

Minutes of 17 March 2014 Senate Assembly Meeting  
Circulated 18 March 2014  
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Approved 21 April 2014

THE UNIVERSITY OF MICHIGAN  
UNIVERSITY SENATE MEETING  
SENATE ASSEMBLY MEETING  
17 MARCH 2014

**Present:** Adunbi, Baker, Biteen, Bradley, Burrow, Campbell, Cervetti, Custer, Danziger, Dolins, Fiore, Garcia, Holland, Hollingsworth, Jacobsen, Johnson, Jones, Koopmann, Lehman, Lim, Mansfield, Masten, Mondro, Muehlberger, Mutschler, Nielsen, Oey, Poulsen, Raphael, Rothman, Schloss, Smith, Staller (Chair), Swain, Szymanski, von Buelow, Winful, Wong, Ziff

**Requested Alternate:** Adler (Dearborn), Bayraktar (LSA), Grosh (Eng), Folafoluwa (Med)

**Alternates:** Annie Kao (Nursing)

**Absent:** Adler, Alderstein Gonzalez, Atchade, Barolo, Brown, Christman, Cotera, DiPietro, Fagerlin, Fenno, Fraser, Friesen, Hayes, Hershovitz, Katapodi, Kee, Kirshner, Larsen, Lu, Mitchell, Mora, Nevett, Pandey, Primus, Princen, Prygoski, Ro, Ryan, Sarma, Shah, Silveira, Thompson, Trandafirescu, Turnley, Wright, Young,

**MATERIALS DISTRIBUTED**

1. Agendas for Senate Assembly and University Senate
2. Draft Minutes of the 17 February 2014 Senate Assembly meeting
3. Draft SPG: Temporary Removal of Faculty for Lack of Fitness for Duty
4. Electronic mail message to C. Whitman from SACUA, dated 11 February 2014, regarding SACUA comments on the Temporary removal of faculty for lack of fitness for duty SPG
5. Profiles for candidates seeking four SACUA seats, secretary. *The University Record*, 17 March 2014.

**SENATE ASSEMBLY**

Chair Staller convened the meeting of the Senate Assembly at 3:15 P.M. The proposed agenda was approved.

**MINUTES**

The draft minutes of 17 February 2014 were approved.

**ANNOUNCEMENTS**

1. The final meeting of the Senate Assembly for AY2013-2014 will be held on 21 April 2014; the agenda will include committee reports and a final report from the chair.
2. Please review distributed item 5 in advance of the SACUA election today.

3. A newsletter from faculty governance will come be distributed electronically either this week or next.

#### FITNESS FOR DUTY SPG

Chair Staller called attention to distributed items 3 and 4 and reviewed the history of SACUA's interaction with administration over a proposal developed by the office of the provost that would permit removal of faculty from ordinary duties. She said it will appear on the agenda for the April meeting of the Senate Assembly.

At 3:23 P.M. she introduced Mr. Jeffrey Frumkin from Academic Human Resources and asked him to describe the administration's interest in such a policy. Mr. Frumkin said that current policy has been in place for about 15 years to deal with instances where there is immediate danger to people or property. However, he said, that policy does not extend to cases where there is observable evidence that a faculty member is mentally, emotionally or medically impaired for performing teaching. He characterized the issue as distinct from inadequacy of performance, which should be addressed through the provisions of Regents' Bylaw 5.09. He said the proposed new policy would apply to cases in which there is reluctance by faculty to accept observable impairment to their teaching. He said the policy would impose an evaluation followed by a determination, but that it was not supposed to put tenure in danger.

Professor Smith asked what types of circumstances had precipitated the administration to seek this policy, and who would decide if someone was impaired. Mr. Frumkin replied that over the last 3 to 4 years there have been 3 or 4 instance on the Ann Arbor campus where students reported serious concerns about how a faculty member was comporting himself in the classroom. In one case, students claimed the faculty member was leading the class incoherently. In another case, students thought the faculty member was in danger of hurting himself. The dean's office made a decision and informed each faculty member they were being removed from the classroom pending evaluation. One agreed to an evaluation and the evaluation determined that the person was not a danger. Professor Smith asked who performed the evaluation. Mr Frumkin said that he thought it was a personal physician, but that under the proposed policy, it could be someone else.

Mr. Frumkin added that in the other case, the faculty member did not agree to an evaluation. In reaction, the administration engaged him in negotiations and finally reached a settlement. He said that if a person who is judged impaired cannot be cleared to return to duty, the administration would like the individual to apply for long term disability (LTD). He noted that the UM cannot unilaterally place a person on LTD, and that the alternative would be to place the individual on unpaid medical leave.

Professor Smith asked whether the policy was aimed at didactic classroom teaching, or other forms of instruction including personal mentoring. Mr. Frumkin replied that the policy would apply to any form of instruction; he said that the root cause would be that a medical impairment exists. Professor Smith pointed out that any attempt to enforce parity across the university from LSA to medical professional schools represents a dangerous, slippery slope. Professor Masten remarked that the term 'medical impairment' had been specifically recommended by SACUA, but that the administration had removed such language. He said faculty don't want something

else guiding decisions. Mr. Frumkin said that legal staff expressed concern that the written policy could have implications under the Americans with Disabilities Act (ADA). He said he would communicate the concern expressed by Professor Masten that the policy be clear about terminology. Professor Holland said that if the ADA is an issue, the policy should address the ADA and not invoke the Office of Institutional Equity (OIE).

Professor Muehlberger asked whether the proposed policy would prove any more enforceable than SPG 201.96 on professional conduct, which she said was problematic from the perspective of LSA. Mr. Frumkin replied that he did not have enough information to answer meaningfully.

Professor Koopmann asked who is monitoring the coaches and how they are interacting with the student athletes. Mr. Frumkin responded that SPG 201.96 was confined to faculty and that other employment categories were covered by other policies.

Professor Oey asked about the status of SACUA's concerns (distributed item 4). Mr. Frumkin said that his appearance at the Senate Assembly was a part of the administration's response to those concerns.

Professor Lehman pointed out that C. Whitman from the office of the provost had not been able to articulate as many as 3 or 4 cases as mentioned by Mr. Frumkin. He said he sensed it was a policy in search of a problem; the cases are exceedingly rare, idiosyncratic, and not amenable to generalized policy solutions. He said the degree of administrative discretion and latitude being sought was excessive. Mr. Frumkin said that he understood. Professor Koopmann proposed that further work on the policy be delayed until the new president is in place and engaged. Mr. Frumkin replied that the SPG was the province of the provost, not the president.

#### SACUA ELECTION

Chair Staller called attention to the order of the agenda at 3:45 P.M. and moved to the SACUA election. She called for additional nominations from the floor. Receiving none, she declared the nominations closed. She then invited the candidates to deliver campaign statements to the Assembly. Each candidate spoke for about 5 minutes, concluding their remarks at 4:15 P.M.

The chair explained that 4 open seats were available, but that the Rules constrain LSA to a maximum of 3 seats and Engineering to a maximum of 2 seats. Hence, the election outcome would have to conform to the limitations, and candidates with high vote totals would be excluded if apportionment limits would otherwise be exceeded. The secretary and Senate Office staff canvassed the room and ascertained that 34 eligible Senate Assembly members were present. Ballots were distributed by Senate Office staff and the chair instructed that all legal ballots must include votes for no more than 4 candidates. Senate Office staff then collected the ballots and delivered them to the tellers: Professors-emeriti Jones and Mutschler.

#### **Tellers' Report-**

The tellers reported the following vote tallies:

|                            |    |
|----------------------------|----|
| Professor Lehman (LSA)     | 26 |
| Professor Smith (Pharmacy) | 22 |

|                             |    |
|-----------------------------|----|
| Professor Weineck (LSA)     | 22 |
| Professor Maddock (LSA)     | 15 |
| Professor Burns (LSA)       | 12 |
| Professor Schultz (ENG)     | 12 |
| Professor Szymanski (KIN)   | 11 |
| Professor Kearfott (ENG)    | 10 |
| Professor Ahbel-Rappe (LSA) | 7  |

Chair Staller declared that Professors Lehman (LSA), Smith (Pharmacy) and Weineck (LSA) had been elected to serve 3-year terms on SACUA beginning 1 May 2014 and ending 30 April 2017. Because Professor Oey (LSA) is a continuing member of SACUA, the chair declared that LSA's maximum apportionment of seats had been filled. Accordingly, she declared that Professor Schultz (ENG) had been elected to fill the seat vacated by Professor Olsen's resignation, and that his term would end 30 April 2016.

#### UNFINISHED BUSINESS

There was no unfinished business.

#### NEW BUSINESS

There was no new business.

The Senate Assembly meeting was adjourned at 4:45 P.M.

#### UNIVERSITY SENATE

Chair Staller convened the annual meeting of the University Senate at 4:45 P.M. She asked the University Secretary to assess existence of the required quorum of 100 senators. The Secretary ascertained that only 47 senators were present, and that quorum was not available.

The meeting was adjourned at 4:47 P.M.

Respectfully submitted

John T. Lehman  
Senate Secretary

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#### **University of Michigan Bylaws of the Board of Regents, Sec. 4.01:**

##### *The University Senate*

The 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.

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#### **University of Michigan Bylaws of the Board of Regents, Sec. 4.04:**

##### *The Senate Assembly*

The Senate Assembly shall serve as the legislative arm of the senate.

The assembly shall have power to consider and advise regarding all matters within the jurisdiction of the University Senate which affect the functioning of the university as an institution of higher learning, which concern its obligations to the state and to the community at large, and which relate to its internal organization insofar as such matters of internal organization involve general questions of educational policy.

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**Rules of the University Senate, the Senate Assembly and the Senate Advisory Committee on University Affairs:** In all cases not covered by rules adopted by the Senate, the procedure in Robert's Rules of Order shall be followed.