

Minutes 7 May 2018
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THE UNIVERSITY OF MICHIGAN
Senate Advisory Committee on University Affairs (SACUA)
Monday, May 7, 2018 3:15 pm
Fleming Administration Bldg, Regents' Room

Present: Beatty (chair), Atzmon, Conway, Lippert, Schultz (via BlueJeans), Spencer, Potter (via BlueJeans), Snyder

Absent: Carlos; Malek; Marsh, Ortega

Guests: Professor Richard Friedman; Professor Howard Bromberg; Professor Gabriel Mendlow; members of the press

3:15: Call to Order/Approval of Agenda
Announcements

Chair Beatty said that Provost Philbert and Vice President Harper had sent an email requesting a SACUA volunteer to serve on the Alcohol and Other Drugs Committee chaired by Mary Jo Desprez. The University is going through the federally mandated biennial review process (<https://uhs.umich.edu/lawsandpolicies>) so the committee will meet three times this summer in conjunction with that process (meetings in May, June and August).

Professor Schultz, who has served on that committee in the past stressed the importance of faculty involvement

Deirdre Spencer will serve on the committee

3:25: Executive Session

4:00: Professor Friedman (formerly a member of the committee) opened a discussion of the Police Department Oversight Committee (<https://hr.umich.edu/working-u-m/workplace-improvement/police-department-oversight-committee>) (PDOC). He said there was no armed, deputized, campus police force with power to detain and prosecute offenders before 1990. With the creation of the campus police force the University was required to create an oversight committee in accordance with regulations established by the state legislature ([http://www.legislature.mi.gov/\(S\(4y4exbfp4isuu22zwalndm34\)\)/mileg.aspx?page=GetObject&objectname=mcl-390-1511](http://www.legislature.mi.gov/(S(4y4exbfp4isuu22zwalndm34))/mileg.aspx?page=GetObject&objectname=mcl-390-1511)). In order to comply with the act, oversight must be provided by an elective committee rather than by the administration; that committee will consist of two faculty members, two staff members and two students (“[t]he committee shall be comprised of individuals nominated and elected by the faculty, students, and staff of the institution. The committee shall include 2 students, 2 members of the faculty, and 2 members of the staff”). The committee receives complaints and has advisory power. Professor Friedman offered the case of an individual who had been cuffed and detained in a holding cell for marijuana use as an example of the sort of action that could lead to a complaint on the grounds of excessive force.

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Professor Lippert asked if the policies of the police department were subject to regulation from outside the University. Professor Friedman said they were not, but that the department sought to have its practices conform with best practices nationally. Deirdre Spencer asked if the policies are available for review. Professor Friedman said that when the committee asked the chief of police for the policies, he provided them, but they are not readily locatable on the website (<https://www.dpss.umich.edu/content/about/our-departments/police/>).

Professor Friedman stressed that the University's police department is a highly professional organization, that complaints are gratifyingly few, that the attitude of the department is first class and that it is very responsive to the committee.

Professor Friedman said there has recently been a change in the way the faculty seats on the committee are distributed. Hitherto, there had been one seat reserved for a faculty senate member and one reserved for a non-senate faculty member and that staff seats are divided between bargained-for staff and non-bargained-for staff (members serve two-year terms). As of 2020 the division between a faculty senate members and a non-senate faculty member will cease so that it would be possible for both members to be either faculty senate or non-senate faculty, the reason being that there are not a large number of people interested in serving on the committee.

Professor Schultz asked for examples of faculty who are not senate members. Professor Friedman said that might be clinical law professors or clinical professors in the Medical School.

Professor Friedman described a procedural change according to which the committee could issue a public statement about complaints. This change was sparked by a notorious incident on campus in which police officers were present at a meeting where a faculty member was told that he must either resign or be fired; the officers then removed the faculty member from the University building in which the interview was held

(<http://www.annarbor.com/news/university-of-michigan-to-pay-dismissed-professor-550000/>). Because the event was notorious, the General Counsel had told Professor Friedman that the committee should not issue an opinion on the matter. The committee disagreed with the General Counsel and issued an opinion in response to the complaint that had been filed about the conduct of the police. Professor Friedman feels that the committee cannot perform its oversight function if it is subject to legal direction by University lawyers, that it is a necessary nuisance and will not take direction from the Office of General Counsel (OGC).

Professor Lippert asked about the OGC's position. Professor Friedman said that OGC had told the committee it could let a complainant know if his/her complaint was sustained. The committee went beyond that in issuing a summary statement.

Professor Lippert said a number of University offices are told not to give grievants firm responses to their grievances. Professor Friedman said such groups were too hesitant to issue public reports, often citing confidentiality as a reason. The PDOC drafted procedural changes to say it would issue a report as needed. The Executive Director of the University Police Department agreed to sign off on this, but OGC said this should not happen. The President agreed with OGC. Professor Friedman expressed concern that in the November 8, 2016 meeting between the President and the PDOC, the President seemed to be of the view that he could prescribe the committee's role, which is not the case as the PDOC's authority derives from legislature. Professor Friedman expressed the hope that SACUA would support the PDOC's position.

Deirdre Spencer asked if the University was concerned that a PDOC finding could be taken as evidence of the University's culpability in a legal action. Professor Friedman replied that the PDOC's statement in the previously mentioned notorious case might have played a role in the settlement and felt that, if that had happened, it would have been

appropriate (he was did not know if this was the case). In his view a great university should have the confidence and courage to allow the independence of the committee.

Professor Beatty asked why Professor Freidman and his colleagues had come to SACUA.

Professor Friedman said the PDOC does not routinely report outside of the police department (its reports are kept by the Executive Director). He feels the committee should have a broader reporting profile and would like the committee to report to SACUA.

Professor Schultz observed that when the President got advice from SACUA and contrary advice from OGC he would follow that from OGC, but that SACUA had made public statements about its disagreement such decisions in the past.

Professor Friedman feels it is a good idea for PDOC to have an institutional procedure for making public reports, noting that OGC reviews its reports for factual accuracy. The job of the committee is to be a thorn in the University's side.

Professor Schultz asked if there has been discussion of the use of deadly force by the Police Department, or if there was a process for recording when an officer had drawn a weapon. Professor Freidman does not believe there is such a process though he noted, as positive developments, the use of body cameras by officers and the acquisition of tasers. He noted that the availability of tasers had both positive and negative aspects (the positive being that it was a substitute for deadly force, the negative being that they might be too readily used).

Professor Schultz expressed the hope that SACUA would be on the list for PDOC reports

4:50 Professors Friedman, Bromberg and Mendlow left the meeting

4:50: Executive Session
University Governance issues

5:03 Adjournment

Respectfully submitted,
David S. Potter
Senate Secretary

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 polices 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."

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