

Minutes of 5 February 2007
Circulated 7 February 2007
Re-circulated 12 February 2007
Re-circulated 5 April 2007
Approved 5 April 2007

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MINUTES OF THE SACUA MEETING OF 5 FEBRUARY 2007

Present: Combi, Frier, Giordani, MacAdam, Meerkov, Potter, Riles, Seabury, Smith (chair);
Lehman; Carr, Schneider

Absent: none

Guests: M. Krislov, G. Hage, M. Kobersi, T. Sullivan, D. Gershman, K. Brown, L. Thomas, J. Lee, S. Ahbel-Rappe, P. Sparling, others in gallery

MATERIALS DISTRIBUTED:

1. Draft SACUA Agenda
2. Draft minutes of 29 January 2007 SACUA meeting
3. The opinion of the State of Michigan Court of Appeals in the Ingham Circuit Court Case #265870 regarding same sex domestic partner benefits
4. Electronic mail message from Laurita Thomas to UM Faculty and Staff dated 2 February 2007 regarding the Court Ruling on Employee Benefits
5. Draft of Senate Assembly Resolution regarding the University of Michigan Senate Assembly Undergraduate Fellowships
6. [The President's Donor Challenge](#)
7. Memorandum dated 25 January 2007 from T. Sullivan to the Academic Program Group regarding Faculty Governance Resolution
8. LSA Faculty Resolution – offered 4 December 2006 (amended for the 5 February 2007 LSA Faculty meeting – regarding the "Rule of Two"
9. Draft of "Principles of Faculty Involvement in Institutional and Academic Unit Governance at the University of Michigan," 2nd edition
10. Memorandum dated 31 January 2007 from G. Krenz to C.B. Smith regarding the Vice President for Communications Search Advisory Committee
11. Flier regarding the [Harold R. Johnson Diversity Service Award](#) nominations deadline
12. SACUA/Senate Assembly Planning Schedule dated 29 January 2007
13. Summary of *National Pride at Work et al v. Granholm et al*, Court of Appeals No.

265870 presented by Guest – M. Krislov.

14. Outline of 2006 SSDP Statistics for UM

Chair Smith convened the meeting at 2:30 P.M. The proposed agenda was approved.

CONSIDERATION OF MINUTES

Consideration of the minutes was postponed.

ANNOUNCEMENTS/UPDATES

1. The chair met with the provost on Friday, 2 February. Discussion topics included the agenda items slated for her meeting with SACUA today.
2. L. Pierce will visit with SACUA next week to discuss SACUA participation in a gender salary equity study.
3. Professor D'Alecy reported a productive meeting with the provost Friday, 2 February regarding shared governance. He said that the provost expressed willingness to revise the "blue book" describing principles of university and unit governance with a new section on shared governance.

VISIT OF VICE PRESIDENT AND GENERAL COUNSEL MARVIN KRISLOV

The vice president arrived at 2:35 P.M. The General Counsel provided reports about two topics of recent litigation.

Proposition 2-

Three lawsuits remain active: one initiated by BAMN (By Any Means Necessary), one led by the ACLU and allied interests, and one by a private citizen named Russell. A motion for a temporary stay of the court ruling regarding university admissions is still being heard in the 6th Circuit Court. In the mean time, President Coleman has directed that admissions be conducted without taking race into account. Modified policies for admissions have been posted on university websites. Professor Potter questioned whether the university's motion becomes moot at some point. General counsel Krislov acknowledged that the deadline for undergraduate admissions was 1 February, but that graduate and professional schools admissions remain active. He noted that a report from the Michigan Civil Rights Commission is due soon, and may shed light on how state law should be interpreted.

Professor Frier remarked that rules for Rackham merit fellowships are difficult to apply. The general counsel suggested that perceived ambiguities may warrant discussion with the dean of the Graduate School.

Domestic Partner Benefits-

Deputy General Counsel Hage provided two distributed items (13 and 14), one of which contained text from a recent State Appeals Court ruling that disallows domestic partner benefits outside of marriage on the basis that such benefits are based on a relationship other than marriage. The ACLU is appealing the decision to the Michigan Supreme Court and is petitioning for a stay. The Appeals Court ruling took effect immediately, but State law allows institutions to fulfill their contractual agreements. This means that existing benefits arrangement will continue to the end of the year for non-bargained-for employees, and to the end of each

contract for bargained-for employees.

Professor Frier remarked that the Court of Appeals ruling suggests an atmosphere that is troubling at the symbolic level, quite apart from its substantive effects. GC Hage expressed agreement, and noted that the Michigan court is the first in the country to extend the Marriage Amendment to same sex domestic partners. Professor Ahbel-Rappe from the gallery stated that the ruling will have an adverse effect on her family's well-being owing to the fact that her partner would no longer be able to stay home with their daughter. Professor Acosta-Hughes also from the gallery added that the ruling is an attack that will force his partner and him to leave the state. General Counsel Krislov said that university administration is frustrated about the situation, but has to work constructively.

Professor Seabury noted that the present crisis seemed to be triggered by the fact that the ACLU had sought a declaratory judgment from the Appeals Court regarding an expansion of a local finding in Ingham County. He asked if the situation today would have arisen if the ACLU had not taken that action. The deputy general counsel acknowledged that the procedural path did indeed trigger the action, but, she added, there was reason to believe the issue would have worked its way up through other channels.

Another member of the gallery commented that he was happy to hear that U-M administration is looking at the matter, but that the community needs to hear a response as soon as possible. Professor Giordani asked how other states have resolved the issue. GC Hage replied that other courts have been less harsh. Professor Sparling stated that many people are deeply affected by the court ruling. He said that those affected need to know if they can fight for their benefits, or if they have no option but to leave.

Rule of Two-

Professor Riles pointed out that SACUA has received a letter from the provost objecting to language in resolutions proposed to LSA and the College of Engineering regarding the so-called "Rule of Two" in unit executive committee elections. He asked if the general counsel could offer any suggestions of how to improve the language. GC Krislov replied that it was appropriate for the provost to express her concerns to SACUA directly, but that he would subsequently help both SACUA and the provost develop appropriate language.

LIAISON REPORTS

Student Relations-

Professor Potter reported that the process of amending the Student Code has reached its conclusion. He said there is a parallel in the recommendations to the way that grievance review boards are set up.

Multicultural-

Professor Seabury reported that the committee met on Friday, but that attendance remains low. He said there was concern expressed about the effectiveness of the committee. Members of SACUA questioned the status of a report that the committee was supposed to be developing; Professor Seabury replied that he would make inquiries.

Research Policies- Professor Combi reported that at the 12 January Research Policies Committee meeting the main topic was data archiving and data sharing. The outside guest was Myron Gutmann, Director of the Inter-University Consortium for Political and Social Research. It is part of the Institute for Social Research. Although the federal funding agencies, namely NIH, have begun requiring archiving of data for public use, there are a number of problems. There is nothing in place to force investigators to archive their data. There is no help from the university for archiving. There are complicating issues with human subject research data. It seems to be a work in progress.

Development-

Professor Meerkov reported that the committee is working on undergraduate fellowships. Further, the University of Michigan Pre-College Academy working group has an appointment to meet with principals of all Ann Arbor middle schools Tuesday, 6 February. He said they hope to make similar contacts with Willow Run and Ypsilanti. He said that as recompense for participation by U-M faculty, he hopes that the administration will agree to pay 5% of faculty salaries to their research incentive accounts. Chair Smith remarked that new initiatives that likely will be proposed by the Diversity Blueprints task force could prove to be a source of funding for the project.

Chair Smith reported that the 19 February Senate Assembly meeting will feature a discussion of the U-M Faculty Undergraduate Fellowships. He noted that it is legal for faculty governance to manage its own fund. The project needs an initial infusion of \$25K (with \$25K match from the president), but that the long term goal is \$250K. Selection of fellowship recipients will be in the hands of a faculty selection committee; said committee would both select candidates for fellowships and oversee solicitation of funds.

ACTION OF SACUA 020507-1

Professor Meerkov moved that SACUA endorse the establishment of an undergraduate fellowship committee of five members, and asks for approval from the Senate Assembly. This committee shall become a regular standing committee of the Senate Assembly and its members shall both select fellowship recipients and oversee solicitation of funds (Riles seconded).

The Action was approved by unanimous vote.

PREPARATION FOR GUEST

At 3:55 P.M. SACUA members reviewed agenda items for the visit of the provost.

VISIT OF PROVOST

The guest arrived at 4 P.M.

Rule of Two –

The Provost was asked about the Rule of Two resolution by the Senate Assembly. She replied

that there are multiple resolutions and that she first became aware of them when they were brought to her attention by the Deans of LSA and Engineering. She stated that the Rule of Two traces its origin to the 1960s. She said that the provost seeks nominations of two candidates for each seat on unit executive committees every year. She said that removing the Rule of Two would remove her discretion and take away shared governance. She said that submission of only one name would mean that the President and Provost would be expected to "rubber stamp" the faculty's decision, which is not shared governance. Professor Meerkov remarked that the president or provost can request another candidate if the highest vote-getter is not acceptable.

Professor Meerkov replied that although the provost seems to have only recently become aware of the issue, it had been discussed in public meetings for the past two years, and had been endorsed by vote of the Senate Assembly. He explained that resolutions offered within LSA and Engineering are pursuant to the Assembly resolution. Professor Frier added that because the number of votes cast for each candidate is no longer made public, the process in LSA is "mysterious". Members noted that in the Business School, the dean must disclose the top candidates, but the number of votes cast for each is not disclosed. They explained further an egregious case from the College of Engineering in which a candidate with overwhelming majority was passed over for a candidate favored by the dean. Chair Smith suggested that the name of the top candidate from an election be sent forward, and that if the President and Provost don't like the name, another election is held. Professor Potter expressed the opinion that the criteria used for choosing between candidates should be spelled out. Professor Seabury stated that the current policy lacks transparency.

Provost Sullivan said that she believes her preference for a choice between two candidates is implied in the Regent's Bylaws. She said that her policy has been to receive two candidates, but never yet has had the occasion to choose the second candidate. She stated "Any good policy can produce a bad decision". She recommended that faculty should work toward changing the bylaws, and she noted that any changes in bylaws need to be approved by the Board of Regents. She said that executive committees in different schools do different things, and that changing the bylaws might resolve the problem.

Professor Meerkov asked the provost what the Faculty Senate should do next about the Rule of Two. Provost Sullivan stated that she is not bound by the Senate Assembly Resolution. Professor MacAdam asked whether there are any units that have existing rules that offer the degree of transparency that is desired by the Senate Assembly. The provost replied that the rules of the Ford School require release of the vote tallies from elections, and that she has distributed those rules to all of the deans at a recent meeting of the Academic Programs Group (APG) to consider as a possible model. Other members suggested that similar transparency about elections exist in at least one or two additional units.

Principles of Shared Governance—

The provost confirmed that she had met recently with Professors D'Alecy and Berent regarding principles of shared governance at the institutional level. She said there was agreement on 85% of the proposed content of a new "blue book" report. The new edition would have two parts: 1) General Principles of Faculty Governance and 2) General Principles of Unit Governance. There would be an additional chapter on Central Governance.

5.09 Proceeding–

The Engineering Executive Committee reached a decision and the decision was transmitted to Dean Munson. Professor Frier asked whether the Tenure Committee should prepare for any further role under the prescribed Bylaw. The provost said that procedures are not clear as to what and who does what next. She suggested that in the long-run, Bylaw 5.09 should be redrafted. Professor Frier pointed out that the Bylaw was originally drafted to be used in almost criminal misconduct. The provost said that it doesn't accommodate other types of misconduct, such as scientific misconduct.

Court decision regarding same sex domestic partner benefits-

Professor Frier called for the U-M to make a symbolic gesture regarding the court decision, such as convening a Blue Ribbon Committee.

University of Michigan PreCollege Academy-

Professor Meerkov asked whether the U-M administration would support the Pre-College Academy endorsed by SACUA. The provost stated that the Diversity Blueprints task force is working on several programs that are similar and the Academy might be duplicative.

The guest left the meeting at 5:10 P.M.

OLD/NEW BUSINESS

There was no other business.

The meeting adjourned at 5:10 P.M.

Respectfully submitted,

John Lehman
Senate Secretary

University of Michigan Bylaws of the Board of Regents, Sec. 5.02:

Governing Bodies in Schools and Colleges

In each school, college, or degree granting division of the University, including those at the University of Michigan-Dearborn and at the University of Michigan-Flint, the governing faculty shall be in charge of the affairs of the school, college, or division, except as delegated to the executive committee, if any, and except that in the School of Graduate Studies the governing board shall be the executive board, and in the Medical School shall be the executive faculty.