



## **CALL TO ORDER**

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Senate Chair Falvey called the meeting to order at 3:18 p.m.

## **APPROVAL OF THE MARCH 8, 2018 SENATE MINUTES (ACTION)**

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Chair Falvey asked for additions or corrections to the minutes of the March 8, 2018, meeting; hearing none, he declared the minutes approved as distributed.

## **SPECIAL ORDER: PRESIDENTIAL BRIEFING**

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Falvey invited President Loh to provide his Presidential Briefing. President Loh noted that this year is the 50<sup>th</sup> anniversary of Martin Luther King's assassination. He stated that there will be several speakers and events on campus during the month of April who will generate discussion about our fundamental values. The Robert H. Smith Business School is hosting a debate on Nationalism vs. Globalism between the former President of Mexico, Vicente Fox, and the former leader of the United Kingdom's Independence Party, Nigel Farage. He noted that this controversial debate would test the values that the country and the University stand behind especially with regard to allowing freedom of speech related to views that we profoundly disagree with. President Loh noted that additional upcoming speakers will include the grandson of Thurgood Marshall, Reverend Jesse Jackson, a distinguished panelist that will speak on social justice, and former Vice President Al Gore, who will speak at Commencement on the state of polarization and division in the country. He stated that bringing in various speakers will compel the campus community to think about our fundamental values. President Loh commented on his perspectives on the two parts of democracy, including both a hardware and a software part. He noted that the hardware part is being challenged as a result of allegations of hacking during the electoral process and the negative use of social media. The software part includes our defined values that we stand for including freedom of expression. President Loh noted the importance of freedom of expression and the need to listen respectfully to views that may be contrary to our own. He emphasized that the role of a University is to not make ideas safe for students but to make students safe to challenge divergent views.

## **REPORT OF THE CHAIR**

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### Committee Volunteer Period

Chair Falvey noted that the online system to sign up to serve on one of the Senate's ten standing committees this upcoming academic year was now open. He added that volunteers do not need to be a Senator to be a member of one of these committees. Senate committees address topics related to students, faculty, staff affairs, as well as educational and campus affairs. Falvey also noted that the deadline to volunteer is April 30th and that those interested could go to the Senate website to submit a volunteer statement and pick their top three committee choices. He stated that the Senate's Committee on Committees will be selecting volunteers to serve on each committee and will notify selected volunteers over the summer.

### Remaining Senate Meetings

Chair Falvey reminded Senators that there are two more Senate meetings this academic year. The next meeting will be held on April 24th. This will be the last business meeting of the semester for any

outgoing Senators. He noted that the Senate expected the report from the Joint President/Senate Inclusion and Respect Task Force to be presented at this meeting and emphasized the importance of a quorum in order to conduct business.

Chair Falvey stated that the May 9th Transition Senate Meeting would be for all continuing and incoming Senators and would be his last meeting as Senate Chair. On May 9th, Christopher Walsh will take over as Senate Chair, Senators will elect the next Chair-Elect, and vote for the elected committees of the Senate. He noted that the slates of candidates running for the various committees and their candidacy statements would be distributed on April 25th.

## **REVIEW OF THE INTERIM UNIVERSITY OF MARYLAND WEB ACCESSIBILITY POLICY (SENATE DOCUMENT #17-18-22) (ACTION)**

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William Bowerman, Chair of the Information Technology (IT) Council and Marcio Oliveria, Assistant Vice President in the Division of Information Technology (DivIT) and member of the IT Council presented the Review of the Interim University of Maryland Web Accessibility Policy (Senate Document #17-18-22) and provided background information on the proposal.

Falvey opened the floor to discussion of the proposal.

Senator Ming, exempt staff, questioned the possible risks to the University regarding legacy websites and removing the deadline from the policy.

Oliveria stated that the Division of Information Technology has scanned a lot of the web pages that are not accessible and noted that the risk that the University is facing is to create an alternative format for those pages to meet individual needs. Individuals can request an alternative format and the DivIT office has 10 days to respond. The DivIT office is taking the burden financially, working on a rapid timeline, and increasing staff to ensure that all pages are up-to-date and are fully accessible.

Chair Falvey called for a vote on the revised policy. The result was 95 in favor, 4 opposed, and 5 abstentions. **The motion to approve the revised policy passed.**

## **REVIEW OF THE UNIVERSITY OF MARYLAND COLLEGE PARK POLICIES AND PROCEDURES GOVERNING FACULTY GRIEVANCES (SENATE DOCUMENT #17-18-13) (ACTION)**

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Patricio Korzeniewicz, Chair of the Faculty Affairs Committee, presented the Review of the University of Maryland College Park Policies and Procedures Governing Faculty Grievances (Senate Document #17-18-13) and provided background information on the proposal.

Falvey opened the floor to discussion of the proposal.

Senator Kahn, faculty, College of Computer, Mathematical, and Natural Sciences, approved streamlining the proposal. He made a motion to amend the language in Section II.B. to clarify the timeline for submitting a grievance on a pattern of action or inaction. The language of the amendment is noted in **pink**:

Information about Procedures Section II.B.

**Faculty are expected to begin the grievance process within seventy-five (75) days of a grievable action or inaction, or within seventy-five (75) days of first learning of the action or**

**inaction, whichever is later. Such action or inaction may be the latest in a long standing pattern or practice, in which case the pattern may be considered as part the grievance, if the grievance is submitted within seventy-five (75) days from the most recent example of a pattern of action or inaction.**

The motion to amend the policy was seconded.

Chair Falvey opened the floor to discussion of the amendment.

Korzeniewicz stated that the proposal as written specifies that the latest grievable action in a pattern or series is the point at which the timeline of 75 days would begin.

Hearing no further discussion, Falvey called for a vote on the amendment. The result was 56 in favor, 33 opposed, and 12 abstentions. **The motion to approve the amendment passed.**

Senator Kahn proposed a revision to allow the Hearing Board to make recommendations to the President along with a finding on the merits of the case. He made a motion to amend Section II.B.3.d of the policy as noted in pink:

Page 10 Section II.B.3.d

The Board shall prepare a written report of its findings **as to the merits of the case**, including the reasons for the findings, ~~its recommendations~~, and any dissent. **At the Board's discretion it may additionally choose to include recommendations to the President on the disposition of the case, which would not be binding as they would necessarily be made in the absence of complete information.** The report ~~of the recommendation~~ shall be forwarded to the President **within ten (10) days after the conclusion of the hearing. Confidential with** copies **of the report shall be sent** to the grievant and to the respondent, **as well as to the Associate Provost for Faculty Affairs and the Faculty Ombuds Officer. whose actions or inactions form the basis of the grievance. The report shall be sent within ten days after the conclusion of the hearing. Adjudication of a faculty grievance is a confidential process. All parties are expected to maintain the confidentiality of the process, proceedings, and documentation except as otherwise compelled by law.**

The motion to amend the policy was seconded.

Chair Falvey opened the floor to discussion of the amendment.

Korzeniewicz stated that the committee was not supportive of the proposed amendment because the Hearing Board should only determine a decision based on the merits of the case. It would not be appropriate for the Hearing Board to make any recommendations, remedies, or corrective actions since the Board does not have the authority or appropriate context to make those types of recommendations. For example, the Board would need an understanding of how a unit operates or the financial structure within a unit to make an informed recommendation on remedies.

John Bertot, Associate Provost for Faculty Affairs, stated that the role of the Board is to be an independent review of the facts in order to make a finding, which then goes to the President to make a final determination. He noted that grievances could go to outside venues, so some of the proposed recommendations could become a part of a legal process and have a negative impact on the University.

Senator Egan, faculty, School of Public Policy, stated that he sees no harm in the Board providing recommendations unless the primary concern is legal exposure.

Korzeniewicz stated that there are only a few cases that have been through this process in the past 3-4 years. The primary purpose of this mechanism is to bring a case to a final resolution after there have been several attempts of mediation to reconcile the parties involved.

Senator Bianchini, faculty, College of Arts & Humanities, asked for clarification on the basis of the President's determination and who he consults with if the Board is not a part of the remedy process.

Bertot stated that the President receives a complete report from the Board that includes all of the evidence, appendices, and all documentation that articulates the issues and questions raised as part of a particular grievance. The policy allows the President to consult with appropriate administrators such as the Office of General Counsel, Office of Faculty Affairs, the Provost, deans, chairs, etc. to consider other related policies that may be a factor.

Senator Kahn stated that the purpose of the proposed amendment is to help the University to come to a resolution and prevent the process from entering into a legal proceeding.

Senator Lau, faculty, College of Arts & Humanities, inquired about the purpose of the hearing board since they are not part of the recommendation process.

Korzeniewicz stated that the Ombuds role is to try and negotiate an agreement without determining who is at fault and the Board makes a finding based on all of the facts of the case. The Board makes a determination of whether or not the case has merit.

Hearing no further discussion, Falvey called for a vote on the amendment. The result was 43 in favor, 44 opposed, and 19 abstentions. **The motion to approve the amendment failed.**

Hearing no further discussion, Falvey called for a vote on the revised policy as amended. The result was 78 in favor, 14 opposed, and 14 abstentions. **The motion to approve the proposal as amended passed.**

## **UNDERGRADUATE ADMISSIONS PROCEDURES RELATED TO CRIMINAL BACKGROUND (SENATE DOCUMENT #16-17-29) (ACTION)**

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Philip Evers, Chair of the Academic Procedures & Standards (APAS) Committee, presented the Undergraduate Admissions Procedures Related to Criminal Background (Senate Document #16-17-29) and provided background information on the proposal.

Falvey opened the floor to discussion of the proposal.

Senator Callaghan, faculty, College of Arts & Humanities asked if the question regarding criminal convictions distinguished between violent and nonviolent crimes.

Evers stated that overall the committee discussed the differences between violent vs. nonviolent and concluded that it is hard to define or draw a distinction between the two. He also noted that the committee considered the notion of felonies vs. misdemeanors but stated that while felonies indicate a higher level of severity, there are some criminal charges such as sexual harassment, stalking, or domestic violence that are not felonies but are still relevant to the University. These charges could be

misdemeanors rather than felonies depending on the jurisdiction and the facts of the case, making it hard to clearly draw those lines.

Senator Huntley, undergraduate student, College of Agriculture & Natural Resources suggested that the Senate reject the committee's recommendations and approve an alternate motion that he planned to propose, that would remove all criminal/disciplinary background questions from the admissions application except for questions related to academic integrity. He spoke at length about how the criminal background questions could create a barrier for underrepresented minorities and emphasized that the mission of the University is to provide opportunities to all eligible students.

Chair Falvey introduced Shannon Gundy, Director of the Office of Undergraduate Admissions, to clarify the University's admission process. She stated that all admission decisions are made without consideration of the responses to the criminal background questions. She noted that the Office of Undergraduate Admissions works diligently to ensure students know that the questions are not a barrier to their admission to the University.

Senator Levermore, faculty, College of Computer, Mathematical, and Natural Sciences, inquired about all of the options that the committee discussed and the timing of the criminal background questions in the admissions process.

Evers stated that the committee discussed four options (removing the questions, moving the questions to be asked after the final admissions decision, modifying the text of the questions, and making no changes to the current questions) and ultimately decided that the questions should remain on the application but modified so the language was clearer. In addition to rephrasing some of the questions the committee is recommending that the question on arrest records/charges be removed and that a question regarding restraining orders be added.

Senator Barbarin, faculty, College of Behavioral & Social Sciences, stated that the admissions process should consider the time since the conviction occurred since there are many extenuating circumstances in each case.

Gundy explained the overall admissions process in greater detail. She stated that after a student is found to be academically eligible, the Office of Student Conduct (OSC), reviews the responses of all applicants that responded to the criminal background questions. OSC will reach out to the student and request that they provide additional information. If the responses are more egregious, then OSC investigates all aspects of the conduct including the seriousness of the infraction, the length of time it occurred, and the likelihood of it happening again. OSC makes a recommendation to the Office of Admissions, which then makes the final admissions decision.

Chair Falvey introduced Andrea Goodwin, Director of the Office of Student Conduct (OSC), to provide additional context. Goodwin explained that the OSC goes through an extensive process to speak with students, provide them with an opportunity to meet with her staff, and provide character recommendations. Examples of cases where students have been denied admissions include students who were recently expelled from another institution for sexual assault or students who have been recently suspended and have not served their time. She noted that OSC also gives students the opportunity to reapply at a later time.

Senator Borgia, faculty, College of Computer, Mathematical, and Natural Sciences, inquired about the rationale for asking these questions if students may not be honest and forthcoming.

Goodwin stated that generally students who are honestly interested in coming to the University will share all of the requested information and that the students who are not, do not provide any information.

Evers added that there is a disciplinary process after admission if the University determines that a student has lied on their application.

Senator Bigio, faculty, A. James Clark School of Engineering, questioned the basis of the committee's recommendations since the questions appear to be too broad and there does not seem to be data to support the need for the questions. He also asked if there were data-related cases that were safety concerns.

Evers stated that the APAS Committee has included a recommendation that the OSC and the Office of Undergraduate Admissions should consider collecting responses and storing the data. He noted that the State University of New York (SUNY) research study did not consider the reason why applicants stopped the application and noted that it could have been for any number of reasons.

Goodwin provided statistics from students that provided positive responses to the criminal background questions last year. Of the 100 applications last year that indicated some sort of criminal background, 69 applicants were cleared, 22 did not provide additional information, 5 were rejected due to being expelled or suspended from another institution, and 4 are pending.

Senator McKinney, faculty, Robert H. School of Business, raised concerns about removing past arrest records because of the impact on considering housing assignments and the overall safety of the student and University.

Senator Huntley explained that his alternative motion suggests that the criminal background questions be asked during the housing process.

Senator Callaghan made a motion to amend the criminal background question: Have you ever been convicted of a crime? to "Have you ever been convicted of a violent or sexual crime?"

The motion was seconded.

Chair Falvey opened the floor to discussion of the amendment.

Goodwin expressed concern that without a definition of a violent or sexual crime, students may get confused about what to disclose or may choose not to disclose anything.

Senator Lathrop, faculty, A. James Clark School of Engineering, expressed concerns about students involved in harassment and the legal issues that could arise if the question is limited in this way.

Hearing no further discussion, Falvey called for a vote on the amendment. The result was 28 in favor, 57 opposed, and 8 abstentions. **The motion to approve the amendment failed.**

Senator Callaghan made a motion to amend the criminal background question: Have you ever had a disciplinary action taken against you to "Have you ever been expelled?"

Goodwin explained that suspension should also be included since the term of suspensions is typically 1-2 years from an institution of higher education.

Senator Callaghan revised the amendment to the question to read: “Have you ever been suspended or expelled from any educational institutions you have attended?”

The motion was seconded.

Chair Falvey opened the floor to discussion of the revised amendment.

Senator Lathrop introduced Jordan Goodman, faculty, College of Computer, Mathematical, and Natural Sciences, to speak about the definition of educational institutions. He stated that the amended language should specify higher education institutions since students get expelled from high school all of the time.

Goodwin provided an example of a student who was expelled from a high school and the liability/safety conflict it caused for the University because that student had a history of stalking a current student at the University.

Callaghan withdrew her suggested amendment.

Chair Falvey opened the floor to discussion of the original proposal from the Committee.

Senator Barath, graduate student, School of Public Health, suggested that the University should revise the admissions application to link to definitions and examples what should be reported to serve as a resource for disadvantaged students who not fully understand that responding will not adversely affect their admission to the University.

Gundy stated that University representatives visit high schools all over the State of Maryland to encourage underrepresented minorities to apply to the University and to clarify that the criminal background questions would not prevent them from being admitted. She noted that the University is a member of the College Application Steering Committee, which focuses on reaching disadvantaged students.

Senator Stenson, exempt staff, made a motion to send the recommendations back to the committee for further consideration.

Chair Falvey stated that there would need to be a rationale for the motion to recommit such as a specific element that was not considered by the Committee in the original proposal.

Senator Stenson made a motion to recommit the recommendations back to the Committee for further review of the financial implications of the various options that the Committee considered.

Senator Huntley, undergraduate student, College of Agriculture & Natural Resources made a motion to extend the meeting by 15 minutes.

The motion was seconded.

Chair Falvey called for a vote on the motion to extend the meeting 15 minutes, which would require a 2/3 vote. The result was 58 in favor and 31 opposed. **The motion to extend the meeting by 15 minutes failed.**

Chair Falvey called for a second on the motion to recommit the recommendations back to the Committee.

The motion was seconded.

Chair Falvey called for a vote to recommit the recommendations back to the Committee. The result was 55 in favor, 26 opposed, and 6 abstentions. **The motion to recommit the proposal passed.**

## **NEW BUSINESS**

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There was no new business.

## **ADJOURNMENT**

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The meeting was adjourned at 5:00 p.m.