



CALL TO ORDER

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

Dugan asked if there were any objections to limiting speakers to two minutes each on each motion or agenda item for the entire meeting without the ability to speak again until all others have done so. Dugan noted that there would be a timer on the screen to help speakers manage their time. Hearing no objections, she proceeded with the meeting.

APPROVAL OF THE APRIL 20, 2021 SENATE MINUTES

The minutes were approved as distributed.

REPORT OF THE CHAIR (INFORMATION)

Meeting Logistics: Dugan reminded Senators and Deans that they can raise Points of Order in the Chat Box and that any questions, comments, or technical difficulties placed in the Chat Box will not be responded to. She stated that any Senator or attendee who has technical difficulties should email senatemeetinghelp@umd.edu for immediate assistance. Dugan provided instructions for logging into TurningPoint and entering the Session ID for the meeting.

Update on Remaining Senate Meetings: Dugan reminded Senators that this Senate meeting is the final meeting for outgoing Senators. She thanked outgoing Senators for their work on the Senate and commitment to shared governance at the University.

Senate Transition Meeting: Dugan reminded Senators that the May 11th Transition Meeting will include all continuing and incoming Senators and will be her last meeting as Chair. Continuing and incoming Senators and the Deans will receive the Zoom panelist invitations and materials for the Transition Meeting after the Senate meeting. On May 11th, Ellen Williams will assume the role of Chair and the Senate will elect a new Chair-Elect.

Congratulations to the New Provost: Dugan congratulated Dean Jennifer King Rice for her appointment as the University's next Senior Vice President & Provost. She stated that the Senate looks forward to working with Dean Rice as she assumes her new role as Provost.

Dugan's Next Chapter: Dugan announced that she has accepted a position at The Ohio State University beginning next fall. She stated that she cannot serve as Past Chair as she will be leaving the University and the Senate. Pam Lanford has agreed to serve an additional year as Past Chair so that the Senate Leadership team can continue to have three Senate Chairs (Chair, Chair-Elect, Past Chair). She thanked Senators for sharing her commitment to shared governance at the University.

Motion to Call the Question: Dugan clarified for Senators that making a motion to “Call the Question” does not move the Senate to a vote on the issue on the floor. Calling the Question requires the Senate to vote on ending the discussion of the issue on the floor and requires a two-thirds vote to pass. If the motion passes, discussion would end and then the Senate would move to a vote of the issue on the floor. She explained that Calling the Question only allows the Senate to vote on whether to continue discussion or move to a vote. Dugan suggested that Senators exercise discretion when using the motion because it can cause more delays at times.

Dugan reminded Senators that a 2-minute timer for speakers would be displayed on the screen during the discussion of all agenda items for the remainder of the meeting.

INTERIM UNIVERSITY OF MARYLAND POLICY ON SEXUAL HARASSMENT AND OTHER SEXUAL MISCONDUCT (SENATE DOCUMENT #20-21-03) (ACTION)

INTERIM UNIVERSITY OF MARYLAND PROCEDURES ON SEXUAL HARASSMENT AND OTHER SEXUAL MISCONDUCT (SENATE DOCUMENT #20-21-08) (ACTION)

Dugan explained that the Equity, Diversity and Inclusion (EDI) Committee was charged with reviewing the Policy on Sexual Harassment and Other Sexual Misconduct, and the Student Conduct, Staff Affairs, and Faculty Affairs Committees were charged with reviewing the Procedures on Sexual Harassment and Other Sexual Misconduct. She stated that the Chair of the EDI Committee will present the recommendations on the Policy and the the Chairs of the Student Conduct, Faculty Affairs, and Staff Affairs Committees will present the recommendations on the procedures jointly. Dugan noted that the Senate will have a joint discussion on the recommendations on both the Policy and Procedures following their presentations.

Ray Nardella, Chair of the Equity, Diversity, and Inclusion (EDI) Committee, presented the proposal on the Interim University of Maryland Policy on Sexual Harassment and Other Sexual Misconduct and provided background information.

Dugan thanked Nardella for his presentation.

Judi Gorski, Chair of the Staff Affairs Committee; Andrea Dragan, Chair of the Student Conduct Committee; and Will Reed, Chair of the Faculty Affairs Committee presented the recommendations on the Interim University of Maryland Procedures on Sexual Harassment and Other Sexual Misconduct.

Dugan thanked Gorski, Dragan, and Reed for their presentation.

Dugan opened the floor to discussion; hearing none, she called for a vote on the Interim University of Maryland Policy on Sexual Harassment and Other Sexual Misconduct (Senate Document #20-21-03). The result was 112 in favor, 7 opposed, and 5 abstentions. **The proposal passed.**

Dugan called for a vote on the Interim University of Maryland Procedures on Sexual Harassment and Other Sexual Misconduct (Senate Document #20-21-08). The result was 105 in favor, 7 opposed, and 5 abstentions. **The proposal passed.**

Dugan thanked Nardella, Gorski, Dragan, and Reed for their leadership and commitment to completing the review of the policy and procedures during the academic year.

REVIEW OF THE UNIVERSITY OF MARYLAND, COLLEGE PARK POLICY CONCERNING THE USE OF TELECOMMUNICATIONS WIRING AND FACILITIES (SENATE DOCUMENT #20-21-26) (ACTION)

Jim Zahniser, interim Chair of the Information Technology (IT) Council, presented the proposal and provided background information.

Dugan thanked Zahniser and opened the floor to discussion of the proposal.

Hearing no discussion, Dugan called for a vote on the proposal. The result was 114 in favor, 2 opposed, and 6 abstentions. **The proposal passed.**

PROPOSAL TO ESTABLISH A CONSENSUAL RELATIONSHIPS POLICY (SENATE DOCUMENT #18-19-37) (ACTION)

William Reed, Chair of the Faculty Affairs Committee, presented the proposal and provided background information.

Dugan thanked Reed and opened the floor to discussion of the proposal.

Senators raised significant concerns about or strong opposition to relationships between faculty and students and the inherent power imbalance in the teacher/student relationship.

Reed stated that there was not a clear consensus among the constituencies, stakeholders, the Faculty Affairs Subcommittee, the full Faculty Affairs Committee, or from Senators during the preliminary discussion whether consensual relationships should be prohibited entirely.

Senators acknowledged the challenge of attempting to legislate romantic relationships in a large and diverse community and noted that that more study and reflection about abuses of power and sexual harassment could occur going forward but suggested that this is an area where personal freedom trumps control by the University.

A Senator noted that the term “sodomy”, which was struck from the Policy on Sexual Harassment and Other Misconduct, appears unchanged in this proposal.

Dugan stated that the Interim University of Maryland Policy and Procedures on Sexual Harassment and Other Sexual Misconduct and the Proposal to Establish a Consensual Relationships Policy are being considered in parallel so the final policies will reflect the revisions approved in the sexual misconduct policy.

A Senator raised concerns about the University recognizing consensual relationships between faculty and students and that the abuse of power on the part of faculty has catastrophic effects, particularly for female graduate students in the sciences. It was noted that privacy and liberty are important but the proposed policy could allow for abuse on some level.

Reed stated that the committee tried to strike a balance between the positions expressed by the Senate and stakeholders. He stated that the proposed policy does not sanction abuse.

A Senator inquired about the impact of voting against the proposal from the committee and whether that would mean that the University will not have a policy on consensual relationships at all.

Dugan confirmed that if the Senate votes against the proposal, the University will revert to not having a policy on consensual relationships. She noted that consensual relationships are not currently prohibited and this proposal increases protections.

Senators also shared the opinion that the proposal is an improvement on current policy and recommended that the Senate vote to approve it. They added that there should be continuing discussions in the future of expectations in terms of how faculty and staff interact with students.

Senators expressed concern that the structure of the proposal starts out from the basis of having a consensual relationship and that these relationships should not be allowed even if the relationships are consensual. They also stressed the importance of adhering to high moral standards.

A Senator inquired whether the proposal bans all consensual relationships between students and faculty.

Reed stated that the proposal discourages all consensual relationships between faculty and students and prohibits them if the faculty member has educational or supervisory authority over the student and also requires reporting in those situations.

Senators asked what is gained from having a policy because it is unclear which situations are not already prohibited by existing policies on sexual misconduct and whether current practices already cover the provisions defined in the policy.

Reed stated that the reporting feature of the policy allows for the possibility of managing power dynamics. He also stated that a marriage that predates the faculty member's appointment or approval of the policy without an educational or supervisory conflict is not subject to the policy.

A Senator stated that power imbalances do not occur in all relationships. He also expressed concerns about the comments from Senators that have a tone of sexism and portray male faculty members as predators. He stated that hitting on students is sexual harassment and not a consensual relationship.

Reed stated that the statements were not intended to be perceived as sexist in any way.

Senators shared their own experiences witnessing consensual relationships between faculty and students that were both successful and those that destroyed the futures of both parties. Senators also inquired about whether there are repercussions for a reported relationship that ends negatively.

Reed stated that he is unsure of where the policy transitions into sexual misconduct.

A Senator questioned whether the University should have a role in approving consensual relationships.

Reed stated that the committee discussed this issue in great detail. He noted that the committee tried to find a middle ground between the University completely prohibiting and legislating consensual relationships by discouraging relationships and trying to manage potential risk.

Senators noted that other students in a class where there is a consensual relationship could be negatively affected by favoritism and inquired if there is detailed language in the policy for how to discourage consensual relationships.

Reed stated that the reporting structure in the policy to the dean is explicitly set up to manage situations where academic authority may occur and that discouragement is explicitly stated in the policy but there is not a mechanism for explicit sanctions.

Senators expressed support for the proposal and also encouraged other Senators to support the proposal. They noted that it appropriately balances relationships that should and should not be banned.

Senators questioned how postdoctoral associates and faculty assistants would be envisioned in the policy if they have a supervisory role over undergraduate students; whether the policy was necessary because current practices are already addressing these types of situations; and whether the proposed policy was meant to be part of a larger general policy addressing imbalances of power in consensual relationships.

Reed stated that the committee discussed how the policy could apply to other relationships on campus but agreed that the primary focus of the policy should be on relationships between faculty and students when there is educational or supervisory authority. He noted that other parties at the University may act in a faculty role, including postdoctoral associates. Reed also stated that current issues are resolved because of reporting, which speaks to the importance of the reporting requirement in the proposed policy.

Senators also stated that consensual relationships are not a gendered issue and that the University's sexual harassment policy may not be sufficient and expressed support for the policy and its acknowledgment of power dynamics. A student Senator noted that situations such as sexual harassment make learning uncomfortable.

Senator Bond, Exempt Staff, Division of Student Affairs introduced Amelia Barabak, Enrollment Management, who reminded Senators that the University is first and foremost an institution of higher education. She stated that she is in support of the University reinforcing the values and priorities that put the education of students first.

Hearing no further discussion, Dugan called for a vote on the proposal. The result was 99 in favor, 15 opposed, and 10 abstentions. **The proposal passed.**

INTERIM UNIVERSITY OF MARYLAND POLICY ON LEAVE WITHOUT PAY FOR FACULTY (SENATE DOCUMENT #19-20-26) (ACTION)

William Reed, Chair of the Faculty Affairs Committee, presented the proposal and provided background information.

Dugan thanked Reed and opened the floor to discussion of the proposal.

Senator Perlis, faculty, College of Computer, Mathematical, and Natural Sciences, stated that there are inconsistencies in the proposed policy regarding whether the President or the Provost has the final authority to approve leave without pay (LWOP). He also noted that a partial leave without pay means that the rest of the faculty member's time does not count towards future sabbatical leave. In addition, Senator Perlis raised concerns about the requirement for an individual Memorandum of Understanding (MOU) and suggested that the requirement should be clarified and should take peer institution practices into account.

Senator Perlis made a motion to recommit the proposal to the committee.

Reed responded by noting that the policy states that "the President or their designee" has the authority to approve LWOP and that the President delegates that authority to the Provost. He noted that it has always been possible to take LWOP at less than 100%. Reed also stated that the policy provides flexibility for the LWOP period to count towards the eligibility for sabbatical in exceptional cases. He stated that the MOU allows for an understanding that the situation of every faculty member is different.

The motion was seconded.

Dugan opened the floor to discussion of the motion to recommit the proposal to the committee.

Senator Perlis introduced Ming Lin, Professor, Department of Computer Science, College of Computer, Mathematical, and Natural Sciences, who stated that individualized MOUs do not take into account faculty with appointments in multiple units who do not have a mechanism to appeal the decision. She noted that most faculty in the Department of Computer Science have multiple appointments, which can lead to departmental differences in how conflicts are treated. Lin stated that the Office of Faculty Affairs explicitly wanted a LWOP timeline to not count towards sabbatical while also introducing partial LWOP. She noted that wording regarding the President and Provost is inconsistent throughout the document. Lin also suggested that MOUs should be standardized because individualized MOUs could lead to discriminatory treatment.

Reed stated that it is not a right of faculty to go on LWOP and it is within the purview of the Provost or President to decline a LWOP request. He noted that the MOU is particularly important for faculty members with multiple appointments because it allows all parties an opportunity to coordinate. Reed noted that the Office of Faculty Affairs has a sample MOU on their website. He stated that there was no intention to be misleading in the language regarding the President and Provost.

A Senator inquired if there was any right of appeal to the decision to deny the LWOP request.

Reed stated that the typical faculty appeals process does not apply to LWOP requests because it is not a right. The Provost is the final authority.

Senator Perlis introduced Ming Lin, Professor, Department of Computer Science, College of Computer, Mathematical, and Natural Sciences, who stated that based on past experience, the terms in the MOU were not consistent with state or federal labor law.

Vice President Hollingsworth, Division of Information Technology, inquired if remanding the proposal to the committee would effectively leave the interim policy in effect through the summer and into the fall.

Dugan stated that if the motion to recommit was approved and the proposal was returned to the committee for further consideration, the interim policy would remain in effect until a newly formed committee reviewed the policy and brought revised recommendations forward to the Senate next fall.

Dugan requested that Senator Perlis clarify the specific issue(s) that he was asking the Faculty Affairs Committee to review if the proposal were recommitted to the committee.

Senator Perlis stated that the issues were the lack of clarity surrounding the President and Provost as the approval authority, partial LWOP and sabbaticals, and MOUs.

Dugan clarified that proposals can only be recommitted to a committee if there are substantive issues that the committee had not already considered in the course of its original review. She stated that a proposal cannot be returned to a committee because of a disagreement with the recommendation.

John Bertot, Associate Provost for Faculty Affairs, stated that the Office of Faculty Affairs did not have an MOU template prior to the development of the interim policy. He stated that the MOU template is a guideline that was vetted by the Office of General Counsel and faculty are free to develop their own MOU.

A Senator inquired about how the proposed policy would affect junior faculty and tenure delay.

Reed stated that the proposed policy discourages leave without pay for junior faculty and encourages them to move towards promotion and tenure. The policy recommends that if junior faculty go on leave without pay, they should submit a request to extend their tenure clock.

Bertot stated that professional and personal leave without pay should be distinguished and any request for a tenure delay would receive full consideration. He also noted that there would be consultation with the Provost regarding any professional leave without pay request for junior faculty as it affects the tenure process and tenure review.

Dugan requested clarification on the reason for recommitting the proposal.

Senator Perlis stated that he has no further specific reasons.

Dugan instructed the Senate to stand at ease while she clarified procedures with the Senate Parliamentarian and Director.

Dugan stated that after consulting with the Parliamentarian and the Director and considering the issues raised by Senator Perlis to support the motion to recommit, she did not find any new substantive issue that has been raised to recommit the proposal to the committee. She asked Reed if the issue of the President's authority and designee was unclear.

Reed stated that he believes that it is clear but can appreciate how others may find it unclear.

Vice President Hollingsworth noted that the President only appears once in the policy and is immediately followed by language that designates the Provost with the authority to approve LWOPs and noted that the Provost is named consistently throughout the rest of the document. The policy was displayed on the screen to show that was the case.

After reviewing the language, Dugan ruled the motion to recommit out of order because there were no new substantive issues that the Faculty Affairs Committee had not already considered.

Dugan stated that the Senate would return to general discussion of the proposal.

A Senator stated that his purpose was not to obstruct the vote on the proposal but he expressed significant concerns over the processes that led to the development of the interim LWOP policy and that it violated University rules.

Dugan explained the rationale behind the implementation of interim policies. She explained that interim policies are put in place when there is a time-sensitive need for policy revisions to be implemented when the Senate is not in session or when there is not enough time for a thorough Senate review. In order to implement an interim policy, the administration consults with the Senate leadership on why the interim policy is needed, and the President approves the policy on an interim basis pending Senate review. The Senate Executive Committee then charges a committee or council with a review of the interim policy before it is formally codified.

Dugan explained that an interim policy may be needed when the University must respond to changes in federal or state laws or University System of Maryland (USM) policy or in order to remove a conflict or comply with a mandate or required deadline. This well-established process allows the administration to address time-sensitive deadlines and compliance requirements while still allowing the Senate to undertake a thoughtful process with community engagement before the policy is finalized.

Dugan explained that in this particular case, the administration identified a conflict in the leave without pay policy with the University's sabbatical leave policy regarding whether the period of leave should count towards eligibility for sabbatical. She stated that the interim policy also included revisions to align the 1991 policy with current practices and processes to improve clarity. The Office of Faculty Affairs worked directly with the Senate Office and the Office of General Counsel to draft the revisions for the interim policy and it was reviewed by the Senate leadership before it was recommended for approval by the President on an interim basis pending Senate review.

Senator Katz, graduate student, College of Computer, Mathematical, and Natural Sciences, made a motion to extend the meeting by ten minutes. The motion was seconded.

Dugan called for a vote on the motion to extend and noted that it requires a $\frac{2}{3}$ vote in favor to pass. The result was 76 in favor and 34 opposed. **The motion to extend the meeting by ten minutes passed.**

A student Senator noted that extended LWOP has a negative impact on students, particularly graduate students seeking dissertation committee members. He asked if the impact on students was taken into consideration.

Reed stated that the approval process reflects the committee's emphasis on the impact on students.

A Senator noted that he does not believe that there was a conflict between University and USM LWOP policies. He stated that he had requested that the Senate leadership provide a statement clarifying their position on when the administration is allowed to bypass Senate committees, to make a statement on how and when those policies should be enforced, and to address why the order was bypassed in the absence of a conflict between policies. He encouraged Senators to

contact him if they are concerned that rules are not being followed by the administration and the Senate leadership.

Hearing no further discussion, Dugan called for a vote on the proposal. The result was 74 in favor, 14 opposed, and 21 abstentions. **The proposal passed.**

Dugan adjourned the meeting at 5:05 p.m.