

CUSF General Body Meeting
University of Maryland, Baltimore

Minutes

Monday, April 16, 2012

Attendance:	
Bowie (2)	Joan S. Langdon, Monika Gross
Coppin (2)	Virletta Bryant
Frostburg (3)	Robert Kauffman; Peter Herzfield
Salisbury (3)	David Parker, Bobbi Adams, E. Patrick McDermott
Towson (4)	Jay Zimmerman, Martha Siegel, Leonie Brooks
UB (2)	Stephanie Gibson, John Callahan
UMB (5)	Richard Zhao, Richard Manski, John Collins
UMBC (3)	Nagaraj Neerchal, Drew Alfgren, Joyce Tenney
UMCES (2)	
UMCP (6)	Stephen Mount, Alan Mattlage, Radu Balan, Kenneth Holsum, William Montgomery
UMES (2)	Bill Chapin,
UMUC (3)	Betty Jo Mayeske, Margaret Cohen, Richard Schumaker, David Hershfield, Joyce Shirazi
Guests:	Irv Goldstein (USM), Thom Faulk (AG's Office)

Future Meeting Dates:

May 18, 2112 (Friday) TU, Towson
June 14, 2112 (Thursday) SU, Salisbury

CONVENING THE MEETING - 10:00 AM

Joyce Shirazi, Chair, called the meeting to order at 10:00 AM.

WELCOME FROM UNIVERSITY OF MARYLAND, BALTIMORE - 10:03 AM

Dr. Jay Perman, President of the University of Maryland, Baltimore, was introduced by Richard Zhao. Dr. Perman welcomed everyone to their campus. He told the group how he first became acquainted with shared governance when he was Dean. He found out that when you bring things to the faculty, it makes the initiative better. He noted that their institution was into collaborations and he noted several examples of collaboration within and between institutions. It is a team approach.

APPROVAL OF THE MINUTES - 10:13 AM

It was moved and seconded to approve the March 16, 2012 minutes of the General Body. The motion was passed and the minutes were approved.

ELECTIONS - 10:20 AM

[Secretary's Note: *Since Irv's arrival was delayed, Joyce and Steve began the election process. Although all of the process is noted here, some of the balloting was interspersed during Irv's presentation. Also, see the attachments for the candidate self-statements.*] Joyce began the election of the CUSF ExecCom with the Chair and Secretary positions. Since these positions were uncontested, she asked that these two positions be voted by unanimous vote.

Chair: Jay Zimmerman (TU)
Secretary: Robert Kauffman (FSU)

Joyce turned over the election process to Steve Mount, Chair of the Nominating Committee. Consistent with the By Laws, the Secretary noted that voting was by delegates up to but not exceeding the total allotment of CUSF delegates for each institution. Since all UMUC delegates and the alternate were present, the alternate delegate for UMUC did not vote. There were two nominations for Vice Chair. Ballots were distributed to all voting delegates. The ballots were tallied, and Virletta Bryant was declared the winner.

Vice Chair: **Virletta Bryant (CSU)** [winner]
Richard Zhao (UMB)

Since there are two at-large positions being elected, the following procedure was followed that was consistent with the By-Laws. The first round elected the first at-large delegate. If there wasn't a majority for any one candidate, the lowest vote getter was temporarily eliminated from the pool for the round. The process was continued until one candidate received a majority. The second round repeated the same process until a delegate received a majority. In the ballot for first round, no majority was received. Since there was a tie for the low vote, Bobbie Adams and Ken Holum were temporarily removed from the pool. On the next ballot, Nagaraj Neerchal received a majority of the votes. On the first ballot of the second round, no majority was received by any one candidate. Bobbie Adams, Bill Chapin, and Ken Holum remained in the pool. A second ballot was conducted and tallied. Bobbie Adams and Ken Holum remained in the pool. A third ballot was conducted and tallied. Bobbie Adams received a majority of the votes.

At Large: **Nagaraj Neerchal (UMBC)** [winner - 1st round]
Bobbie Adams (SU) [winner - 2nd round]
Bill Chapin (UMES)
Stephanie Gibson (UB)
John Callahan (UB)
Ken Holum (UMCP)

Based on the elections, the CUSF Executive Committee for 2012-2013 is as follows:

Chair: Jay Zimmerman (TU)
Vice Chair: Virletta Bryant (CSU)
Secretary: Robert Kauffman (FSU)
At Large: Nagaraj Neerchal (UMBC)
Bobbie Adams (SU)

SENIOR VICE CHANCELLOR'S REPORT - 10:50 AM

The primary focus of Irv's report involved the budget or the Legislature not passing a budget. The result was the passage of the doomsday budget. Philosophically, Irv suggested that this was the *best of times and it was the worst of times*. Regarding the "best of times," Irv noted that all capital (buildings) items were passed. Regarding the "worst of times," Irv noted that since a budget was not passed, it reverted back to the doomsday budget and massive budget cuts if the budget is not resolved.

For the group, Irv outlined the political ramifications and implications of the recent Legislative session. Essentially, it is a drama that needs to be played out between the Governor and the two houses in the Legislature. Irv covered the different contingencies that could occur. However, it is a drama that needs to be played out, and in all honesty, he noted that the players don't really have a good fix on the eventual outcome. The following is a summary of some of the points made during Irv's report.

- First, several CUSF members reflected on the political interplay between the three branches. Irv responded that Brit and the System have always taken the high road. Their approach involves what is best for the System and the State, and it would be counter productive to become embroiled in the intramural conflict.
- Second, although there is no guarantee regarding the outcome. It is likely that the Governor will call the Legislature back into session sometime toward the end of May or early June to act on the budget before the drop dead date of July 1st when the new fiscal year occurs. However, no one knows for sure at this time.
- Third, the continued uncertainty affects any reactionary adjustments and the timeliness of that reaction by the Board of Regents prior to the beginning of the next academic year. For example, if the BOR needs to raise tuition because there is no resolution to the budget, students will need to be given ample notice of the tuition increase.
- The doomsday budget has the potential to threaten everything that System has built within the last several years. For example, the System went from being the 6th most expensive in terms of tuition to a more competitive 27th among all the states. In addition, all of the overall quality ratings are very good. This competitive position could be lost without a suitable budget.

FACULTY LEGAL PROTECTION - 10:13 AM

In response to the recently passed Child Abuse Policy and the resolution passed by CUSF at its last meeting, Thom Faulk, Acting Chief Counsel for Educational Affairs, Attorney General's Office, was invited to address these issues and concerns. [Secretary's Note: *See Motion 1209 in the March 16, 2012 CUSF Minutes.*]

First, Thom provided an overview of the 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.

Second, Thom provided an overview of the legal foundations involving Tort matters (i.e. civil action, not criminal action). Currently, State employees are governed under a limited form of *sovereign immunity*. Sovereign immunity is a legal doctrine which has its origins in English common law where no governmental body can be sued unless it gives permission. This is codified in the State Torts Claim Act which defines the circumstances under which the State grants permission to be sued. As a State employee, faculty are normally protected under this Act. Thom 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*.

[Secretary's Note: *If the reader wants a quick summary of the State Torts Claim Act for Maryland go to the following site or simply Google® State Torts Claim Act MD.*

http://www.msba.org/sec_comm/committees/lawscomm/legislativeprogram02/maryland.htm]

If these two criteria are met, faculty are normally covered under the doctrine of sovereign immunity, the State Torts Claim Act, and they will normally be protected from being sued. Several issues and questions were raised by the CUSF members in attendance as well as by Thom. In addition, these two criteria formed the foundation for much of the remaining discussion.

The first situation raised was where the *institution may have a different interest or agenda than the faculty member*. In this case, the question was asked if the AG's Office represents the institution or the faculty member. Thom noted that often these incidents involve the interpretation of policy. For example, if there is a question regarding having the appropriate number of full-professors on a promotion committee, he noted that he normally works with the Provost to render an opinion on the policy question. In rendering their opinion, often this may include a review of the full history of the policy including the notes that lead to the development of the policy.

Second, it was suggested that shared governance is possibly a model where the faculty is in opposition with the administration in an adversarial relationship. It was suggested that this is not necessarily a bad thing but a good thing in terms of keeping the administration honest. In a real sense, if this is even partially true, a policy dispute between the administration and faculty becomes a variation of the first issue, where the administration and the faculty may have a different agenda, and the AG's Office office may be forced to choose sides. In addition, an example where there was a difference between the administration and the faculty regarding shared governance as Salisbury University was noted.

Thom noted that his office didn't quite see it this way. There are as system of policies and procedures that apply to your job as a faculty member. They govern your behavior as a faculty member. He sees governance as a process where the faculty can provide input into policies and procedures that are being implemented or that they believe should be in place. He doesn't see this process as adversarial, but as a way to give faculty voice to their concerns.

In response to a question, Thom noted that usually his job is to determine whether the institution has complied with the policies under question.

LUNCH - 12:50 AM

FACULTY LEGAL PROTECTION (CONTINUED) - 1:00 PM

There was a working lunch. After a brief period, the discussion began again. The focus shifted to the Child Abuse Policy and the possible need for indemnification of faculty per the CUSF motion [Secretary's Note: Motion #1209]. The potential need for the indemnification was explained to Thom. For example, the following scenario reported by a CUSF member is typical of the situations that lead to the passage of MOTION #1209.

Assume that a faculty member reports an instance of child abuse consistent with the policy. Then assume that it is proven that there was no child abuse. The alleged victim sues the faculty member who reported the incident for damages (e.g. defamation, etc). Will the AG's office actively support and represent the faculty member?

Thom responded that if the faculty member had acted within the scope of his duties (Criteria #1), the AG's office would defend the faculty member. Thom went on to reaffirm an earlier point that he had made that any faculty member carrying out a university policy will be represented by the AG's Office. Regardless, the CUSF member made the point that there needs to be an "ironclad" protection for the faculty member reporting the instance of child abuse.

In terms of faculty protection, the following example was asked of Thom by a CUSF member, and it may illustrate the issue of how faculty may not be protected. Section IV:A-1 of the policy indicates that a faculty member (an employee) has 48 hours to report an incident of child abuse (choose whatever source of the incident you would like for causing the incident). If you don't report the incident, no matter how minor, and if it comes to light that you didn't report the incident, you have committed an act of omission. Therefore you could be considered to be acting outside your scope of employment (Criteria #1). You had a duty to act and you didn't. Therefore, the AG's Office could choose not to represent you. Under Section V:B of the policy you could be disciplined, including termination of employment. If your administration didn't particularly care for you, they would have the grounds to terminate your tenured employment. *A tenured faculty member who acted in good faith could be terminated under this policy.* As noted by another CUSF member, this issue is reflected in the larger issue under the general rubric or issue involving a faculty member's *duty to report*.

In summary, Joyce returned to the original purpose for this session. She had asked Thom from the Attorney General's Office to attend this meeting and to clarify issues and concerns regarding the recently passed Child Abuse Policy, and the possible need for indemnification of faculty. The following is a general summary of the previous discussion.

- First, the purpose of the discussion was to address or answer questions raised regarding the issue of protecting or indemnifying faculty [Motion #1209] at the last CUSF meeting. In this regard, Joyce noted that the discussion seems to have raised more questions than it answered.
- Second, the foundational principle of whether the AG's office will represent faculty involves the fulfillment of two criteria. Throughout his presentation, Thom continually referred to these two principles. These were the *scope of duty*, and whether the incident was *gross* or *malicious*. These are the crux items which determine whether faculty will be represented by the AG's Office and they were a constant thread that ran through most of the questions and answers in this session.
- Third, the criteria regarding whether the faculty member was acting within their *scope of duty* was the crux issue for most of the discussion. Stated another way, it is a faculty member's *duty to report*. In this regard, there is the issue or duty, and then there is "everything that procedurally follows." 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.

- Last, is a cautionary note. This is gleaned from Thom's general comments. There is a difference between what can technically happen and what would most likely happen under normal circumstances. Many of the questions raised by CUSF members represent what potentially could happen rather than what would most likely happen.

OLD BUSINESS/NEW BUSINESS - 2:00 PM

Due to the lateness of the previous discussions, the meeting moved fairly quickly at this point. There was no old business nor was there any new business.

ADJOURNMENT - 2:05 PM

Respectfully Submitted,

Robert B. Kauffman

Robert B. Kauffman
Secretary

Attachments: Candidate Self-statements

Approved

CUSF Candidates statements

Chair

Jay Zimmerman, Towson University

I am running for CUSF Chair. I am a Professor of Mathematics at Towson University. I have been a regular member of CUSF since 2003 and a member of the Regent's Faculty Awards committee. I have been on the University Senate at TU from 2001 until 2010 and on the senate executive committee from 2007 until 2010. I have also been Vice-President (2001 – 2003) and President (2003 – 2005) of the TU AAUP / Faculty Association.

The job of the Chair of CUSF is to faithfully represent the faculty at all institutions within the USM and at all ranks and to make sure that shared governance is working. I report the views of CUSF to the BOR, the Chancellor, the USM Presidents and the USM Provosts. I also report to CUSF the deliberations of these other constituencies. Open communication is particularly important in hard economic times because the decision makers need to know the effect of their decisions on the faculty and on the students served by the faculty. I will do my best to clearly lay out the consequences of decisions by the state for faculty of all ranks and to advocate for the faculty.

Secretary

Robert B. Kauffman, Frostburg State University

The secretary position requires several skills. First, it requires an ability to do the minutes. I did the minutes for CUSF last year. In addition, I was the secretary for a national nonprofit organization for six years, and yes, I did the minutes there also. The minutes required an accurate but discrete recording of events. I think that I have done this. In addition, they need to be presented in such a way that someone who is unfamiliar with what happened could accurately reconstruct what happened at the meeting at a later date. I believe that I have done this also. Next, since the CUSF Secretary is a member of the Executive Committee, the position requires some familiarity with CUSF and the governance system. As a former Chair of the Faculty Senate at Frostburg for four years, as a member of CUSF after that position, and as Secretary of CUSF, I have familiarity with CUSF, with the governance process, and with working on behalf of the faculty with the administration. Professionally, I have earned the Outstanding Faculty Awards in Professional Development (2010) and Service (1999), produced award winning boating safety videos, written textbooks, and rebuilt the Recreation and Parks Management program at FSU.

Vice Chair

Virletta Bryant, Coppin State University

For the last year I have had the honor of serving on the Executive Board of CUSF. In this capacity I have worked hard to affect change in matters that impact the quality of our lives as faculty and our ability to successfully carry out our work. We are in a dynamic time where issues pertaining to faculty workloads, faculty compensation, shared governance and academic freedom, to name a few, are constantly evolving. It is up to faculty to be proactive in influencing the outcomes that will impact us. I believe that the position of Vice Chair will further my opportunity to serve CUSF by availing myself to provide assistance to the Executive Board. This may take on a variety of forms depending on what is needed. I am prepared to represent CUSF at meetings; facilitate communication between USM administration, institutional senate chairs and CUSF; provide advice, counsel or research on a particular topic that has been brought to the attention of the Executive Committee; be an informed voter; and work with the Chair, Executive Committee and the CUSF body to ensure that its policies and procedures are being followed. If elected, I will use the position of Vice Chair as a platform to assist the Chair, as well as the Executive Committee in whatever capacity that arises. There are many pressing issues and concerns that CUSF is addressing. My track record demonstrates my dedication to providing a voice as well as a supportive hand to further the initiatives that CUSF has undertaken.

Richard Zhao, University of Maryland, Baltimore

I have decided to run for the Vice-chair position because I have very much enjoyed in working with the CUSF and found it a rewarding opportunity to interact with members of CUSF from each university. Through those interactions, I have learned so much and become familiar with the operations and responsibilities associated with a CUSF executive officer. Thus I feel confident that, with your support, I am able to do a good job in working with the Chair, the Executive Committee and each member of the CUSF to promote faculty's rights and benefit in the USM.

I have been actively involved in faculty affairs in the USM since 2005. I was elected to the UMB faculty senate in 2005 and have subsequently served as the Vice-president, interim President and currently the President. I have also been a faculty council member at the UMB's School of Medicine since 2006. As the faculty senate president at UMB, last year, I have worked closely with our faculty and faculty senate presidents/chairs of other USM universities to testify in front of the BOR and to ensure voices and concerns of our faculty were being heard loud and clear during the UMB-UMCP merger study.

At Large

Bobbi Adams, Salisbury University

When I arrived at Salisbury University's Political Science Department in 2003 after three years at Temple University, I became intrigued by the similarities and differences between the schools and the state systems to which they were a part. I was interested in working at improving the system and was elected by my peers to CUSF. As a member of CUSF since 2006 I have come to the view that ideally CUSF serves the purpose of representing the voice of the faculty in a system of shared governance. While that voice is often noticed, it is often unheeded. My vision for CUSF is not to make our voice louder but to make it more effective. This means that we need, as a deliberative body, to be deliberative but not only amongst ourselves. By listening to the administration, we can discern the most effective path forward to achieve our aims. My responsibility as an executive board member would be, therefore, not only to represent the concerns of CUSF, but to make sure that the administration understands our concerns to construct an effective working relationship. I will also do my best to see that our concerns and proposals are translated into action.

Bill Chapin, University of Maryland, Eastern Shore

No statement was received.

Stephanie Gibson, University of Baltimore

I have been a CUSF representative from the University of Baltimore for many years. During those years I've worked mostly on issues relating to faculty rights and benefits such as the right to collective bargaining and composing a useful academic freedom statement. I have helped set up numerous panels of outside experts to come speak to CUSF on these issues. And I have attended workshops on these and related issues in order to bring helpful information back to CUSF.

I believe strongly in shared governance where faculty use the power of their tenure to maintain essential academic standards and work for the good of all in the university community. As an advisory body to the Chancellor, CUSF has a position of great responsibility and must keep its voice strong.

I have served one prior term on the Executive Committee and would welcome the opportunity to serve again. The Executive Committee works closely with the Associate Chancellor, helps set the agenda for future meetings, works with Senate Chairs to facilitate communication between campuses, and works between meetings to be sure that the business of CUSF remains front and center on people's agendas.

Ken Holum, University of Maryland, College Park

In support of my candidacy for at-large member of the CUSF executive committee, I point out seven years of service with the UMCP University Senate, including my term as Senate Chair in 2008-2009. Since then I have served on a number of College of Arts and Humanities and campus-wide committees, including Appointments, Promotion, and Tenure, the Athletic Council, and various search committees. My hope as a member of CUSF, which I would also bring to the Executive Committee, is to represent the viewpoint of faculty as we face more years of budget crisis. State authorities need to understand that we cannot maintain our present excellence system-wide, much less improve our performance for our students and the state, if the interests of faculty are further neglected, in terms of both programs and compensation.

Nagaraj Neerchal, University of Maryland, Baltimore County

In my rookie year in CUSF, I am learning a lot about the University of System of Maryland and our sister institutions within the system. I have had a chance to see other campuses, some for the first time! This positive experience has prompted me to volunteer to be a candidate for one of the at-large positions in the executive committee. I believe it will give me an opportunity to learn and contribute to the shared governance process across the USM. Thank you for your support.

Brief Bio: I am currently Professor and Chair of the Department of Mathematics and Statistics. I obtained my BS (1981) and MS (1982) in Statistics from Indian Statistical Institute and Ph.D. in Statistics from the Iowa State University, Ames, Iowa in 1986. My research interests include modeling and analysis of correlated observations, statistical computing and simulations. I am co-author of two books. I received the Distinguished Achievement Award and Medal from the American Statistical Association's Section on Statistics and the Environment in 2000 and the Service Recognition Award by the Maryland Chapter of American Statistical Association in 2008. I was elected Fellow of American Statistical Association in 2010.