



Report from the Council of University System Faculty  
Board of Regents  
April, 2016

CUSF held its March meeting at Salisbury University where we were warmly welcomed to the bustling campus by President Janet Dudley-Eshbach on March 10, 2016. In her remarks she highlighted the progress the University is making and also discussed trends in higher education and how SU was impacted.

CUSF discussed SB1052 at length and expressed the following:

- More examination of the \$4 million added funding was needed. How would USM determine which schools would have access to it? Why was it not in perpetuity?
- How would this impact the Comprehensives? This is a key concern and point of discussion. There is a fear of adverse effects on other campuses, especially if the new “UM” moved outside the system.
- What would the impact be on HBCUs, especially Coppin (in Baltimore)? Morgan was noted in the Bill but it never spoke to CSU.
- How would higher rankings affect recruiting faculty and graduate students to this campus and others?
- What about diversity and inclusion concerns? For example SB 1052 calls for five new program areas some of which are duplications of programs at HBCU’s and other Comprehensives.
- UMBC is a Research I institution and it was excluded from the partnership. Why?
- Is the Governor is opposed to the bill and, might he veto it?
- How can we better ensure that shared governance bodies have a say? So far, the only one which has testified is UMCP, but we will keep planning for more input.

As a result of this discussion it was determined that CUSF should make every attempt to educate legislators on the perspective of faculty. Please see the attached testimony provided by the Chair of CUSF on March 22, 2016. Motion 1602 references CUSF’s position on SB1052 and is attached.

CUSF also testified in favor of HB906 on March 9, 2016. This testimony is also attached.

CUSF’s March newsletter is available at the following link:

[http://www.usmd.edu/usm/workgroups/SystemFaculty/newsletters/.](http://www.usmd.edu/usm/workgroups/SystemFaculty/newsletters/)

Finally, in response to a query from the last BOR meeting CUSF’s position on Academic Freedom has been attached.

CUSF's next meeting will occur on April 12, 2016 at University of Maryland, Baltimore.

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RE: SB1052 University of Maryland Strategic Partnership

SB1052 is a bill brought forth toward the end of the legislative session. Events have moved quickly and because they are moving quickly on this bill, the following action was taken by the CUSF Executive Committee in a special phone meeting on March 1, 2016. After reviewing the position statements of Barry Gossett, Vice Chair, University System of Maryland Board of Regents, and Dr. Robert Caret, Chancellor, University System of Maryland, the CUSF ExecCom made and passed the following motion.

Be it resolved that CUSF is supportive of the positions presented in the position papers of Vice Chair Barry Gossett and Chancellor Caret.

Be it resolved that this a tentative position in an unfolding situation and it may change as additional information is obtained and as circumstances change.

Be it resolved that Virletta Bryant or her representative act on behalf of CUSF on this matter, understanding the current position and that it is an unfolding situation.



March 22, 2016

Good afternoon Chairperson and Committee members:

It's good to be here to speak against SB1052/ HB1607, University of Maryland Strategic Partnership Act of 2016.

My name is Dr. Virletta Bryant, and I am Chair of the Council of University System Faculty (CUSF). The central purpose of CUSF is to provide advice and guidance to governing bodies that impact Maryland higher education. CUSF provides guidance on matters of educational concern to faculty, and matters to which faculty bring special expertise. The Council is comprised of elected delegates from each of USM's 12 institutions to represent the various faculty perspectives from each campus.

**CUSF does not support SB1052/ HB1607 University of Maryland Strategic Partnership Act of 2016.**

We respect the intent of the legislation, which is to further codify a strategic partnership between the University of Maryland College Park and the University of Maryland Baltimore in order to increase their research prominence amongst peer institutions. With this goal in mind it is understandable that this legislation has such powerful endorsements behind it. The good intentions of the supporters of this legislation are not in question. However, at this point in time, CUSF is concerned about the deleterious effects this legislation will potentially have on the two institutions directly affected as well as the other 10 constituent institutions within USM.

Decisions of this magnitude undoubtedly will have ripple effects. We believe insufficient time has been given to adequately vet the cost other Maryland institutions of higher education and the surrounding communities will incur due to the expedited manner in which this bill has been processed.

CUSF is concerned that unintended consequences associated with this legislation may serve as a Trojan Horse ultimately undermining the overall quality of higher education in the state of Maryland. This legislation could potentially create a net harm to citizens of our State. Therefore, we are in favor of a deliberative evaluation of this legislation to ensure that it does not unintentionally cause serious and irreversible harm. For example, such harm could likely include the eventual dismantling of the University System of Maryland (USM) – in practice if not in name. In addition, the comprehensive members of the current USM (particularly Coppin State University, Bowie State University, University of Maryland Eastern Shore, Frostburg State University, Towson University, University of Baltimore, and Salisbury University) could

experience great harm from this action. It must be noted that the sponsors of this legislation appear to have some awareness of this threat. While this acknowledgement is greatly appreciated, the mitigating funding proposals that are offered provide inadequate support that would be spread amongst the remaining 10 USM institutions. It is these institutions that educate the vast number of students within the system. In effect The University of Maryland Strategic Partnership Act of 2016 is asking constituent institutions to do more with less. Furthermore, unlike the funding set aside for the universities that comprise the strategic alliance, the constituent institution's funding is time specific. This approach to resource distribution will undoubtedly lead to funding problems in the future.

Equally disturbing are the potential negative consequences that could impact other USM research one universities in the system. While the proposed legislation does not prevent UMB or UMCP from having additional collaborations with other institutions, by prioritizing and heavily incentivizing one partnership between two schools it creates an imbalance and may unintentionally detract from some of the other important collaborations that organically developed between one or more sister institutions.

Other concerns that have been voiced by faculty is that the individual identities and uniqueness of the institutions will be challenged. This is particularly concerning for faculty given that there is a provision in the bill to "evaluate the creation of a joint faculty senate." Faculty governance structures are dramatically different on each campus. Current faculty governance structures are well suited to address issues that impact faculty on each respective campus. A joint faculty senate under these circumstances would be at a disadvantage due in part to the geographical separation. Moreover, due to each institution's unique mission and the diversity of thought that exist from one campus to the next, an approach to governance that is joint would potentially weaken the resulting entity's ability to effectively represent its constituents and thereby greatly reduce meaningful participation in the shared governance process.

Let me conclude by stating that University System of Maryland is a system of 12 institutions. Seventy percent of the students within the USM are educated on campuses other than UMPC and UMB. We believe that each of the 12 institutions will be impacted differently, but potentially negatively, due to the imbalance that this Bill will create if it becomes law. Furthermore, we express our concern that the additional resources being directed towards the strategic partnership may be better spent addressing some of the other legitimate concerns and opportunities that exist at other system institutions. Therefore, I urge this Committee to provide University of Maryland Strategic Partnership Act of 2016 with an unfavorable report.

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## **Testimony in Support of SB906**

I'd like to thank Senator Madaleno for inviting me to testify on this very important piece of legislation we have in front of us. My name is Dr. Virletta Bryant and I am the Chair of the Council of University System Faculty or CUSF. The Council is an advisory council to the USM's Chancellor and reports regularly to the Board of Regents on matters of System wide professional and educational concern to the faculty and matters to which faculty bring special expertise. The Council is comprised of elected delegates from each of USM's 12 institutions to represent the various faculty perspectives from each campus.

CUSF overwhelmingly supports Senate Bill 906. Our position is similar to research findings from 15 Midwestern colleges which showed 94% of all stakeholders opposed on-campus concealed-carry and 82% said they would feel less safe if faculty, students and visitors were allowed to carry guns.

For faculty, it is important to have a situational awareness in the classroom and also a sense that your university supports and enforces sensible regulations to discourage firearms on campus, like USM's policy which strictly prohibits the unauthorized possession of a deadly weapon at any USM institution.

The role of Faculty goes further than simply being the purveyor of content knowledge. We understand that the altruistic part of our mission entails shaping and molding young minds to function in the face of conflict and difference without having to resort to violence or other intimidating life altering tactics.

Research consistently shows that anxiety, fear and feeling threatened or unsafe, regardless of the validity of the threat, is the antithesis of understanding, learning and remembering. If the threat of selecting the wrong answer can interfere with one's ability to learn, you can only imagine how the threat of physical harm would negatively impact the learning environment.

In supporting this bill Faculty recognize that "Firearm morbidity and mortality are major public health problems that significantly impact our society, and that we have control over", which is why we request a favorable report from this committee. Thank you.

## PREAMBLE

(Passed CUSF September 21, 2012)

Attacks on academic freedom take place regularly and courts often rule that academic freedom belongs to the institution (i.e., to the administration) and not to the faculty. Nor is it clear that faculty handbooks are legally binding documents. (See the AAUP's Guide on Faculty Handbooks (<http://www.aaup.org/AAUP/pubsres/academe/2009/ND/nb/nbfh.htm>) for state-by-state information.) Additional information on the current status of academic freedom nationwide appears on the website of the national AAUP.

“Defending Academic Freedom in the Age of *Garcetti*,” by Joan Del Fattore, published in *Academe* in January/February 2011 (<http://www.aaup.org/AAUP/pubsres/academe/2011/JF/Feat/delf.htm>) states the situation very clearly. The Supreme Court *Garcetti* decision in 2006 concluded that “when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.” According to the court, “[r]estricting speech that owes its existence to a public employee’s professional responsibilities does not infringe any liberties the employee might have enjoyed as a private citizen.” At the time, Justice Souter expressed concern about academic freedom for employees of public colleges and universities. A series of lower-court decisions soon removed any doubt about whether some courts would apply *Garcetti* to professors in public universities.

Because of the *Garcetti* reservation, it is not obvious whether the First Amendment applies to public universities, and, if it does, what it covers. CUSF felt it was critical to faculty governance and reasonable assumptions of academic freedom, to assert that “speech related to scholarship and teaching” include faculty speech on such matters as faculty appointments and promotions, course staffing, and administrative policies and competence.

In order to protect our first amendment rights CUSF has adapted the attached statement on academic freedom. As templates we used statements from AAUP and the following schools: University of Delaware, University of Maine, University of Michigan, and the USM statement already in place.



## ACADEMIC FREEDOM RESOLUTION

(Passed CUSF May 18, 2012)

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 of 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.