

Minutes 27 November 2017  
Circulated 4 December 2017  
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THE UNIVERSITY OF MICHIGAN  
Senate Advisory Committee on University Affairs (SACUA)  
Monday, November 27, 2017 3:15 pm  
Fleming Building, Regents' Room

Present: Atzmon, Beatty, Ortega (chair), Malek, Marsh, Schultz, Szymanski, Wright, Potter, Schneider, Snyder

Absent: Carlos

Guests: Professor Kentaro Toyama; members of the press

3:18 Call to Order, Approval of Agenda, Announcements

The agenda was approved

President Schlissel will meet with Senate Assembly at Palmer Commons on December 11, Chair Ortega will seek feedback from Senate Assembly about the format of the November meeting.

3:20: Dearborn Meeting Prep

SACUA will meet on December 4<sup>th</sup> in Dearborn with the Senate Council at 4:00. travel to Dearborn should take 40-45 minutes. There will be a van to drive SACUA to Dearborn, and SACUA members should meet outside the Fleming building at 2:25.

Chair Ortega asked that SACUA members send discussion questions for the meeting by Thursday, November 30.

Professor Szymanski asked that SACUA discuss the Richard Spencer situation (<https://president.umich.edu/news-communications/letters-to-the-community/request-by-richard-spencer-to-speak-on-the-u-m-campus/>). Chair Ortega said there had been a deadline of Friday, November 24 to provide dates for his visit to campus, the deadline was extended to the second week in December. Professor Szymanski recommended that SACUA should participate in a protest.

3:30 Guest: Professor Kentaro Toyama

Professor Toyama is on the advisory committee for Vice Provost for Equity and Inclusion & Chief Diversity Officer Robert Sellers. In the wake of numerous bias incidents on campus in the fall of 2016, last fall students felt that figures of authority were not responding effectively. In particular, Students see professors as authority figures which made the absence of a faculty statement especially problematic. As a result, the committee decided to write a statement about freedom of speech that faculty could sign on to (see appendix). It took a year to draft the statement because of the complexity of the issues involved. The emphasis of the statement is that faculty believe in free speech as defined in US law and condemn hate speech even where US law

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allows it. The drafting group feels that faculty should tell students that the faculty support their activism for social justice.

Chair Ortega asked for clarification for the statement “We urge all members of the university to make active use of available resources to report instances of bias, hate speech, racism, bigotry, discrimination, and prejudice.” Professor Toyama pointed out that Vice Provost Sellers’ office maintains a bias hotline (<https://hr.umich.edu/working-u-m/workplace-improvement/campus-commitment/hate-crimes-bias-related-incidents>).

Chair Ortega asked if the reporting mechanism was relevant of the perpetrators of these actions were not members of the University community.

Professor Toyama replied that there are lots of things the University cannot prevent, that there will be bad actors who will step on to an open campus and do things that will offend the community. There is an inherent difficulty in finding space between constantly telling students that there are things the University cannot prevent and the creation of a surveillance state (which has its own problems).

Professor Schultz asked about the input Professor Toyama would like from SACUA, noting that the draft document’s protection of political beliefs appeared to contradict the Provost’s goal of a campus that is safe for people, but dangerous for ideas.

Professor Toyama would like the statement to be passed as a resolution by the Senate Assembly or Faculty Senate.

Professor Szymanski agreed that the ambiguity inherent to saying the University should be an inclusive place and this means horrible things should be permitted.

Professor Toyama offered the example of parents, most of whom feel it is a terrible thing for a parent to put child in front of a television for 12 hours a day, but would agree that the passage of a specific law against such behavior would go too far, that people should be allowed to decide how they raise their children. Similarly, if the University presses for a declaration that hate speech should be against the law, it could be asking for something that is both against the law and potentially counterproductive as there is a tendency for such policies to be twisted away from their original purpose.

Professor Atzmon pointed out that the heading is misleading, as the document does not address Academic Freedom.

Professor Toyama said some members of the group had proposed to base the document on Academic Freedom, but agreed, after reflection, that this was not viable.

Professor Wright observed that Academic Freedom should not be included as not all members of the community have the same rights of Academic Freedom. Professor Toyama agreed.

In response to a question from Professor Schultz about Vice Provost Sellers’ role, Professor Toyama said it would be better if the document is not seen as a Diversity, Equity and Inclusion (DEI) initiative, a position shared by Vice Provost Sellers.

Professor Schultz suggested including more faculty governance members in the drafting group, and suggested that the drafting group meet with the committee on an Inclusive University (CIU) before bringing the final proposal to SACUA, which would then propose that the statement be passed by the Senate Assembly.

Professor Toyama said that his group will meet with CIU.

Professor Marsh asked if Professor Toyama intend to keep the footnotes that are in the draft? Professor Toyama replied that he thought that the document’s propositions needed support

Professor Marsh asked about how the list “Hate speech includes, but is not limited to, the denigration of a person or group based on their race, color, ethnicity, physical appearance, disability, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, religion, political beliefs, height, weight, or veteran’s status” was developed.

Professor Potter observed that it was from University SPGs. Professor Marsh noted that academic language tends not to translate well into common discourse and that the document might be simplified.

Professor Potter wondered if the document could be distilled into a short version supported by the long version, Professor Wright expressed a preference for text like the version that has been presented.

Professor Malek why it had taken a year to develop the document.

Professor Toyama said that the university had an anti-hate speech policy that was struck down by the court, and noted that policies constraining speech tended to silence the voices of the marginalized, that the committee had noted that allowing a body to determine what is permitted speech counterproductive, that people in power misuse the power to control language, and noted the confusion surrounding the Geert Wilders trial for hate speech in the Netherlands (<https://www.theguardian.com/world/2016/dec/09/geert-wilders-found-guilty-in-hate-speech-trial-but-no-sentence-imposed>). He observed that many University of Michigan students do not have the same intuition for preserving free speech because they hear free speech as being coded as allowing hate speech.

Professor Szymanski suggested being clear that the University is working within constraints imposed by the Supreme Court understanding of the First Amendment.

Professor Atzmon suggested that the document open with a condemnation of hate speech, then spell out the law.

Professor Marsh suggested that a journalist, or other person skilled in communication, review the document to make it as effective as possible.

Chair Ortega raised questions about the meaning of “We therefore urge members of the university community to respond to such acts with activism and civic engagement. We pledge to foster openness and inquisitiveness among our students along with the strength and confidence to thrive within and beyond the university. We encourage students to view their university education as a form of empowerment that contributes to their capacity for activism and civic engagement.” He noted that there is an ongoing discussion about alternatives to protest.

Professor Schultz asked if the committee had discussed the possible arrival of Richard Spencer on campus. Professor Toyama had not yet done so, he suspects that there will be a range of opinion. He will welcome comments on the draft.

4:05 Executive Session

[Sexual Misconduct]

[SRAC]

[Ombuds]

[Tri-Campus issues]

4:59 Adjourn

Respectfully submitted,

David S. Potter  
Senate Secretary

Appendix

**Proposed Faculty Statement on Safety, Speech, and Academic Freedom**

Draft: October 9, 2017

Concerned Faculty at the University of Michigan

As an institution of learning and academic inquiry, the University of Michigan seeks to foster an environment where people of diverse viewpoints engage productively in the pursuit of knowledge and wisdom. This ideal of academic freedom, however, requires both the representation of multiple perspectives *and* the safety of all members of the community. While the United States Constitution offers strong protections for free speech and expression at public universities, the same protections allow for harmful speech that can undermine safety, particularly for members of groups that are historically marginalized -- at the university, in positions of power, and in society at large. With full recognition that these are complex issues with few easy solutions, we, a concerned group of faculty at the University of Michigan,<sup>1</sup> affirm the following:

- We affirm that everyone has a right to be safe and secure. Violence, harassment, or the threat of violence must not be tolerated.<sup>2</sup>
- We affirm that everyone has a right to free speech and personal expression, especially when the intent is to open dialogue, encourage learning, or explore ideas, and even where such speech may be uncomfortable for some members of our community.<sup>3</sup>
- We affirm that everyone has a right to peaceful protest and other forms of peaceful assembly, which are themselves forms of free speech and expression.<sup>4</sup>
- We condemn all forms of hate speech, which we define as speech and other forms of expression whose sole or primary intention is to hurt, insult, discriminate against, or intimidate others. Hate speech includes, but is not limited to, the denigration of a person or group based on their race, color, ethnicity, physical appearance, disability, national origin, age, marital status, sex, sexual orientation, gender identity, gender expression, religion, political beliefs, height, weight, or veteran's status.<sup>5</sup>

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<sup>1</sup> As we gain agreement on this statement, this phrase will be replaced accordingly. Our hope is for it to eventually read, "the faculty of the University of Michigan."

<sup>2</sup> Violence, crime, threats, and harassment should be reported to U-M's Division of Public Safety and Security ([dpss-safety-security@umich.edu](mailto:dpss-safety-security@umich.edu) or (734) 763-1131). The University of Michigan's Standard Practice Guidelines (SPG) contains explicit policies about violence, including avenues for seeking assistance: <http://spg.umich.edu/policy/601.18>. Another SPG addresses discrimination and harassment: <http://spg.umich.edu/policy/201.89-1>.

<sup>3</sup> SPG on freedom of speech: <http://spg.umich.edu/policy/601.01>.

<sup>4</sup> The SPG on freedom of speech also discusses policies on peaceful protest: <http://spg.umich.edu/policy/601.01>.

<sup>5</sup> The United States Constitution contains strong protections for free speech, which make it difficult to proscribe many kinds of offensive speech, and there is disagreement even among reasonable people as to how far free speech should be protected. As a result, the University of Michigan cannot forbid, censor, or  
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- We urge all members of the university to make active use of available resources to report instances of bias, hate speech, racism, bigotry, discrimination, and prejudice.<sup>6</sup> We urge the university to ensure appropriate mechanisms for grievances, investigation, mediation, and redress in response to violations of these principles.<sup>7</sup>
- Acts of hate speech, racism, bigotry, discrimination, and prejudice are reprehensible. Yet, formal sanctions against them, even where consistent with or permitted by law, cannot eliminate every instance. We therefore urge members of the university community to respond to such acts with activism and civic engagement. We pledge to foster openness and inquisitiveness among our students along with the strength and confidence to thrive within and beyond the university. We encourage students to view their university education as a form of empowerment that contributes to their capacity for activism and civic engagement.
- We urge members of the university community, where their speech may cause others discomfort, to ensure that their intentions are aligned with the goals of dialogue, learning, and exploration, and when possible to frame their speech so as to make these positive goals clear. Where speech is aggressive or personally directed, positive outcomes are unlikely.
- We urge members of the university community to make a reasonable attempt at understanding others' perspectives and experiences, and specifically how others may perceive what we express.
- Harmful speech can happen unintentionally. When there is unintentional harm, we encourage those harmed to voice their concerns, and those who have caused harm to acknowledge it and to seek to minimize harm in the future.<sup>8</sup>

There will be unavoidable disagreements between what some consider free speech and what others feel as incursions on their safety. These disagreements can cause pain and discomfort, but they are also an inevitable consequence of protecting important academic and democratic values. Meanwhile, disagreement is most productive when it is also dialogue, dialogue based on the conviction that all members of our community have a legitimate claim to personhood and dignity. Honest inquiry requires that *all* voices -- particularly the voices of groups whose speech has been historically underrepresented -- are included and heard. As faculty at the University of Michigan, we earnestly hope for, and will work toward, a campus and a society that shares these principles.

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penalize hate speech where it is protected by U.S. law. Nevertheless, we -- the authors of this statement -- condemn hate speech as inimical to the values of the university community.

<sup>6</sup> Report bias incidents at <https://expectrespect.umich.edu/topic/report-incident> or (734) 615-BIAS (2427). Report violence or crime to U-M's Division of Public Safety and Security ([dpss-safety-security@umich.edu](mailto:dpss-safety-security@umich.edu) or (734) 763-1131).

<sup>7</sup> See the following SPG sites for further information on what to do in case of problems: For violence, <http://spg.umich.edu/policy/601.18>; for discrimination and harassment, <http://spg.umich.edu/policy/201.89-1>; for faculty and staff grievances, <http://spg.umich.edu/policy/201.08>. Additional links for confidential counseling: <http://spg.umich.edu/policy/201.89-1>. For issues not covered in the webpages above, search at the University of Michigan Standard Practice Guide: <http://www.spg.umich.edu/>.

<sup>8</sup> These values are drawn from the concept of a *brave space*, about which more is available here: <https://ssw.umich.edu/sites/default/files/documents/events/colc/from-safe-spaces-to-brave-spaces.pdf>

**Members of the faculty who drafted this statement:**

Al Young ([ayoun@umich.edu](mailto:ayoun@umich.edu))  
Ann Lin ([annlin@umich.edu](mailto:annlin@umich.edu))  
Ashley Lucas ([lucasash@umich.edu](mailto:lucasash@umich.edu))  
Avery Demond ([averyd@umich.edu](mailto:averyd@umich.edu))  
Bethany Moore ([bmoore@umich.edu](mailto:bmoore@umich.edu))  
Cleopatra Caldwell ([cleoc@umich.edu](mailto:cleoc@umich.edu))  
Deborah Rivas-Drake ([drivas@umich.edu](mailto:drivas@umich.edu))  
Evelyn Alsultany ([alsultan@umich.edu](mailto:alsultan@umich.edu))  
Jorge Delva ([jdelva@umich.edu](mailto:jdelva@umich.edu))  
Kentaro Toyama ([toyama@umich.edu](mailto:toyama@umich.edu))  
Sally Oey ([msoey@umich.edu](mailto:msoey@umich.edu))  
Scott Page ([spage@umich.edu](mailto:spage@umich.edu))

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

Governing Bodies in Schools and Colleges

Sec. 4.01 The University Senate

"...[t]he Senate is authorized to consider any subject pertaining to the interests of the university, and to make recommendations to the Board of Regents in regard thereto. Decisions of the University Senate with respect to matters within its jurisdiction shall constitute the binding action of the university faculties. Jurisdiction over academic policies shall reside in the faculties of the various schools and colleges, but insofar as actions by the several faculties affect university policy as a whole, or schools and colleges other than the one in which they originate, they shall be brought before the University Senate."

Rules of the University Senate, the Senate Assembly and the Senate Advisory Committee on University Affairs:

Senate: "In all cases not covered by rules adopted by the Senate, the procedure in Robert's Rules of Order shall be followed."

Assembly: "The Assembly may adopt rules for the transaction of its business. In appropriate cases not covered by rules of the Assembly, the rules of the University Senate shall apply."

SACUA: "The committee may adopt rules for the transaction of its business."