

# University Senate Meeting

December 5, 2023



## Senators and Deans

- Log in to **PointSolutions** on your mobile device or web browser (<https://tppoll.com>).
- Enter the Session ID: **holiday12**
- Click **Join Session**



Go to **PointSolutions** on a mobile device or at <https://tppoll.com/>

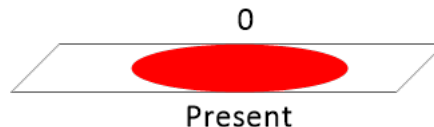
Session ID: **holiday12**

Quorum: **93**

Senators & Deans: Press **1** in PointSolutions to indicate that you are present for quorum purposes.

**The meeting will start once we reach the Quorum number above.**

## 1. Present



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# Agenda

1. Call to Order



# Agenda

2. Approval of the November 1, 2023 Senate Minutes (Action)



# Agenda

3. Report of the Chair

# Report of the Chair – Spring 2024 Senate Meetings

- As a reminder, the first Senate meeting of the Spring semester will be on February 6, 2024.
- You can find a complete schedule by following the link on the slides, also in the chat,  
<https://senate.umd.edu/senate-meetings>



# Report of the Chair – Spring 2024 Senate Meetings

- We expect to have a very busy semester with much of the work that is currently in our various committees coming forward for a vote. We expect Senators to continue to be actively engaged in the discussion of these important issues.





## Report of the Chair – Senator Elections

- The candidacy period for Senator Elections including staff, student, and single member constituencies for 2024-2025 will run from Tuesday, January 16, 2024 to Friday, February 2, 2024.
- The University Senate Office has sent letters to all the Deans with a request to hold elections to replace any outgoing Tenured/Tenure-Track and Professional Track Faculty Senators, so elections for those seats should be underway.



## Report of the Chair – Senator Elections

- The deadline for Faculty Senate elections is February 2, 2024.
- We ask you to encourage your colleagues to run for the Senate or that you consider running, if eligible. You can find more details about the timeline and process under the “Get Involved” tab on the Senate website.



# Report of the Chair – Presidential-Senate Task Force on Antisemitism and Islamophobia

- On November 27, 2023, President Pines shared with our campus community the new Joint Presidential-Senate Task Force on Antisemitism and Islamophobia.
- This task force will provide guidance, recommendations and counsel on a strategy to confront antisemitism and Islamophobia on campus.



# Report of the Chair – Presidential-Senate Task Force on Antisemitism and Islamophobia

- The University Senate will be represented in this task force. We look forward to collectively working with administrators, students, faculty and staff members of this task force to pursue our united goal of eliminating hate. Full membership of this task force will be shared at a later date.



# Report of the Chair – Interim Policy on Chalking

- On November 27, 2023 President Pines also announced the Interim Policy on Chalking. This interim policy is a part of the University of Maryland Policy and Procedures for the Use of Facilities and Outdoor Spaces.
- The interim policy is effective as of November 27, 2023 and will remain until a new permanent policy is developed upon a full Senate review.



# Report of the Chair – Interim Policy on Chalking

- As an overview of our process, the Senate Executive Committee will review the interim policy at its next meeting in January 2024.
- At this time, the Senate Executive Committee will decide which Senate Committee to charge with the review of the interim policy. Senate Leadership will develop a charge to guide the assigned committee on how to proceed with the formal policy review.



# Report of the Chair – Interim Policy on Chalking

- The assigned Committee will then commence its formal policy review process and submit a report to the Senate Executive Committee by the set deadline.
- The assigned Committee will present their report at a Senate Executive Committee Meeting. If the Senate Executive Committee votes to move the policy forward to the University Senate, it is at that time that the Senate will review the proposed final policy and vote on the final policy recommendations.



# Report of the Chair – Interim Policy on Chalking

- If there is a majority in favor of the proposed final policy revision, the policy will then be submitted for Presidential Approval.
- If approved by the University President, the final proposed policy will then replace the current interim policy. We hope this provides clarity on the interim policy and the University Senate Process.





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# Agenda

4. Nominations Committee Slate  
(Senate Document #23-24-14)  
(Action)

# Nominations Committee Slate (Senate Document #23-24-14)

- The University Senate Bylaws require the Committee on Committees to present a membership slate for the Nominations Committee at the December Senate Meeting.



# Nominations Committee Slate (Senate Document #23-24-14)

- The proposed committee members are to be selected from the outgoing Senators and shall include:
- four faculty members
- one exempt staff member
- one non-exempt staff member
- one graduate student, and
- one undergraduate student



# Nominations Committee Slate (Senate Document #23-24-14)

- Current outgoing Senators were invited to volunteer to be considered for the Nominations Committee and there was an announcement at the October 3, 2023 Senate meeting.
- Seeing as there was not an available outgoing exempt staff Senator, returning exempt staff Senators were invited to self nominate for this committee and a returning Senator was ultimately selected for that seat. You can see the nominees for each seat in the meeting materials.



# Nominations Committee Slate (Senate Document #23-24-14)

- The Committee on Committees voted to approve the slate on October 24, 2023 and the SEC approved the slate on November 6, 2023. I am requesting the Senate approve the slate as presented.



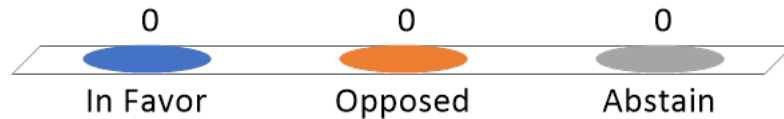
# Agenda

4. Nominations Committee Slate (Senate Document #23-24-14) (Action)



# Nominations Committee Slate (Senate Document #23-24-14) (Action)

1. In Favor
2. Opposed
3. Abstain





# Agenda

5. IT Council Report: Review UMD Policy X-3.06(A) on University Funded Cellular Telephones and Services (Senate Document #22-23-21) (Action)



# Proposal for the Change in UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service

The Senate Executive Committee (SEC) and Senate Chair Newman request that the Information Technology (IT) Council review the proposal entitled, *Proposal for Request to Review UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service*.

Charge (Jan. 27, 2023):

1. Review the University of Maryland, College Park Policy on University Funded Cellular Telephones and Service (X-3.06[A]) and UMD telework guidelines.
2. Review similar policies or procedures at Big 10 and other peer institutions.
3. Consult with an appropriate representative of the Division of Information Technology.
4. Consider whether the policy aligns with current practices related to cell phone usage at the University and current telework practices.
5. Evaluate circumstances under which the University would consider providing funded mobile communication devices and service

# Proposal for the Change in UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service

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## Charge (Cont'd):

6. Consider if the title of the policy should be changed to include mobile communication devices and services.
7. Consider whether there are outdated elements of the policy that should be removed.
8. Consider whether the language in the policy should be broadened to accommodate any current or future changes in mobile technology.
9. Consult with a representative of the Office of General Counsel on proposed changes to existing University policy
10. If appropriate, recommend revisions to the University of Maryland Policy X-3.06(A) on University Funded Cellular Telephones and Service.

# Proposal for the Change in UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service

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## *IT Council Work:*

Formed a Sub-Committee of the IT Council (Feb 2023)

Augustus Sam (Chair, IT Systems Manager, Intercollegiate Athletics)

Pamela Duffy (Member, Lecturer, College of Information Studies)

Axel Persaud (Member, Assistant Vice President, DIT)

## *Sub-Committee Work:*

- Considered all cellular services (beyond cellphones)
- Reviewed policies of Big10 (Penn State University and Northwestern University) and found a common theme of addressing personal use of owned devices (minimize) and additional charges beyond standard plans will be covered by employee.
- Updated the current policy to focus more on security rather than previous focus on minute use.
- Make it clear that cell phone number is the property of the University

# Proposal for the Change in UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service

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## *Sub-Committee Work (Cont'd):*

- In April 2023, the updated draft of the policy was sent to the Office of General Council for review.
- May 8, 2023, a preliminary form of the policy was approved by the IT Council.

## *Work after Sub-Committee-Policy Changes:*

- Late June 2023, CIO (Jeff Hollingsworth) had discussions with the Vice Presidents that suggested another change to the policy based on approval of devices. It was decided to delegate approval of purchases for cellular devices to upper-level administrators (Vice Presidents, Academic Deans, Assistant President, or a designee in their office) rather than unit heads. This change was proposed after the last IT Council meeting of the 2022-23 AY.
- October 9, 2023: IT Council Approved the Updated Cellular Devices Policy

# Proposal for the Change in UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service

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## *Key Updates/Changes to Policy:*

- Change in Policy title to reflect expanded cellular devices: UNIVERSITY OF MARYLAND POLICY ON UNIVERSITY FUNDED CELLULAR DEVICES AND SERVICE.
- VP, Academic Deans, Assistant President or their designee in their office approve the purchase and issuance of cellular devices.
- UMD issued cell phones are the property of UMD
- The phone number may not be transferred to the employee at the end of employment
- Personal use of university-funded cellular devices should be restricted to de minimis use.
- Cellular devices must be passcode protected and always secured.

# Proposal for the Change in UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service

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## *Key Updates/Changes to Policy (Cont'd):*

- All records related to the purchase, issuance and use of university-funded cellular devices are the property of UMD. Records (voice mails, text messages, photos, documents) may be provided to the appropriate officials within and external to UMD as part of investigations.
- Upon leaving the University, employees must return all University-issued cellular equipment.

# Proposal for the Change in UMD Policy X-3.06(A) on University Funded Cellular Telephones and Service

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*QUESTIONS?*

# Agenda

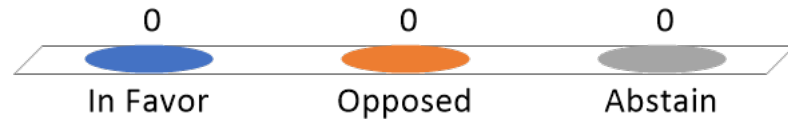
5. IT Council Report: Review UMD Policy X-3.06(A) on University Funded Cellular Telephones and Services (Senate Document #22-23-21) (Action)





# IT Council Report: Review UMD Policy X-3.06(A) on University Funded Cellular Telephones and Services (Senate Document #22-23-21) (Action)

1. In Favor
2. Opposed
3. Abstain





# Agenda

6. Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

# Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

- The University Plan requires that all Colleges and Schools be governed by a Plan of Organization.
- These Plans must conform to provisions and principles set forth in the University's Plan, the Bylaws of the University Senate, the Policy on Shared Governance in the University System of Maryland, and best practices in shared governance. Revisions to these Plans must be reviewed and approved by the Elections, Representation, & Governance (ERG) Committee, the Senate, and the President.



## Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

- The Robert Smith School of Business (BMGT) submitted minor revisions to its Plan of Organization to the University Senate Office for review in May 2023.
- Article 11 of the Plan of Organization for Shared Governance provides provisions for the review of College, School, and the Library Plans of Organization every ten years but does not include provisions for technical or minor revisions to Plans.



## Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

- After reviewing the proposed revisions, Senate Leadership advised that it would be appropriate for the ERG Committee to do a focused review of only the proposed revisions; however the School of Business Plan will remain on its 10 year review cycle with a full comprehensive review to occur in 2026.



# Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

- After The ERG Committee noted the revisions to the BMGT Business Plan of Organization broadened the pool of eligible members to four of the administrative committees;
  - Undergraduate Programs Oversight Committee,
  - MBA Programs Oversight Committee,
  - Specialty Masters Programs Oversight Committee,
  - Teaching Enhancement Committee.



## Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

- The eligibility requirement that members must be a member of the Faculty Committee to serve on these committees was changed to say that any full-time faculty can serve on these committees.
- This change allows for all possible titles and ranks of faculty to serve on the committees. The ERG Committee members appreciated the School's change of these committee's membership requirements.



## Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

- The ERG Committee reviewed the Faculty Committee membership composition between tenure track faculty (TTK) and professional track faculty (PTK).
- It was observed that the stated TTK membership on the Faculty Committee has a higher number than the PTK membership despite the overall higher number of professional track faculty (PTK) in BMGT.





## Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

- ERG members felt the Business School should reconsider the apportionment of the Faculty Committee to address this inequity representation during the review of their Plan of Organization in 2026.
- It was not suggested the School make the changes now, but rather when they are doing their upcoming Plan review in 2026.



## Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

- The ERG Committee approved the minor revisions of the Plan by vote on October 13, 2023 and provided a recommendation to the Business School to that BMGT reconsider the apportionment of tenured track faculty to the professional track faculty within the faculty committee in preparation for the next Plan review in 2026.



## **Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)**

- The School of Business Assembly approved the revised version of its Plan in a college vote concluding on May 12, 2023.



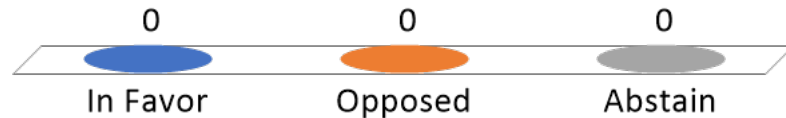
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6. Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)



# Revisions to Robert H. Smith School of Business Plan of Organization (Senate Document #23-24-09) (Action)

1. In Favor
2. Opposed
3. Abstain





# Agenda

7. Special Order

**John Bertot**

Associate Provost, Faculty Affairs

*USM Office Policy and Procedure on Out-of-State  
Work*

# Out-of-State Work Policy: Issues and Considerations

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**John Bertot**

Associate Provost for Faculty Affairs

# Employee Status and Supports

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- All University of Maryland (UMD) employees are:
  - Employees of the State of Maryland (MD).
  - Subject to UMD and USM policies and procedures.
  - Subject to the laws and regulations of MD.
  - Entitled to, as appropriate to their employment status/eligibility, benefits as provided by the USM and MD, and through USM and UMD policies and procedures.
- All of our supports (OGC, UHR, OFA, FSAP, etc.) are generally designed around employees engaging in their duties in MD and/or at a UMD facility.



# Out-of-State Work (OOSW) Overview

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- USM adopted a Policy on Out-of-State Work for Employees (VI-6.20), which:
  - Requires each USM institution to create a policy governing OOSW.
  - Applies to “all employees of the University System of Maryland (USM), across all regular and non-regular categories of faculty, staff, and student employment” who regularly work outside of MD.
  - Includes out-of-country work.
  - Requires each USM institution to comply with all applicable laws, regulations, and legal requirements in each jurisdiction where out-of-state or country work is performed.
  - Requires the execution of an OOSW agreement with each out-of-state employee that:
    - “Establishes the agreement’s term or duration, location where the work will be performed outside the state or country, the work duties or assignments, schedule, and the responsibilities and obligations of the institution and the employee.”
- Formed working group comprised of administrative unit representatives (OFA, UHR, OGC, ESSR, ISSS, Academic Units) to initially assess the USM policy and its implications and requirements for UMD.

# Complying with USM Policy

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- To begin developing a policy and guidance requires an analysis minimally of the following:
  - Current status of UMD OOSW.
    - Questions:
      - How many employees conduct a majority of their work out-of-state?
      - Where are our out-of-state employees located?
      - How are out-of-state employee arrangements currently being reviewed and approved?
      - Are there situations in which we have ongoing out-of-state location needs/arrangements (e.g., national labs, agency regional locations)?
    - Laws, regulations, & requirements of other states & countries.
    - Collective bargaining implications (staff).
    - Operational impact and functions.
    - Ability of certain types of work to be conducted in other jurisdictions.
      - Export controls, foreign influence, granting agency restrictions, use of UMD IT resources.
    - Risks & liabilities - for UMD and employees.

# Working Group Activities

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- The Working Group engaged in a number of activities to better understand OOSW matters, such as:
  - Consulted with our various peers (HR, Legal, Faculty Affairs, International Programs, other).
  - Interviewed selected individuals at peer institutions.
  - Engaged with USM and the Office of the Attorney General.
  - Developed a methodology for gathering OOSW employee data.
  - Reviewed the policies and procedures of other universities.

# Other Institutions

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- Some of the university policies and procedures reviewed included UW-Madison, Iowa, Ohio State, Penn State, Nebraska, UC, and UMB.
  - Found a wide range of approaches to OOSW:
    - Some permit OOSW.
    - Some do not permit OOS work at all.
    - Some permit OOSW only in certain jurisdictions/states.
    - Some do not permit international employment.
    - Some do not permit teaching faculty to be out-of-state.
  - All require a centralized request, review, approval, and agreement, typically administered by the university's HR unit.
  - Some universities entered into arrangements with Employers of Record (EOR for OOS employees).

\*EOR: an entity that legally employs workers on behalf of another business.

# Selected Risks/Concerns Regarding OOSW Identified to Date

- Laws, regulations, and legal requirements differ by state/country, as well as local jurisdictions (e.g., county, city).
- Need to comply with the laws of states/countries in which work is regularly performed
  - Labor, employment, tax, licensing, privacy, data, IP, etc.
- Need to secure insurance to protect UMD & its out-of-state workers from claims, litigation, fines, sanctions, etc., in other jurisdictions.
- Need to ensure compliance with any employee protections as may be required by out-of-state jurisdictions.
- Potential inequities in OOSW arrangements due to a lack of UMD-wide criteria.
- OFA, UHR, ISSS, others do not have the ability to support out-of-state employees.
- OGC & OAG attorneys are not licensed to practice law in other states/countries and cannot represent UMD/employees in out-of-state litigation.
- Limitations on FSAP counselor services in jurisdictions where they are not licensed to provide care.

# Two Core Decisions

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- From our analysis to date, there are two core aspects to an OOSW approach:
  - Policy
    - Answering key questions such as should OOSW be permitted, and if so, for whom and under what circumstances and conditions?
  - Procedures
    - How should OOSW requests be received, processed, assessed, and approved?
    - What criteria should be used to ensure consistency and equity across UMD, and guide decisions?
    - How should OOSW employees be employed – e.g., directly through the institution or through a third party (EOR), or some combination?
      - It is not clear that and EOR can work for research-funded positions as the University would not technically be the employer.
- The policy choices we might make have a substantial impact on implementation (procedures).
- Must be able to support the approach we might take to ensure expedient processing and that UMD and employee risks are mitigated to the extent possible.



# Current State of OOS Employees

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- Payroll address as proxy for out-of-state employees.
- ~2100 out-of-state employees
  - 1,276 paid faculty reside\* outside of MD.
    - 813 in DC and VA
    - 124 in DE, PA, and WV
    - [937 reside\* in contiguous jurisdictions (DC, DE, PA, VA, WV)]
    - 349 reside\* in other jurisdictions
  - 831 staff reside outside of MD.
    - ~200 out-of-state in non-contiguous jurisdictions
  - Mostly in CA, FL, GA, MA, NC, NJ, NY, TX.
    - At least one person in 46 non-MD locations

\*Based on payroll address.

# Where We Are Now

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- University Human Resources (UHR) will lead UMD's efforts to develop an OOSW policy, guidance, and process for receiving and reviewing OOSW requests.
  - OFA had been working towards interim guidance for OOSW faculty, but that has been put on hold.
- OFA and UHR engaging in efforts to more accurately determine how many OOS faculty and staff there are.
  - If not already documented, may require documentation of those arrangements via an OOSW agreement.
- OGC is leading the effort to secure external counsel to help understand employment matters in other jurisdictions.



# Working Group Members

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**John Bertot**, Office of Faculty Affairs

**Rashel Byrd**, University Human Resources

**Devin Doolan**, Office of General Counsel

**Susan Ellis-Dougherty**, International Student and Scholar Services

**Clinton Eury**, University Human Resources

**Jen Gartner**, Office of General Counsel

**Teresa Moore**, James A. Clark School of Engineering

**Katharine Peeling**, Dept. of Environmental Safety, Sustainability, and Risk

**Jacqueline Richmond**, University Human Resources

**Rhonda L. Smith**, Office of the Senior Vice President & Provost

**Jeffrey Snider**, Division of Research

# Agenda

6. Discussion on Special Order: *Out-of-State Work Policy: Issues and Considerations*





# Agenda

8.

Special Order

**Jay Rosselló**

Vice President, Legal Affairs and  
General Counsel

*Free Speech on-campus*

# Free Speech:

## What it is and how it affects the University of Maryland

Jay Rossello

Vice President for Legal Affairs and General Counsel



# Introduction



# Context Matters

- This area of the law is very fact-specific and context matters.
- This presentation is therefore intended only as a general educational overview of select freedom of speech matters, and not as a definitive statement of how the law would necessarily apply in a specific instance.



# The First Amendment



## FIRST AMENDMENT

CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBITING THE FREE EXERCISE THEREOF; OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS; OR THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE, AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.



# First Amendment: Expressive Activity

- The term “speech” constitutes expression that includes far more than just words to include, without limitation, what a person wears, reads, performs, protests, and more.
- Courts have ruled that the First Amendment protects symbolic expression, such as swastikas, burning crosses, Confederate flags and peace signs because such expression is “closely akin to ‘pure speech.’”



# First Amendment: Hate Speech

- “Hate speech” is thought of as expression which is intended to promote or justify hatred for a particular group of people based on traits such as their race, sex, national origin, or religion.
- Unless it also falls under one of the narrow categories of unprotected speech, hate speech is considered to be protected under the First Amendment, no matter how offensive or hurtful it may be to an individual or group of people.



# First Amendment: Unprotected Speech

- There are certain categories of speech that are not entitled to protection under the First Amendment – UMD may, for example, restrict speech that constitutes a genuine threat of harm to a particular individual or group, amounts to unlawful harassment, is intended and likely to provoke imminent unlawful action, falsely defames a specific individual, or otherwise violates the law.
- These exceptions to free speech have been interpreted narrowly by the US Supreme Court and state and federal courts.



# First Amendment: Other Restrictions

- The right to speak on campus is not a right to speak at any time, at any place, and in any manner that a person wishes.
- UMD may, and does, regulate where, when, and how speech occurs in a reasonable, viewpoint-neutral manner and narrowly tailored to achieve important institutional goals, such as educating students and protecting public safety.



# First Amendment: Forums

- Forum analysis is a means of determining when the government's interest in limiting the use of its property to its intended purpose outweighs the interest of those wishing to use the property for other purposes.
- Accordingly, the extent to which the government can control access to its property and expressive conduct in it depends on the nature of the relevant forum.



# First Amendment: Forums

- **Traditional Public Forums:** The right to limit speech is most circumscribed in traditional public forums – e.g., sidewalks, parks and other areas typically used by the public for purposes of assembly and discussing matters of public concern. The UMD campus is not a traditional public forum.



# First Amendment: Forums

- **Designated or Limited Public Forums:** A portion of the UMD campus has been intentionally opened and designated as a public forum for expressive activities – for example, Hornbake Plaza. In these designated or limited public forums, UMD cannot treat similarly-situated groups differently, and must apply any rules or regulations on a content-neutral basis.



# First Amendment: Forums

- **Non-Public Forums:** areas on campus, such as offices, classrooms, and dorms, that are not made available to the general public and allow for greater restrictions on speech. Accordingly, the First Amendment does not protect an individual's right to disrupt a class, play loud music in dorms late at night, or impede other people's ability to enter and exit buildings.





# Free Speech at UMD



# Free Speech at the University of Maryland

- As an academic institution, the University of Maryland exists for the advancement of knowledge, the pursuit of truth, the development of students, and the promotion of social well-being.
- Freedom of speech – the right to articulate ideas and opinions without interference, retaliation or punishment from the government (including public institutions of higher education) – is a critical component for the attainment of these objectives.



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MARYLAND

**FEARLESSLY  
FORWARD**



# Free Speech at the University of Maryland

- The ideas of different members of the campus community will often and quite naturally conflict. But it is not the proper role of UMD to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.
- ***“The university is the home and sponsor of critics; it is not itself the critic.”***

– University of Chicago Kalven Report  
on the University’s Role in Political and Social Action



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# Academic Freedom

- Academic freedom is generally understood to mean the right of faculty in the discharge of their duties to express their ideas and challenge the ideas of others without fear of retribution by their institution. When it comes to those duties, faculty members should abstain from sharing their views of, or voicing their opinion on, matters that are not directly related and otherwise germane to the particular course, subject matter or area of study – generally, no justification to talk about a US presidential election during a math class.



# Academic Freedom

- Outside of those duties, faculty members and other UMD employees do have the ability and right under the First Amendment to express themselves concerning matters of public interest, just like any other citizen. To the extent they wish to do so, UMD employees should engage in any such expressive activities in their individual and personal capacities, without suggesting institutional sponsorship or support of those expressive activities.



# Student Organizations

- Just like students themselves, student organizations at UMD have assembly and speech rights. UMD cannot deny to a group of students recognition as a student organization, so long as they meet established requirements to obtain such recognition.
- Likewise, student organizations can engage in expressive activities on campus consistent with UMD's time, place and manner restrictions for doing so. To do otherwise would be tantamount to viewpoint discrimination and contrary to our obligations under the constitution and law.



# Criticism and Interference

- Although members of the UMD community are free to criticize and contest the opinions expressed on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe.
- Freedom of speech does not give one permission to silence the speech of others by shouting, heckling or otherwise disrupting a speech to the point that the speaker cannot continue or that the audience can no longer listen (the so-called heckler's veto).



# Criticism and Interference

- Members of the UMD community can, however, use their own freedom of speech to make their opinions heard, while respecting the free speech rights of others.
- ***“If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence.”***

– Justice Louis D. Brandeis, *Whitney v. California*, 1927



UNIVERSITY OF  
MARYLAND

**FEARLESSLY  
FORWARD**





# Reporting Unlawful Expressive Conduct

- UMD encourages any member of the community who feels they've experienced bias, discrimination, harassment and/or threats to promptly report such incidents through one or more of internal platforms/resources established for that purpose.
- Reporting specific incidents of alleged misconduct allows UMD to investigate and address them as may be warranted.
- UMD has a robust anti-retaliation policy that safeguards the right to engage in protected activity.



# Civility and Respect

- Notwithstanding the existing constitutional and legal limitations on restricting the right to free speech, UMD encourages members of the campus community to treat each other with respect, dignity and civility.
- Just because there is a First Amendment right to say something, doesn't mean it should be said.



# Civility and Respect

- We can all work together to promote and ensure an environment where all students, faculty and staff are welcomed, respected and supported, and where members of our community are tolerant of the ideas and expression of others.



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# University Statement on Free Speech Values



# University Statement on Free Speech Values

“Every member of the campus community has an obligation to support the right of free expression at the university, and to refrain from actions that reduce intellectual discussion. No member shall prevent such expression, which is protected under the constitutions of the United States and the State of Maryland.”



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# University Statement on Free Speech Values

“In addition to the obligation to promote and protect free expression, individuals assume further responsibilities as members of the university. The campus expects each individual community member to consider the harm that may result from the use of slurs or disparaging epithets intended to malign, for example, another’s race, ethnicity, national origin, religion, sex, gender identity, sexual orientation, political affiliation, or physical or mental disability.”



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# University Statement on Free Speech Values

“While legal protections for free expression may sometimes supersede the values of civility and mutual respect, members of the university community should weigh these values carefully in exercising their fundamental right to free expression.”

## Full University Statement:

[policies.umd.edu/statement-free-speech-values](https://policies.umd.edu/statement-free-speech-values)



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# Agenda

6. Discussion on Special Order: *Free speech on-campus*







# Agenda

9. New Business
10. Adjournment

**Thank you for  
attending!**

