

The minutes of March 15, 1993 Senate Assembly meeting were approved on April 19, 1993.

## THE UNIVERSITY OF MICHIGAN

### SENATE ASSEMBLY

#### MINUTES OF MARCH 15, 1993

#### ATTENDANCE

Present: Aisen, Anderson, Beam, Birge, Blair, Blinder, Bord, Brewer, M. Brown, Brusati, Cameron, Chiego, Cowan, Coward, D'Alecy, DeCamp, Didier, Eklund, Ensminger, Fellin, Frey, Gazda, Gidley, Griffin, Gross, Gull, Hayashi, Irani, E. Jensen, Kaplan, Kelley, Koopmann, Kunkel, Larson, Lawson, Lynch-Sauer, Marcelo, Margolis, Montalvo, Mukasa, Olson, Penchansky, Saunders, Shirley, Silverstein, C. Smith, R. Smith, Stein, Thum, Tremper, Warner, Watkins, Whitehouse, W.J. Yang; Thorson, MacAdam, Stillman, Heskett.

Absent: Angus, Billi, Cole, Cox, Crandall, Danley, Douthit, Greene, A. Jensen, Kabamba, Katehi, Kaviany, Kramer, Lopez, Mosher, Razzoog, Scheppele, Schwank, Semetko, Stensones, Sutton, Tinkle, Voss, Wheeler, V. Yang.

#### MINUTES

The minutes of February 15 were approved as submitted.

#### ANNOUNCEMENTS

Jensen announced that on March 30 Edie Goldenberg, Dean of LSA, will deliver the next Presidential Lecture on Academic Values entitled "Undergraduate Education for Today and Tomorrow" at 4:00 p.m. in the Rackham Amphitheatre.

On March 22, SACUA will be making committee assignments. All Senate Assembly members are encouraged to forward nominations to the SACUA Office before then.

On March 6 SACUA and SACUA nominees met with Provost Whitaker and Robert Holbrook (Associate Vice President for Academic Affairs) for a budget briefing accompanied by a wide-ranging discussion on a variety of issues.

SACUA met for a luncheon with Regent Rebecca McGowan on March 6 and will meet with Regent Laurence Deitch on March 22.

Jack Weidenbach (Director of Athletics), Percy Bates (Faculty Big Ten Representative), and Peggy Bradley-Doppes (Associate Athletic Director) will meet for a general discussion with Senate Assembly at the April 19 meeting. Assembly members are invited to submit related questions on issues prior to that discussion to the SACUA Office.

#### AGENDA ADDITION

Senate Assembly approved the appointment of John Hagen (Psychology) to complete Alan Billings' term on the Student Relations Advisory Committee.

#### SACUA ELECTION

Jensen outlined the election process and noted that the withdrawal from candidacy of Ronald Inglehart was due to his heavy travel schedule. Ballots were distributed and collected, and the Assembly passed a motion to close the balloting.

#### FACULTY ANTI-HARASSMENT POLICY DRAFTING COMMITTEE

Elizabeth Anderson outlined the charge to the drafting committee and the purpose of the anti-harassment policy, noting that it was not intended to serve as a set of comprehensive guidelines for faculty behavior outside University-related activities. Anderson emphasized the educational aspect of the policy, the importance of protecting free and open discourse, and the need to focus on the role of the faculty as employees in University sponsored activities.

What kind of speech/conduct is not protected speech: 1) threats of violence, 2) speech which makes use of inherently fighting words, racial epithets etc. directed toward an individual, 3) speech that singles out an individual for humiliating attention in a way that could be reasonably inferred to interfere with the individual's future participation in the educational process.

Some questions for Assembly are: 1) do remarks have to be addressed to one specific individual? The drafting committee is inclined to say yes; 2) should individuals other than the individual singled out be allowed to have standing under the policy?; 3) from whose perspective should judgements be made? The committee is inclined to accept a "community standards" criterion; and 4) where to draw the line between faculty actions calling for remedial action or education, and actions calling for punishment. Some factors determining appropriate responses might be intent, pattern, and seriousness of violation. She asked for Assembly discussion.

Larson asked that members of the drafting committee be identified. Anderson responded that the committee members were George Cameron (Business), Juan Cole (LSA), Elizabeth Anderson (LSA), and Phil Margolis (Medicine).

R. Smith questioned the distinction between defamation of individuals as opposed to remarks offensive to a group, suggesting that even generic remarks could be inferred to reflect on a particular individual and be actionable under that inference.

Aisen noted that the policy focus on speech directed against an individual was important in deciding who has standing to complain. Aisen thought that it should be the offended party who brought the complaint, though the process should protect the privacy and dignity of the individual. He also affirmed the concept of community standard, and the importance of education as a response.

Silverstein argued that remarks overheard by third parties should not be actionable, as private conversations should be protected. Anderson agreed that merely overheard remarks were not actionable; the complaining party would have to be a party to the conversation.

Stein identified policy language she found bothersome, specifically the use of the word "insulting" as too loose. Anderson noted that insult would have to be directed at membership in a particular group--gender, sexual orientation, race, for example.

Koopmann agreed with the generality of language noting that there are great differences in perception of affront.

Coward asked if the Civil Liberties Board had been consulted or if the drafting committee had been in touch with other members of the legal community.

Cowan urged the group to consider the issue of faculty as recipients of harassing speech or conduct. Anderson replied that faculty would have standing to bring complaints under the policy.

Shirley presented an additional concern that individuals might feel vulnerable and unwilling to bring a complaint.

M. Brown suggested that the focus of sanction could be determined in part by patterns of behavior.

Penchansky argued against including impact of speech/conduct, taking specific objection to the word "chilling." Anderson responded that even though an insult might be unintentional, if the action were grievously insulting, impact would have to be taken into account.

C. Smith posed a specific example, calling someone a thief. Anderson replied that this was not actionable under the policy, which was designed to address discriminatory harassment.

Gross suggested that the term discriminatory harassment implied intentional conduct. He emphasized the difficulty of defining unintentional conduct, suggesting two grades of offense, intentional and unintentional. Gross asked whether the term harassment had to be in the title. Anderson noted the importance of the policy from a legal aspect, not just a moral one.

Stein argued that this was a false distinction between intentional and unintentional.

Kelley noted a parallel in the courts and in the labor market that intention was not relevant, rather that de facto impact prevailed in terms of determining discrimination. He also spoke in favor of allowing complaints by other than the individual against whom specific allegations were addressed, and described the ways community standards shifted.

Kunkel suggested that threats of violence were not covered under the criminal code.

D'Alecy wondered about the selection of respondents during the preceding discussion and Anderson responded that she had tried to recognize all who wished to speak. If there were further comments the drafting committee would be pleased to receive them on e-mail.

Jensen thanked Anderson for her review.

#### RECORD FACULTY PERSPECTIVES PAGE: EDITORIAL ADVISORY BOARD

Jensen announced the appointment of the Faculty Perspectives Editorial Advisory Board: Richard Bailey (English); John Birge, SACUA Liaison (Engineering), George Brewer, Chair (Medicine), Bruce Oakley (Biology), Leslie Tentler (UM-Dearborn), and William Weissert (Public Health).

#### EVALUATION OF ADMINISTRATIVE OFFICES

Jensen informed Senate Assembly that the first office evaluated under the Evaluation of Administrators process will be the Office of the Vice Provost for Academic Affairs, occupied by John D'Arms. The Academic Affairs Committee is working on a set of guidelines for an evaluation instrument that could be used in a second type of administrative evaluation.

#### ACADEMIC CALENDAR

Jensen noted the appointment of a task force to examine the Academic Calendar and the impact that scheduling has on the academic community. He asked Senate Assembly if there were issues they would like to raise.

Coward asked why there was perception of the shortness of the evaluative period in the Fall term.

Penchansky suggested that a major problem was the shift of exams into the final class period.

Kaplan asked whether the trimester was sacrosanct.

Didier suggested that, like the Law School, other schools and colleges might explore extending final grading into the next semester. Gross described the Law School process.

Olson outlined several models in scheduling exams and argued against carte blanche uniformity.

#### OLD BUSINESS

Jensen announced the results of the SACUA election. George Brewer (Medicine), Thomas Moore (LSA), and Louise Stein (Music) will serve three-year terms and Ronald Lomax (Engineering) will serve a one-year term.

#### NEW BUSINESS

There was no new business.

#### ADJOURNMENT

The meeting was adjourned at 5:00 p.m.

Respectfully submitted,

Barbara MacAdam  
Senate Secretary

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