

Minutes: February 3, 2023
Approved: April 7, 2023

THE UNIVERSITY OF MICHIGAN
General Counsel's Advisory Committee
Friday, February 03, 2022, 9:00am
The meeting was held virtually via Zoom

Present: Janet Biermann, Sophia Boettcher (graduate student), Lorraine Buis, Colleen Conway, Maya Kobersy (OGC), Tim Lynch (GC), Adam Matzger, Luke McCarthy (Faculty Senate Office), Rebekah Modrak (SACUA liaison), Rogério Pinto (Chair), Seth Quidachay-Swan, Pamela Smock, Kentaro Toyama (SACUA liaison), Lori Tschirhart, Judith Walker, Silke-Maria Weineck, Timothy Wood (HR).

A regular meeting of the General Counsel's Advisory Committee was held with Chair Pinto presiding and Luke McCarthy acting as secretary.

The meeting began at 9am and the December 09, 2022 minutes that were distributed to members in advance were approved.

The meeting began with a discussion of the differences between staff and faculty in terms of background checks. Also discussed was the history of how/when we started conducting background checks and how background checks are used in employment decision-making. To answer these questions, there was a presentation by guest Timothy Wood, Senior Director, HR. That slide deck is included as an attachment to these minutes.

Because there were a number of questions but insufficient time, committee members were invited to submit questions for Timothy Wood to answer after the meeting. Luke McCarthy would email the committee members to send their questions. The three questions received and Timothy's answers are included as an attachment to these minutes.

The meeting next turned to considering a recent Texas lawsuit in which a student claims six Texas medical schools are illegally considering race and sex in admissions. To help address this topic, guest Maya Kobersy, Associate General Counsel, attended the meeting. The lawsuit involves a claim of discrimination against a white student for admitting students with lower test scores or grades. This Texas case is occurring in a context in which the Supreme Court appears to be poised to overrule *Grutter v. Bollinger* (2003), which held that "the Equal Protection Clause does not prohibit the [U-M] Law School's narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body." During the meeting, committee members discussed a general aim to move away from reliance on test scores, which would undercut the Texas case argument. A few of the alternative factors suggested included considering how a student would benefit from a U-M education, soft skills, and commitment to service. If *Grutter* is overruled, U-M would not be forced to make substantial changes in admissions due to already having to address Prop 2 from the Michigan 2006 election, which bans consideration of race, sex, color, ethnicity, or national origin in admissions.

In case there were more questions to address, it was decided that Luke McCarthy would ask members to submit questions to forward to Maya Kobersy for answering. After emailing the committee for questions, none were submitted. However, Luke McCarthy offered to Maya a

comment relevant to the discussion to which she responded. That comment and answer is included in the attachment of questions and answers.

The committee adjourned at 10:00.

Luke McCarthy