading state official in Florida as justification for the restrictive actions of the state legislature and the governor.

In spite of what we write, Professor Jayakumar believes that our essay is aligned underneath it all with reactionary forces in American society. She writes, “The assumptions that undergird this argument...align with conservative attacks on the teaching of Critical Race Theory, the outlawing of DEI programming, and other politicized white backlash against efforts to make higher education less racist.” I interpret this statement as a way to marginalize what we say by associating us with political forces of which we are no part and which indeed I have analyzed critically in published work (Brint 2023).

We find this tactic all too common among progressive colleagues like Professor Jayakumar. If you can associate people like us with something like “politicized white backlash,” in the eyes of many, you don’t really need to do anything more than that to dismiss them or their arguments. She does more than this, and, as I say, I am grateful for that. But, as this passage indicates, she resorts at some points to offensive labeling and “guilt by association” arguments. Indeed, her allegations are occasionally as offensive as those of Inkelas and Chemerinsky. She accuses us, for example, of arguing for “BIPOC inferiority” and “white victimhood.” Anyone who reads our argument with any care at all should be able to see that it has nothing to do with these notions. The idea of “BIPOC inferiority” is repugnant to me. Some whites do feel victimized, of course, but if these people point to race as the cause they are pointing in the wrong direction. They should be looking at the policies the two parties and their corporate benefactors have and have not put into place. I was pleased to see that Professor Hollinger has a similar view. As he writes, “Universities are invited to pick up the social pieces left lying on California’s floor as a result of the historic and ongoing failure of other institutions.”

Alas, this style of name-calling is all too common. By engaging in it, Professor Jayakumar inadvertently helps us make our point about the labeling and ostracizing tendencies of the anti-racism and social-justice movements on campus. Indeed, the similarities in emotional tone and marginalizing rhetoric of Inkelas/Chemerinsky and Jayakumar will likely lead most open-minded readers to think that we are on the right track when we write about the consequences of the combined force of UC policy makers and social-justice scholar-activists on the climate for discourse in the University.

Although I am very critical of much of what they have written, I am nevertheless happy that Inkelas, Chemerinksy, and Jayakumar have been willing to take up our invitation to engage in debate about these important matters. Their willingness to engage is a step in the right direction.

#### ***David Hollinger and Georgia Warnke***

We are grateful that two distinguished colleagues, Professors Hollinger and Warnke, found much to like in the essay. They both add important observations that expand and deepen the analysis.

Professor Hollinger agrees that “the DEI regime,” as he calls it, has inserted extra-academic factors into university hiring and promotion. He goes beyond our position in arguing that these factors should be irrelevant in the selection process. He argues that the introduction of diversity statements and DEI supervision has been a mistake because it is a type of political test and because it has introduced “formidable temptations for evasion, self-deceit, and dissembling.” He agrees that color and culture do not coincide frequently enough to be used as a gauge for contributions to intellectual diversity. It is a reason why he writes that he preferred affirmative action to the “DEI regime,” a position with which, as noted, I agree. As we argue, the former did not include an implicit requirement for new diverse hires to

think alike. He agrees with us that social movements have often been responsible for important new scholarship about previously excluded populations and he cautions, as we do, that the topics introduced should be pursued along the lines charted by rationalism. As he writes, they should be “strong enough to meet the most empirically warranted of challenges.” He agrees that universities are being asked to shoulder the burden for the failures of other institutions. And he agrees that it is possible the DEI regime is “inflicting enduring damage” on the University, though he sensibly acknowledges that it is too early to tell whether or the extent to which this may be true.

Professor Hollinger argues that DEI statements are analogous to the loyalty oaths that were required for UC professors during the height of the Cold War. He includes fascinating historical material about the conflict that emerged over the Oath and makes the important point that many faculty groups accepted the Oath in the context of shared values, just as many UC professors today cite shared values as a rationale for accepting DEI statements. It is a matter of debate whether the analogy fits. Unlike the Cold War era loyalty oaths, DEI statements are not always required and at least in principle answers are not prescribed, as they were with the Oath. The empirical evidence is not yet in on the extent to which this formal safeguard holds in practice. We are skeptical that it holds, but we can’t rule out the possibility that a wide range of acceptable answers would be found on these statements if a researcher examined them in a systematic way.

Even so, Hollinger is right that the statements are in some as yet unknown proportion of cases tantamount to a “political test.” One outcome of the Loyalty Oath controversy was that political tests were banned at the University, as specified in Regents Bylaw 40.3 (UC Regents 2018). Hollinger argues that DEI statements should be banned under this bylaw. We do not take this position in the essay, because we do not as yet know in a systematic way how diversity statements are used in practice on UC campuses, including the extent to which these uses can be construed as political tests.

Our one significant area of disagreement with Professor Hollinger concerns the consequences of power-centered epistemologies on truth claims. He argues that it is possible to “find colleagues here and there who uncritically repeat this or that anti-Enlightenment slogan, but in my experience the overwhelming majority of humanists and social scientists have continued to agree that some truth claims are more warranted than others, and that deciding what counts...is not such a difficult thing when a specific case is at hand.” I hope that the Bernard Williams’s position, as cited by Professor Hollinger, is in fact the prevailing norm in the humanities and social sciences. Of course, this is an empirical question and it is certainly possible that we have over-generalized from comparatively rare cases that have registered vividly in our own minds. At the same time, I note that, unlike Professor Hollinger, several of the commentators expressed deep skepticism about rationalism. Depending on the lessons they draw from this skepticism, their positions may lend credence to our concerns that perceptions of power rather than the evidence adduced in support of arguments have become a competing, if often unspoken, basis for evaluating truth claims.

Professor Warnke recognized that our position is quite different from that of Jonathan Haidt (2016) who, unlike us, *does* conjure an epic struggle between the “university of truth” and the “university of social justice.” Our distance from Haidt’s position should be evident and I am grateful to Professor Warnke for spelling it out so clearly. I am also grateful that she finds our suggestions for a middle ground to be “excellent” and worth pursuing.

Professor Warnke emphasizes the significance of class inequalities and regrets their relative neglect by the campus Left. I am in agreement with her on this point. Principles of fairness should encourage universities to be as concerned with socio-economic status inequalities as they are concerned with race

and gender inequalities. Pell Grants and other forms of means-tested financial aid show that they are concerned with opportunities for lower-income students, but I believe it is likely that a good study would show that the University's messaging, diversity considerations, and curricular changes emphasize race, gender, and (to a lesser degree) sexual orientation and have little do with socio-economic status.

Issues of fairness are not the only reason to support a broadening of the University's civic mission to include a stronger focus on social class inequalities. As the University has become more associated with the progressive wing of the Democratic Party, lower-SES individuals, particularly Whites but also increasing proportions of non-Whites, have gravitated toward the Republican Party and expressed much lower levels of support for the value of higher education (Potts 2022). I do not think that universities are primarily responsible for these developments – the organizational networks of the Republican Party have played a decisive role - but the actions of universities have not tended to undermine the narratives that have predominated on the Right. Many colleagues understandably feel the incentive to close ranks at this time of great division in the United States, but these divisions may also represent an opportunity for universities to exercise political statesmanship consistent with their professed ideals. The University's role in promoting the common good is perhaps especially important in these polarized times, and that common good should include the welfare of all those who have been left behind by the transformations of American capitalism.

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