



## COUNCIL of UNIVERSITY SYSTEM FACULTY

### **Board of Regents Report**

November 13, 2020

Since the last report in September, CUSF has focused on several action plan items and weighed in on three major issues of concern to system faculty. The work is detailed below.

#### **1. Board of Regents Faculty Awards & Recognition Committee**

This year's members are: Dr. Patricia Shields, University of Maryland College Park Campus (Retired) (UMCP) (new member); Dr. Josh Dehlinger, Towson University (TU) (Last Year Winner); Dr. Sabrina Fu, University of Maryland Global Campus (UMGC); Professor Susan Antol, University of Maryland Baltimore (UMB), and Benjamin Arah, Committee Chair, Bowie State University (BSU).

The deadline for this year's application is November 13, 2020. The members should receive the applications by November 25, 2020 to begin the review process. The five (5) Committee members will meet, virtually, to review the applications and select those to recommend to USM for consideration.

#### **2. Ed Policy Committee**

The committee has two subcommittees Academic Integrity and Interdisciplinary Professional Education (IPE).

The **Academic Integrity subcommittee** is continuing work drafting USM policies. Consultation with Dr's Boughman, Lee and Bishop has brought about edits to USM obligations and potential legal concerns with the new policies. They are currently waiting on a clarification from the Attorney General's office on a few points. The committee hosted at the October CUSF meeting a presentation by James Bond, J.D. Assistant Director, Office of Student Conduct for College Park which highlighted the potential legal liability that faculty might have in handling academic integrity cases. The presentation focused on best practices that faculty can use to protect themselves from lawsuits and/or grievances. The most important take away was the need for language in the syllabus that outlines the faculty's approach to academic integrity. It also empathized the need for faculty to know and have in place the school's practices, processes and procedures so they will not operate outside of the scope of university policies exposing them to potential liability. It was decided that greater information on these issues was needed. To that end the committee is seeking advice from the International Center for Academic Integrity and their general counsel James Orr, J.D. and the Maryland Attorney General's office. It is important to note that as public institutions our universities must contain within their policies, processes and procedures due process features. The discussion will continue with the goal of providing faculty with specific best practices to prevent exposure to potential individual liability.

The **IPE subcommittee** focusing their efforts on a coordinated examination of digital badging and certificates with the William E. Kirwan Center for Academic Innovation.

**3. Faculty Concerns Committee**

Work has started on subcommittees:

The **technological subcommittee** has begun work on collecting information on faculty using webcams, legal recordings, proctoring exams online, and cyber and proprietary concerns. Their goal is to identify the issues of faculty concern and best practices. One of the actions that the committee is entertaining is a proposal asking the Board of Regents for a USM policy clarifying the legal privacy and procedural limitations on faculty use of Zoom and other conferencing technologies.

The **structural inequality subcommittee** is beginning its work by looking at our school's institutional infrastructure for determining accusations or circumstances of inequality. Further, they are beginning to identify the work that needs to be done to begin open and honest discussions and further action.

The **Covid-19 ad hoc subcommittee** has begun work on putting together a three-tier examination of faculty concerns. The first tier will look at five related issues dealing with the pandemic (e.g. mental health, working at home and family, layoffs, etc.) to provide System with feedback and potential ideas for help. The second tier will examine the processes and procedures that worked and didn't work in handling the pandemic and documenting them for the future.

Finally, the last tier will focus on the takeaways that showed how system works and how we can optimize their value going forward. **The committee will work together with CUSS and USMSC** to maximize the innovation of ideas and common concerns

**4. Rule and Membership Committee**

Has begun work on updating the bylaws by changing the method of voting to include all modes of electronic means. The discussion and vote on a new change to the bylaws is scheduled for the December Meeting.

**5. Legislative Affairs & Policy Committee**

The committee is examining the September 22, 2020 **Executive Order 13950 - Combating Race and Sex Stereotyping**. The first step began with a request from the Office of the Attorney General (OAG) to obtain legal interpretation of just what the Order meant to faculty and the university system. In summary, Executive Order 13950, defines race or sex stereotyping as ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to an entire race or sex, or to individuals because of their race or sex. It appears that main premise of the Order is to assure that diversity training and teaching of any kind could not be offered if its concepts conflicted with the order's definition. Section 10(b) specifically carves out academic instruction and permits the discussion of so-called divisive concepts, if they are presented in an "objective manner and without endorsement" This seems to permit faculty to teach about these concepts. The committee will be meeting in the next month to determine if further action is needed. Additional points of the OAG interpretation can be found in Appendix A of this report.

6. On a general matter, **CUSF passed unanimously a resolution** encouraging faculty to give students time to participate in voting and election process activities on and surrounding the November 3<sup>rd</sup> election. The resolution is found in Appendix B of this report.

Respectfully submitted, Elizabeth K. Brunn, Ms.Ed, J.D. CUSF CHAIR  
**Appendix A**

**Executive Order 13950 - Combating Race and Sex Stereotyping**

- <https://www.whitehouse.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/>.

- The Order lays out considerations that should be made.
- The Order does not prohibit government contractors from offering programming that promotes diversity and inclusion, if it does not promote “divisive concepts,” as described in the Order.
- Section 10(b) specifically carves out academic instruction and permits the discussion of so-called divisive concepts, if they are presented in an “objective manner and without endorsement” This seems to permit faculty to teach about these concepts.
- Faculty who are working on research or scholarly activities around these issues whose research is funded by federal grants should be aware that there may be certain conditions associated with future grant funding, and they should carefully review grant applications to determine if they include such conditions.
- Ultimately, faculty would need to use their campus counsel or assigned AAG to advise on applicability/effect because the analysis will be so specific depending upon what research, training, or academic curricula is involved.  
Also consider consultations with Academic Affairs and/or Sponsored Research Offices.
- There does not appear to be an official review and comment period. However, as there is with federal regulations, comments can be addressed to the president, as was done by the American Council on Education on its own behalf and on behalf of multiple other higher education groups (<https://www.acenet.edu/Documents/Letter-White-House-Race-and-Sex-Stereotyping-Executive-Order-100820.pdf>).

**Appendix B**  
**Election Day Resolution**

The Council of University System Faculty (CUSF) is responsible for considering and making recommendations on matters of systemwide professional and educational concern to the faculty and matters to which faculty bring special expertise. The Council has unanimously approved the following resolution:

**Resolution for Participation on Election Day-November 3, 2020**

*Whereas CUSF recognizes the importance of fair and free elections with high participation as part of the democratic process; and*

*Whereas Tuesday, Nov. 3, 2020 is both Election Day and a scheduled class day for the Fall 2020 academic calendar; therefore be it*

*Resolved, that instructors are encouraged to make it easier for their students to perform their civic duty through voting or working as election judges by taking one or more of the following actions as is reasonable for their course(s):*

- *Being flexible with students regarding attendance and due dates on Nov. 3, 2020;*
- *Considering alternative assignments instead of a scheduled class meeting on Nov. 3, 2020;*
- *Holding class meetings virtually instead of in person on Nov. 3, 2020;*
- *Avoiding major assignments, exams, presentations, etc. on Nov. 3, 2020.*

Approved Unanimously  
October 19, 2020