



Report from the Council of University System Faculty
Board of Regents
June 2012

The CUSF General Body met on Monday, April 16, 2012 at the University of Maryland Baltimore. President Jay Perman welcomed CUSF to the campus and elaborated on several examples of collaboration at UMB and between other institutions, explaining that a team approach works.

The CUSF elections were held and the 2012-2013 CUSF Executive Committee members are as follows:

Chair	Jay Zimmerman, Towson University (TU)
Vice Chair	Virletta Bryant, Coppin State University (CSU)
Secretary	Robert Kauffman, Frostburg State University (FSU)
At-Large	Nagaraj Neerchal, University of Maryland Baltimore County (UMBC)
At-Large	Bobbi Adams, Salisbury University (SU)
Past Chair	Joyce Shirazi, University of Maryland University College (UMUC)

Senior Vice Chancellor Irv Goldstein presented the USM academic affairs report with special emphasis on the status of the USM budget as approved in April by the Maryland State Legislature.

Acting Chief Counsel for Educational Affairs, Attorney General's Office, Thom Faulk, joined CUSF in response to the USM Child Abuse Policy and the resolution passed by CUSF at the March general body meeting regarding the issue of protecting or indemnifying faculty. Acting Chief Counsel Faulk provided an overview of how the Attorney General's Office (AG's) works with faculty. He noted that by statute, the AG's Office represents all State agencies. The Educational Affairs Division is responsible for handling academic related issues. He also provided an overview of the legal foundations involving Tort matters. Currently, State employees are governed under a limited form of *sovereign immunity*, and he noted that in order to be covered under this Act, two conditions must be met.

1. The incident or action by the faculty member must pertain to their *scope of employment*.
2. The action cannot be *gross [as in gross negligence]*, nor can it be *malicious*

The discussion regarding the Child Abuse Policy and the possible need for indemnification of faculty per the CUSF motion raised many unresolved concerns, such as the following:

- The foundational principle of whether the AG's Office will represent faculty involves the fulfillment of two criteria - the *scope of duty* and whether the incident was *gross* or *malicious*. Again, he noted that these items determine whether faculty will be represented by the AG and they were a constant thread that ran through most of the questions and answers in this session.
- The criteria regarding whether the faculty member was acting within their *scope of duty* was the main issue in the discussion. Stated another way, it is a faculty member's *duty to report*. The real issue involves the issue of duty. In terms of the AG's Office involvement "everything that follows" is of lesser importance since it is contingent on the first item of duty or on the *scope of your employment* criteria.

CUSF co-hosted another successful New Chairs Workshop with USM on Friday, April 27, 2012.

The CUSF General Body met on Friday, May 18, 2012 at Towson University. President Maravene Loeschke welcomed CUSF to the campus. Dr. Loeschke stated how grateful she was for the letters written by faculty, students, staff, and even a video from the USMSC during the legislative session.

Senior Vice Chancellor Irv Goldstein presented his final USM academic affairs report to the CUSF General Body, with emphasis on the USM budget as approved by the Maryland State Legislature in the special session. Dr. Goldstein also responded to several questions regarding the regional centers, such as hiring enough tenure-track faculty for the centers, if the faculty understand the implications and the effect on careers while teaching at places other than the home campus and how the library systems work there.

Director of USM Legislative Affairs Andy Clark joined CUSF and provided a thorough review of the USM end-of-the-special-session legislative update. He noted that each year Vice Chancellor for Government Relations PJ Hogan and he track approximately 85 bills, testify on 20-30 bills per session, and try to position USM as best possible. He mentioned that the Governor has high regard for post-secondary education in Maryland and provided details on the fiscal year 2013 State budget actions.

Director Clark responded to questions from CUSF on topics such as the new fund balance's impact on the USM bond rating; campus renovations costs; outcomes of other bills; program approval fees; and performance-based funding. Regarding performance-based funding, it was noted that a USM work group will be developed and CUSF highlighted the importance of including both student and faculty participation on the performance-based funding work group, rather than merely policy makers.

The CUSF Chair provided an update on the Senior Vice Chancellor of Academic Affairs search, noting that the search committee had completed the first round of the interview process and that the final candidates would attend a CUSF meeting, if time allowed. Since the May CUSF meeting, the final three candidates met with the current and in-coming CUSF Executive Committees, and the joint committee submitted an evaluation of each candidate to the Chancellor.

Later in the May meeting, CUSF passed a motion in support of the attached "CUSF drafted" USM Statement on Academic Freedom document, as submitted by the Faculty Benefits and Rights Committee. The committee explained that the document was necessary because there is no constitutional protection for academic freedom. The committee withdrew a motion on tuition remission, which called for expanding tuition remission beyond current limitations to all USM institutions, not just the faculty member's own institution. In addition, CUSF tabled a motion recommended by the Senate Chairs that each USM Senate annually evaluate their senior administrators, and report the results to the Chancellor.

Other items of discussion at the meeting included a request for CUSF representation in the USM Organization of the Meet and Confer. Since the May CUSF meeting, Chancellor Kirwan allocated two slots for CUSF on the work group, including one for an adjunct. Jay Zimmerman and Betty Jo Mayeske, tenured and adjunct faculty members respectively, will represent CUSF on the work group.

The CUSF General Body will not meet in June 2012. The next CUSF General Body Meeting will be held in September 2012 at the University of Maryland University College.

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USM STATEMENT ON ACADEMIC FREEDOM

Statement written by the CUSF Faculty Benefits and Rights Committee; Motion passed to approve this CUSF drafted USM Statement on Academic Freedom on May 18, 2012 by the CUSF General Body.

Academic freedom is the liberty that faculty members must have if they are to practice their scholarly profession in accordance with the norms of that profession. It is based in the institutional structure of this and other universities and is fundamental to their common mission of promoting inquiry and advancing the sum of human knowledge and understanding. It is a condition of employment. Although some aspects of academic freedom are also protected by the First Amendment to the United States Constitution, academic freedom exists, independent of any external protection, as a basic prerequisite for universities to fulfill their mission to our society.

Generally, academic freedom is the freedom to teach, both in and outside the classroom, to conduct research and to engage in other scholarly or creative activities, to publish or otherwise disseminate the results, and to control promotion and tenure standards. Academic freedom also encompasses the freedom to address, or not address, any matter of institutional policy or action whether or not one is a member of any agency of institutional governance. Faculty have the freedom to address the larger community with regard to any social, political, economic, or other interest. Administrations should not place impediments – technical or otherwise – between faculty; all faculty should have the freedom to connect with their peers.

Academic freedom is most commonly exercised by individual faculty members, but remains a professional prerequisite of faculty members as a group. Academic freedom extends to all faculty whether full time or part time, tenured or non-tenured, adjunct or contingent. Faculty must be free from any censorship, threat, restraint, retaliation, or discipline by the University with regard to the pursuit of truth in the performance of their teaching, research, publishing or service obligation. Faculty also have the right to review and be reviewed by peers and thereby to control the standards and expectations for promotion and tenure.

The policy on shared governance in the University System of Maryland concurs, stating that “[f]aculty and staff who do not hold administrative appointments, and all students, may express their opinions freely on all shared governance matters without retaliation.”

Academic freedom includes the following specific freedoms:

- *freedom of research and publication.* Within the broad standards of accountability established by their profession and their individual disciplines, faculty members must enjoy the fullest possible freedom in their research and in circulating and publishing their results. This freedom follows immediately from the university’s basic commitment to advancing knowledge and understanding. Faculty must control their own scholarship and must be able to determine the content, format, wording, methodology, tone, et cetera, of their own work.
- *freedom to determine standards* Faculty are uniquely qualified to determine the directions and standards of their profession. Such expectations are determined by colleagues in the disciplines, including both faculty working in creative fields and faculty performing traditional research.
- *freedom of teaching.* This freedom is an outgrowth of the previous one. Faculty members must be able not only to disseminate to their students the results of research by

themselves and others in their profession, but also to train students to think about these results for themselves, often in an atmosphere of controversy that, so long as it remains in a broad sense educationally relevant, actively assists students in mastering the subject and appreciating its significance.

- *freedom of internal criticism.* Universities promote the common good not through individual decision or bureaucratic calculation, but through broad-based engagement in the scholarly endeavor. Faculty members, because of their education and their institutional knowledge, play an indispensable role as independent participants in university decision making. By virtue of this role, they are entitled to comment on or criticize University policies or decisions, either individually or through institutions of faculty governance.
- *freedom of participation in public debate.* Both within and beyond their areas of expertise, faculty members are generally entitled to participate as citizens in public forums and debates without fear of institutional discipline or restraint, so long as it is clear that they are not acting or speaking for the University. Faculty are not institutional representatives unless specifically authorized as such.

Numerous positive outcomes flow from these freedoms. The historical model for education in the U.S. has been one shared governance where the faculty are major contributors to the operation of the institution. When faculty play a major role in ensuring quality of education the competitive advantage necessary for freedom of thought and creativity is assured. Faculty spend much time and effort bringing their disciplinary perspectives and institutional experience to bear on curricular and other decisions within the academy, and must be allowed to speak freely on these issues. Conversely faculty cannot be made to speak when they do not wish to. (One effect of this – implicitly and explicitly – is that faculty advocate for effective use of taxpayer funding within the institution and system.) They must be assured the ability to function in these roles without fear of retaliation for the expression of their views, whatever they might be.

This policy does not protect plagiarism, abuse, or any illegal activities or speech.

Academic freedom is essential to the fulfillment of the purposes of the University. The parties acknowledge and encourage the continuation of an atmosphere of confidence and freedom while recognizing that the concept of academic freedom is accompanied by a corresponding concept of responsibility to the University and its students. It is of critical importance that any restrictions to academic freedom required – such as those delineated in a particular professional ethics statement or any university standards pertaining to disruptive behavior – be drawn up and implemented with substantial faculty input, in such a way as to minimize infringement of academic freedom. In large part, this goal should be accomplished by ensuring that institutional discipline of faculty members is in proportion to the severity and persistence of misconduct, and by insisting that alleged offenses be handled with appropriate standards of due process, including, wherever possible, the judgment of competent peers. For the rest, however, it must be recognized that contemporary threats to academic freedom are constantly evolving. This University — its faculty, administration, and students alike — must exercise constant vigilance in resisting such threats, whether they arise within the university or from outside