

Minutes 24 September 2018
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THE UNIVERSITY OF MICHIGAN
Senate Advisory Committee on University Affairs (SACUA)
Fleming Administration Building, Regent's Room

Present: Atzmon, Beatty, Carlos, Conway, Lippert, Marsh (chair), Schultz (via Bluejeans),
Spencer, Potter, Schneider, Snyder

Absent:

Guests: none

3:17: Call to order/Approval of Agenda & Minutes

The Agenda was approved

The minutes of the March 5; May 7 and May 21 were approved

3:20: Announcements

Chair Marsh reported that he has spoken with Provost Philbert and President Schlissel about the lack of due process in investigations run by the Office of Institutional Equity (OIE) and that a sub-group of SACUA members has been meeting over the summer on this issue. President Schlissel has retained an outside law firm, Hogan, Marren Babbo and Rose

(<https://www.chambersandpartners.com/usa/firm/100931/hogan-marren-babbo-rose>) to review the University's Title IX practices, a move sparked by the Nasser controversy. At President Schlissel's invitation, Chair Marsh, Professor Beatty and Professor Malek held a significant discussion the lead lawyer conducting the Part 1 review, which is due at the end of August 2018. Part 1 focuses on procedures and documentation. Part 2 will then focus on how the rules are understood and implemented, and this phase is expected to last much longer. After the reviews have been received there will be an extensive internal review of the way the University's system works in practice.

Chair Marsh reported that he had reached out to faculty governance representatives at peer institutions to get an idea of the way Title IX cases are handled, Responses indicate that while the University's system is in many ways congruent with others, it is an outlier in terms of a respondent's ability to appeal a decision.

Chair Marsh has held a series of meetings with most of the University's vice presidents to educate himself about their functions and to get feedback about their advisory committees. Almost all vice presidents reported that their advisory committees are valuable and give useful feedback. Most of the vice presidents are concerned with free speech issues, sexual harassment, and lawsuits pertaining to those issues. The Executive Vice President for Medical Affairs, Marschall Runge said his biggest concern is faculty burnout.

Chair Marsh said that he and Professor Beatty will attend the new faculty orientation. He will speak briefly and have a packet of information to hand out. Professor Lippert asked if this information was campus specific, or if it could be relevant to UM-Flint and UM-Dearborn. Professor Beatty said they would need to coordinate with the orientation processes on those campuses. Professor Lippert said there is no faculty governance presence at UM-Flint' faculty orientation.

Professor Beatty reported that Gene Nichol, Boyd Tinsley distinguished professor at the University of North Carolina Law School (<http://www.law.unc.edu/faculty/directory/nicholgener/>) will deliver the Academic Freedom lecture on Wednesday, November 28. He will arrive on Tuesday, November 27 and leave on the 28th. Professors Beatty and Atzmon met with members of the Academic Freedom Lecture Fund (AFLF) to see how best to include them. Professor Atzmon pointed out that the agreement whereby SACUA administers the lecture is just for the current year. There is no plan in place for next year and SACUA should not assume that it will have the same luck in quickly securing a lecturer as it

did this year. Members of the AFLF suggested that people who teach issues related to free speech and academic freedom could participate in the selection of future speakers.

3:30: Committee Business – Charges and Liaisons

Chair Marsh presented the liaison assignments. The appointments were approved.

Chair Marsh reviewed the 2017/18 charges for the Academic Affairs Advisory Committee (AAAC) which included possible impact of federal policies on current and future faculty research, the University’s efforts to protect non US citizens for travel to and away from campus, clarify the SPG relating to fitness for duty (<http://spg.umich.edu/policy/201.15>), OIE investigations and the University’s position on campus safety, freedom of expression, freedom of assembly and whether there were circumstances where campus safety took precedence over such freedoms. Chair Marsh asked if there were additional charges from SACUA for the AAAC. Professor Lippert raised the issue of a concealed carry law; Professor Atzmon raised the lack of transparency in the making of administrative appointments. These issues will be added to the charge for AAAC

Chair Marsh said there was no charge last year for Communications Advisory Committee (CAC). In his conversation with Vice President Michels, Chair Marsh found that she is concerned with a spike in FOIA requests. Chair Marsh suggested that the committee develop best practices for faculty in dealing with such requests, advising them about the FOIA process, which items are eligible to be FOIA’d, and best practices for record storage. Professor Lippert suggested the development of training module on FOIA.

Professor Schultz suggested that the Development Advisory Committee (DAC) explore whether there is a procedure for determining whether a gift cannot be accepted, and the process for obtaining naming rights to a building. While there is a policy in place, he does not feel that this policy is very carefully stated. He is concerned about possible “strings”(implicit obligations) that are attached to gifts and sources that may be tainted.

Financial Affairs Committee (FAAC) had no charge last year, Professor Malek said he had a conversation with a faculty member who had served on the committee who felt there was not much follow up on suggestions.

The General Counsel’s Advisory Committee (GCAC) had no specific charge last year. Professor Potter suggested that SACUA bring the draft SPG on bullying, developed years ago, to the committee to see if it might revived as it offers protections against the development of an institutional culture such as that which lay behind the Nasser case. The text of this draft SPG is included as an appendix to these minutes.

The Government Relations Advisory Committee (GRAC) had a series of charges, including current and projected state budgetary priorities, especially those connected with higher education; Michigan’s state budget and its impact on the university; and local issues relevant to the campus community. These can be carried over to the coming year.

Information Technology Committee (ITC) was charged with discussing the status of CANVAS, MOOCs and other curricular developments. These charges will carry over.

Medical Affairs Advisory Committee (MAAC) charges for last year included exploration of changes in healthcare and their implications for curricular innovations, national and global healthcare issues and the role of the University, and the evaluation of the Medical School’s reorganization.

Research Policy Committee (RPC) was charged with exploring the consequences of a proposed reduction in indirect cost recovery. Professor Malek said that he feels the committee could be more impactful as Vice President Hu only joined one meeting. Chair Marsh has given committee chairs two pages of advice and guidance to help them work with Vice Presidents, making it clear that chairs set the agenda.

Vice President Churchill is exploring ways to make the best use of The Secretary of the University Committee (SAC). Professor Beatty said Vice President Churchill wants unvarnished opinions at meetings, and was helpful last year in suggesting agenda items for discussion.

4:14: Tri Campus Resolution

RESOLUTION 082718

Professor Beatty moved that the Tri Campus Committee resolution be brought back for discussion.

The motion is:

Be it resolved that a permanent Tri-Campus Committee of the Senate Assembly shall be established [with a charge] to consider points of interest delegated to it by SACUA such as those that relate to the relationship between the three campuses or policies across the institution.

Resolution approved unanimously.

Questions remain about the committee’s specific charge. Professor Lippert said the committee, whose members were looking at issues relevant to all three campuses, felt it had support administratively and from past members. She said important issues include long-standing language in the Bylaws and in the faculty handbook that is not being interpreted in the same ways across all three campuses. The committee has also discussed of a referral process so that issues did not only go to SACUA. Professor Lippert added that significant opportunities for professional development are not being shared across campuses, and said that Professor Alcock (prior to her appointment as Interim Provost and Vice Chancellor for UM-Flint) expressed enthusiasm for the committee.

The committee recommended that the membership consist of Senate Assembly members (or former Senate Assembly members) because the committee required equal work from all three campuses, and members needed to understand the commitment. Professors Lippert and Schultz noted that the committee never met in the first year (when members were not Senate Assembly members), but, when it was staffed by Senate Assembly members, the committee met on a regular basis before Senate Assembly meetings.

Professor Malek asked about the committee’s reporting channel. Professor Beatty replied that it will report through SACUA and to the Senate Assembly. She added that Professor Fraser had started gathering governance documents from all three campuses, and that “Governing Faculty” is defined differently on the three campuses.

Professor Beatty moved that the motion be adopted as written. The motion was approved unanimously.

4:29 UM-Flint Update

Professor Lippert said she met with Chair Marsh about efficient ways to bring concerns from branch campuses to SACUA.

4:30: Executive Session

[Meeting Protocols]

[Potential case under Regents’ Bylaw 5.09]

4:59: Matters Arising

Chair Marsh asked SACUA members to think about people who should be invited to SACUA meetings this year. Chair Marsh and President Schlissel discussed having senate meetings at which the President and Provost would discuss issues of general interest. A question is whether these should be integrated into Senate Assembly meetings or should be held independently. Chair Marsh asked how else faculty can be better engaged in faculty governance? Professor Carlos asked if SACUA will continue Regents’ breakfast. Chair Marsh said that this would be the case. Professor Atzmon asked about the appointment of Presidential Post-Docs with the title of assistant professor. Chair Marsh said they are not tenure track assistant professors and the processes of transition to tenure track are unit-specific.

5:08: 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 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."

Appendix: Proposed Wording of Anti-Bullying SPG

POLICY

It is the policy of the University of Michigan to maintain a healthy work environment for all faculty, and staff. Workplace bullying is therefore contrary to the standards of the University community. It diminishes individual dignity and impedes educational opportunities, equal access to freedom of academic inquiry, and equal employment.

Workplace bullying is a barrier to fulfilling the University's scholarly, research, educational, patient care, and service missions. Although workplace bullying as described and prohibited by this policy is distinct from other behaviors, certain forms of bullying may also be considered discriminatory conduct and treated in accordance with other SPGs. For example, sexual harassment is addressed in SPG 201.89 - Sexual Harassment.

The University has a compelling interest in assuring an environment in which learning and productive work thrives. At the same time, the University has an equally compelling interest in protecting freedom of speech and academic freedom and in preserving the widest possible dialogue within its instructional and research settings.

A claim under this policy may be brought by the University or by a faculty or staff member of the University community. Complaints based on conduct of students who are not acting as employees of the University are addressed in the Statement of Student Rights and Responsibilities, which is administered by the Office of Student Conflict Resolution. Rackham graduate students may also contact Graduate Student Affairs in the Rackham Graduate School. Persons who lodge complaints about workplace bullying or participate in the investigation of such a complaint are protected from retaliation (e.g., adverse action or consequences) for those actions. Retaliation will not be tolerated at the University of Michigan.

Workplace bullying is a very serious matter that can have far-reaching, current and future impact on the lives, educational experience, and careers of individuals. Intentionally false accusations can have a similar impact. A person who knowingly and intentionally files a false complaint under this policy is subject to University discipline. Both a person who impermissibly discriminates against another, and a person who knowingly and intentionally files a false complaint under this policy, are subject to University discipline.

DEFINITION OF WORKPLACE BULLYING

It is important to differentiate between firm, fair supervision and workplace bullying behavior. It is in the interests of the University that supervisors should be able to carry out their duties without threat of ill-intentioned, malicious, vexatious or unreasonable complaints. It is not always easy to differentiate between firm, fair supervision and workplace bullying, but some examples of what is considered firm/fair

supervision are as follows:

- A. The supervisor's action is consistent and fair;
- B. The supervisor's action is determined to achieve the best results, but reasonable and flexible.
- C. The supervisor knows his/her own mind and is clear about own ideas, but willing to consult with colleagues before drawing up proposals.
- D. The supervisor insists upon high standards of service in quality of and behavior within the team, and sets an example of those standards through his/her own conduct.
- E. The supervisor will discuss in private any perceived deterioration before forming any views or taking action, and does not apportion blame on others when things go wrong.
- F. The supervisor solicits people's views, listens and assimilates feedback.
- G. The supervisor consistently demonstrates sensitivity to the behavior of others and adapts own behavior to get the optimum work outputs.

Workplace bullying is distinguishable from firm, fair supervision or other office interactions because it:

1) is repetitive and patterned negative behavior by supervisor or peer, based upon a formal or informal power imbalance which, occurring over a period of time, belittles a subordinate or colleague, having a negative impact upon that individual or the institution. It is distinguished from disagreement that might naturally arise within a work environment by a) its repetitious and patterned nature and b) disaccord with accepted norms of civil discourse aimed at improving employee performance and fomenting a healthy work environment in which free exchange of ideas may take place;

2) has the purpose or effect of unreasonably interfering with an individual's employment or creating an intimidating, hostile, offensive, or abusive environment for that individual's employment, living environment, or participation in a University activity.

Common underlying dimensions of bullying may include:

1. *Threat to professional or academic status*: belittling opinion, public professional humiliation, accusations regarding lack of effort, malicious rumors, undermining the targets authority, excluding/ignoring the views of the target, unreasonable/ inappropriate monitoring, constant criticism;
2. *Threat to personal standing*: name calling, insults, intimidation, spreading malicious rumors/gossip, criticism in front of others, judgment questioned, devaluing with reference to personal characteristics/attributes;
3. *Isolation*: preventing access to opportunities, physical or social isolation.

RESPONSE AND PROCEDURES

Prevention and Education. The University is committed to preventing and eliminating impermissible workplace bullying of faculty and staff. To that end, this policy will be published on the University's web site. Information regarding discrimination and this policy will be included in orientation materials for new faculty, and staff and made available in the Office of Institutional Equity and other appropriate locations on each campus. In addition, appropriate educational sessions will be conducted by the University on an ongoing basis to (1) inform faculty, and staff about identifying and preventing workplace bullying and the problems it causes, (2) advise members of the University community about their rights and responsibilities under this policy, and (3) train personnel in the administration of this policy.

ASSISTANCE CONCERNS ABOUT WORKPLACE BULLYING. The Office of Institutional Equity is responsible for ensuring and monitoring the University's compliance with federal and state nondiscrimination laws. However, an environment free of impermissible harassment definable as workplace bullying is the responsibility of every member of the community.

The University can take corrective action only when it becomes aware of problems. Therefore, the University encourages persons who believe that they have experienced or witnessed workplace bullying as prohibited by this policy to come forward promptly with their inquiries, reports, or complaints and to seek

assistance within the University. Individuals also have the right to pursue a legal remedy for harassment that is prohibited by law in addition to or instead of proceeding under this policy.

CONFIDENTIAL COUNSELING. Information about or assistance with discrimination or harassment issues may be obtained from a variety of University resources. Prior to or concurrent with lodging a complaint about bullying, individuals may find it helpful to consult with a counselor or otherwise seek assistance. The following offices provide advice and support to individuals who believe they are experiencing bullying in the workplace. All information shared with these offices will remain confidential to the extent permitted by law and University policy. Discussions with representatives of these offices will not be considered a report to the University regarding the problematic behavior and will not, without additional action by the complainant, result in intervention or corrective action.

FASAP – Faculty and Staff Assistance Program (Faculty and Staff)
(734) 936-8660
www.umich.edu/~fasap/

UMHS Employee Assistance Program (Hospital and Health Centers Staff)
(734) 763-5409
www.hr.umich.edu/mhealthy/programs/mental_emotional/eap.html

CAPS – Counseling and Psychological Services (Students)
(734) 764-8312
www.umich.edu/~caps/

SAPAC – Sexual Assault Prevention and Awareness Center (Faculty, Staff and Students)
(734) 998-9368
www.umich.edu/~sapac/

Office of the Ombuds (Students)
(734) 763-3545
www.umich.edu/~ombuds/
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University Faculty Ombuds (Faculty)
(734) 764-0303
www.umich.edu/~facombud/

UM-Dearborn Counseling and Support Services (Faculty, Staff and Students)
(313) 593-5430
http://www.umd.umich.edu/css_support/

UM-Flint Student Development Services- Counseling Services (Students)
(810) 762-3456
<http://www.umflint.edu/studentdevelopment/>

U-M Flint Faculty Ombuds (Faculty)
(810) 762-3424
www.umflint.edu/provost/faculty_ombuds.htm

Lodging a Complaint. An individual who wishes to complain to the University about alleged workplace bullying or retaliation should contact a University official, such as a supervisor; Dean, Director or

department head; the Office of Institutional Equity; the appropriate Human Resources Office; the Dean of Students (for students); the Dean's Office of the Horace H. Rackham Graduate School (for graduate students). If an employee is represented by a union and the terms of the collective bargaining agreement provide a procedure for pursuing a discrimination or harassment complaint, the terms of the collective bargaining agreement shall prevail. If the complaint is against a student, the complainant may elect to pursue a formal charge through the appropriate student grievance procedure. In addition, any member of the University community may utilize appropriate University resources for guidance and support during the investigation process (e.g., the Faculty and Staff Assistance Program, Counseling and Psychological Services for Students, etc.).

Investigation and Investigation Procedures. The University will handle complaints of work-place bullying under this policy consistently with procedural guidelines developed to ensure prompt and equitable resolution of such complaints. Complainants and Respondents will be given copies of the procedural guidelines, and the guidelines will also be made readily available to the University community. The matter will then proceed to investigation or other form of effective and fair review. The investigation or review may be performed by the Office of Institutional Equity, another office or jointly.

The purpose of an investigation, which will include interviewing the parties and witnesses, is to gather and assess evidence. During the course of an investigation, the investigating office will work collaboratively with other appropriate University offices. For example, if a faculty member is involved in a complaint, the Office of Institutional Equity would generally work collaboratively with the Office of the Provost; the appropriate Dean, Director or Department Head; and Academic Human Resources. If a staff member is involved in the complaint, the Office of Institutional Equity would work collaboratively with Staff Human Resources, the supervisor, the Unit Human Resources Representative and other appropriate departmental and University officials.

Possible outcomes of an investigation are (1) a finding that the allegations are not warranted or could not be substantiated, (2) a finding that the allegations are substantiated and constitute workplace bullying or inappropriate behavior and, if so, (3) referral to the appropriate administrative authority for corrective action.

Corrective Action. Corrective action could include a requirement not to repeat or continue the bullying conduct, requirement to attend a seminar on the topic of workplace bullying, a reprimand, denial of a merit pay increase, reassignment, suspension and termination. The severity of the punishment will depend on the frequency and severity of the offense and any history of past discriminatory, harassing or retaliatory conduct. A finding of discrimination or harassment under this policy may be cause for the separation of the offending party from the University in accordance with University procedures, including, for qualified faculty, the procedures set forth in Regents' Bylaw 5.09. Every effort will be made to assure University-wide uniformity of sanctions for similar offenses.

University Action. The University may assume the role of a complainant and pursue a report or complaint, either informally or formally. The University may respond to complaints or reports by persons external to the University community about alleged discriminatory and harassing conduct by University employees. If the accused is a faculty member to whom Regents' Bylaw 5.09 applies, the Provost or executive authority of the relevant unit may initiate the procedures of Bylaw 5.09 at any stage in the process, if the circumstances indicate that such action is warranted.

Retaliation. The University will take appropriate steps to assure that a person who in good faith reports, complains about, or participates in an informal resolution or formal investigation of a discrimination or harassment allegation will not be subjected to retaliation. The University also will take appropriate steps to assure that a person against whom such an allegation is made is treated fairly. The University will also take appropriate follow-up measures to assure the goals of this policy are met. Persons who believe they are experiencing retaliation are strongly encouraged to lodge a complaint with the University using the same procedure for lodging a discrimination or harassment complaint.

In the course of an ongoing investigation neither the Respondent nor any individual who reports to the Respondent will be involved in a performance review of the Complainant.