

**WAYNE STATE UNIVERSITY  
ACADEMIC SENATE**

**Official Proceedings**

February 7, 2024

**Members Present:** Laurie Clabo, Acting Provost and Senior Vice President for Academic Affairs; Linda Beale, President, Academic Senate; Heather Abraham; Suresh Balasubramanian; Joan Beaudoin; Cathryn Bock; Maria Bykhovskaia; Pynthia Caffee; Stephen Calkins; Fernando Charro; Stephanie Chastain; Wei Chen; Stephen Chrisomalis; Chris Collins; Damecia Donahue; Sujay Dutta; David Edelman; Jessika Edgar; Brian Edwards; Erica Edwards; Ewa Golebiowska; Haidong Gu; Weilong Hao; Marisa Henderson; Lenuel Hernandez; renée hoogland; Arun Iyer; Christine Jackson; Kristen Kaszeta; Satinder Kaur; Pramod Khosla; Shelly Jo Kraft; Jennifer Lewis; Feng Lin; Cynthia Merritt; Georgia Michalopoulou; Bharati Mitra; Ramzi Mohammad; David Moss; Paul Neirink; Lisa O'Donnell; Rachel Pawlowski; Richard Pineau; Kami Pothukuchi; Tamme Quinn-Grzebyk; Shauna Reever; Erika Robinson; Joseph Roche; Noreen Rossi; Brad Roth; Ali Salamey; Andrea Sankar; Elizabeth Stoycheff; Ellen Tisdale; Stephanie Tong; Nicole Wheeler; Hossein Yarandi; Dongxiao Zhu

**Members Absent with Notice:** Juliann Binienda; Erin Comartin; Daisy Cordero; Alan Dombkowski; Paul Dubinsky; Sean Hickey; Michael Horn; Christine Knapp; Cynthera McNeill; Sean Peters; Robert Reynolds; Gina Shreve; Cheryl Somers; Le Yi Wang; Jeffery Withey

**Members Absent:** Chris Kleithermes; Gamal Mostafa; Wassim Tarraf

**Guests:** Bryan Barnhill; Klaus Bryant-Friedrich; Kelly Dormer; Mark Gaffney; David McGrann; Mary Paquette-Abt; Sarah Schrag; Karin Tarpenning; Tonya Thomas; Fred Vultee; Jon Weinberg; Nancy Welter

I. ELECTION OF A POLICY COMMITTEE MEMBER

An election was held to fill the 2024 vacancy on the Policy Committee. Damecia Donahue (Libraries) was elected.

II. APPROVAL OF THE PROCEEDINGS OF THE ACADEMIC SENATE

It was MOVED and SECONDED to APPROVE the proceedings of the Academic Senate plenary session of December 6, 2023. PASSED.

III. GREETINGS FROM BOARD OF GOVERNORS

Barnhill expressed his appreciation to Senate members who play an important role in ensuring the quality of the university. Wayne State is an anchor for the city of Detroit and a premier institution of higher learning in our region. What he values most about the university is the opportunity it provides for our students to transform their lives. He noted the joy he has in attending commencements and seeing so many first-generation students graduate.

Being on the Board of Governors (BOG) is an interesting task: if the BOG does its work well, nobody cares who they are. BOG members should not be in the news, and if members of the university community are adequately resourced, feel like the finances tie into allowing accomplishment of their day-to-day roles, no one should be thinking about what is happening in the president's office or what is happening with the BOG. Unfortunately, worries about finance are a significant part of the university community's day-to-day reality, which means that the BOG has work to do. The primary work of the BOG this year has been to support the onboarding of the new president. There are a number of key leadership roles that need to be filled and some will be identified soon. Barnhill also chairs the finance committee and is concerned about the university's resources because we depend on a public subsidy to manage our operating budget. We must continually think strategically about resources. Also, the BOG set a strategic vision to become the best public university for social mobility. That is something Barnhill takes pride in: he hopes it is a mission that also resonates with the Senate. The next step in going from the vision to reality requires revisiting the strategic plan to determine how to reconcile space usage to prioritize which facilities require reinvestment and perhaps identify opportunities to operate smarter so that more financial resources can be freed to support that vision.

Robinson (CFPCA) thanked Barnhill for his words of encouragement and asked whether the BOG has considered making vacant buildings available to external entities through leases or similar uses. Barnhill responded that the BOG primarily evaluates the work of the administration, though shared governance provides an opportunity to discuss how that plan will evolve. The BOG will assess the overall plan for space utilization and efficiency brought to it, so if there appear to be failed opportunities to find third parties to fill empty spaces, the BOG might reject the plan and encourage everyone to reconsider those kinds of solutions.

Kaszeta (Education) suggested that the BOG should look

more closely at the way administrative salaries have soared over the last few years. Under the collective bargaining agreement that expires this year, raises were minimal for the faculty and academic staff that the Senate represents (with the across-the-board portion at only 1.25%), but the BOG approved a larger amount for administrators. Previously, our president was the highest paid urban university president. Kaszeta asked how the high salaries and significant raises for administrators fits into the budgetary solvency concerns. Barnhill responded that he hopes the university can free up cashflow by using its real estate more efficiently. The BOG does want to ensure equity regarding changes in pay for administrators and those covered by collective bargaining. He will be interested in historic trends between administrative and represented employees, understanding whether it was thought necessary to provide performance incentives, as well as the overall impact on the budget. He assured the Senate he wants those decisions to be fair. He encouraged faculty and academic staff to reach out to him directly or to the BOG Budget and Finance Committee Senate representatives who can raise those concerns. He intends to pay particular attention to that issue in this next budget round.

Sankar (CLAS) noted most people in this room support the goal of making Wayne State a model of an upwardly mobile university but wondered what Barnhill considers that to mean. How does one measure success? What kind of markers should there be as we move forward? Barnhill responded that social mobility metrics are provided by various media, such as *The New York Times* and *U.S. News & World Report*. We try to adapt those as well as possible to the university. They include 6-year graduation rates and gaps in graduation rates between different classifications of students as well as lagging indicators such as employment after graduation, salary, and things of that nature. The university does need to have a better sense of what the leading indicators are. President Espy's team is bringing additional metrics to the BOG's attention, and those are being reported on the university's website.

Donahue works with students from the metropolitan area who are curious about how to become a BOG member like Barnhill. She asked if he could share some of his background and advice about what students might consider doing to prepare for that kind of role. Barnhill said he would be pleased to meet for a conversation with students. He enjoys engaging and mentoring. Beale

suggested that Senate members would appreciate a description of Barnhill's experience. Inviting BOG members to speak at plenary is a way for the Senate to get to know them better, as well as for BOG members to get a sense of Senate interests.

Barnhill responded that his life has been an intriguing combination of contrasting experiences with blessings that have been sprinkled in here and there. He is grateful for the support of his family and community in that regard. He has been married for 11 years, has two kids, and lives in Detroit. He grew up on the east side near Detroit City Airport on Gratiot and Connor. At that time, the neighborhood did not have many well-educated members. He remembers when he was about six years old driving down Gratiot across Eight Mile with his mother: for the first time, he realized that the world did not look like his block. Here the grass was cut, buildings were not abandoned, concrete was not broken, and the people did not look like him. He wondered why he lived so differently from these other people. Over time, he took from that experience a drive to do whatever he could to improve his own situation and to figure out how to support other people in improving theirs. He did well in school—something he could control. That afforded opportunities to travel outside of his immediate surroundings, such as getting on a plane for the first time after receiving a scholarship to space camp. Interestingly, he spent much time on the Wayne State campus as a young person, attending classes for DAPCEP and Math Corps. His mother enrolled him in a public charter school called the Detroit Academy for Science, Math, and Technology, located at the time in the science center. His mother would pick him up from the library at 8 p.m. on Wednesdays. He would spend time in the library, but he also recalls amazing experiences venturing off onto the campus and into the Detroit Public Library (though he is not sure he would want his kids wandering around Midtown like that).

He continued to progress in his studies as an undergraduate at Harvard in government dual enrolled at MIT in finance. After graduation, he worked in real estate private equity in New York. During that time, he grew tired of reading about how bad things were in Detroit. Growing up, he and his best friend made a promise to eventually come back to Detroit. He attended school board meetings, protesting the conditions of the facilities in the public school system in Detroit. He became involved with an organization called BAMN, helping to organize young people and speaking at a

march in Washington, D.C. While in college, he recognized that change requires a coordinated effort of different types of people who function in various roles, including agitators who play a significant role. That agitation has to meet with some sort of empathy within the halls of power so that ideas can be managed with coordinated and informed action. Unlike a lot of folks in the protest circles, Barnhill had opportunities to engage in these institutions, learn about how they operate, and it allowed him to see how he can use his perspective on change and growth. He considers himself an internal change agent in the various roles and volunteer efforts that he is a part of to this day.

Barnhill came back home to Detroit during a time where it was easy to find a job, but after about three months of living at his parents' house as a Harvard graduate, he took an opportunity to work at Southwest Housing Solutions, an organization focused on low-income housing development, mortgage foreclosure, and counseling. During this time, there was a resurgence in leaders who wanted to restore Detroit city government. Some city council members and the mayor had gone to jail, so around 2009 there was a new crop of city council members. He volunteered for a change agent named Charles Pugh, which did not pan out the way he had expected. During that time, the city was facing significant issues, and he found himself in the middle of them. Because of those experiences, he was able to develop relationships, work on projects and make a name for himself. He received a call from the CEO of the DMC, who was thinking of running for mayor and thought Barnhill could help. He began leading the exploratory committee and developed the platform called Restore Our Neighborhoods—a neighborhood plan for reinvestment in the city that was used as a campaign and organizing instrument. Through many twists and turns—including getting thrown off the ballot and having to run against a barber named Mike Guzman—Mike Duggan prevailed. Barnhill then spent some time working in city government while continuing his education at the Ross School of Business. After the city started to stabilize, he started working at Ford Motor Company in 2018. The first project was the transformational redevelopment of the train station. He has since worked on improving profitability overseas and has recently been focusing on improving semiconductor supply chain resilience.

Calkins (Law) appreciated Barnhill's story and thanked him for his role in the train station redevelopment. He

pointed out a couple of Senate members own condos in Midtown, and it would actually be a great place for Barnhill's kids to walk around: police look out for folks all the time. Calkins also suggested that Barnhill, in his role as finance guru, might consider talking about the money that comes to Wayne State from Lansing as an "investment in the future" rather than using the term "public subsidy."

Barnhill agreed. We can do a better job telling the story of what Wayne State does for the state of Michigan from an economic standpoint, including the social mobility value. Also, Wayne State's graduates tend to stay in Michigan and form a key part of the state's workforce. The university should be supported for that work compared to other institutions in the state.

#### IV. REPORT FROM THE SENATE PRESIDENT

Beale noted that the Senate members frequently discuss the university's infrastructure needs and deferred maintenance, and this semester has brought that to the fore. Beale relayed comments about restroom inadequacies in multiple buildings to AVP FP&M Rob Davenport, including a suggestion that the university add bidets to bathrooms in buildings across the campus, since they are important for Muslim faculty, staff, and students as well as an improved function for all. Everyone has experienced high temperatures outside when it is difficult to be cool inside as well as the very cold temperatures outside recently when it was hard to be warm enough inside. The provost even moved the Policy Committee meeting from its normal meeting in FAB 4339 to her conference room because of the 20-degree warmer space. Facilities regrettably must work to maintain inadequate-when-installed equipment and systems and deal with emergency situations that come up. That is why discussions with FP&M through the Facilities, Support Services and Technology Committee (FSST), through Policy, and through Beale's individual discussions with Davenport have emphasized the importance of eventually getting to a preventative maintenance schedule that deals with infrastructure issues before equipment breaks down. Hopefully we are on the track towards preventative maintenance. This is obviously a longer-term issue, and we continue to suffer through some consequences of that. Everyone is aware of the way that impacts classes, labs, events, and committee meetings. As the Senate leadership, we are

not ignoring that problem because everyone has faced it one way or another.

The Policy Committee's proceedings go much more in depth on facilities and other issues. Note, however, that the Policy Committee has not met as frequently as we ordinarily do because of the winter holidays, Martin Luther King Day, and the general busyness at the start of the semester. Note also that the proceedings provide as much information as possible, but there is also often confidential material that must be left out.

President Espy came to Policy in November to talk about school of public health (SPH) ideas. There are three meaningful and important takeaways from that discussion. One is that there is an understanding that the university must have adequate resources for startup or cannot start a new school. There is no intent to take resources away from other schools, colleges, and programs in order to start a new school. Everyone (BOG, president, provost, foundation) has made that clear. The second has also been stressed from the beginning. Although the Masters of Public Health degree program has to be in a new SPH for accreditation purposes, existing faculty will be able to choose whether to stay in their current faculty home or move to the new SPH. A third correlated commitment from the university administration is about the difference between new hires and existing hires. While new hires in public health will likely have a firm requirement for grant funding as part of their salaries, that will not be imposed retroactively on existing faculty. In terms of implementation, working groups have been established, each with Senate representation. Most of the 10 groups have taken longer than expected to start working. Hopefully, Senate members on the working groups will consider long-term strategies for bringing about a new school: your voices will be important to bring forward issues that might be overlooked if the work were done top down. Please keep Policy advised about how that work is going. Beale is on the finance working group and the steering committee but neither have yet met, so she noted that she could not add information beyond that described in the November Policy proceedings.

There has been a lot of talk about both flat or block tuition that was instituted this year as well as the proposal for block registration for cohorts of students that is being piloted in a few places this academic year. It will be important to find ways to maintain early registration and pre-orientation registration capacities

while still allowing students sufficient optionality in terms of taking courses outside their majors (i.e., taking a language course while taking courses for a STEM major). Policy has pushed administrators to consider those needs as we move ahead with block registration.

Policy also had an extensive discussion with VP for Academic Student and Global Engagement Ahmad Ezzeddine whom President Espy tapped to head the College-to-Career initiative. One positive about the initiative is that it provides a way to tell a story to the external community about the many things that faculty and academic staff do, often on their own initiatives and not because they are being paid to do it. This is often extra work that faculty and academic staff care about, whether it is working to arrange externships or working to arrange study abroad programs or developing experiential courses that students can take that often require substantially more effort to teach. We know that faculty and academic staff all across the university are doing these things. Policy suggested that Ezzeddine consider that the key effort from any task force would be to create a full inventory of what is already being done that is organized in a way that allows it to be used by communication and marketing to let Lansing, Washington D.C., and the local, state, and national community share our excitement about what we do in this area. Beyond that, it is primarily just part of the ongoing task for faculty in the departments and schools to think about what curricular updates need to be made to meet students' needs. What would be especially helpful is to have some funding available to help faculty who want to create new programs that extend beyond the classroom, such as study abroad, learning communities, and other experiential education.

The foreign influence disclosure policy is something Policy has been working on, primarily with Tom Cavalier in the General Counsel's Office, for several months. Ultimately, this policy will help ensure that faculty and academic staff understand their disclosure responsibilities around work in and with foreign countries. We have asked the small committee working on this to create a FAQ that can be posted and readily available to help faculty understand what they are supposed to disclose. Hopefully the policy and FAQ can be finalized by the end of the academic year, but anyone who has any partnership, contract, or other relationship with or in a foreign country should consider the need for disclosure.

Lastly, Policy has held several meetings with Darin Ellis (AVP Academic Affairs) and Kelly Dormer (Dir., Academic Affairs) regarding enhancement of the Undergraduate Research Opportunity Program (UROP). The goal is to facilitate students' ability to find faculty mentors and faculty being able to publicize projects for which students might consider developing a related proposal. There is an improved software, ForagerOne, that some of you may have experimented with already. More information will be sent out to all faculty about the software and how to use it. As you may recall, we established a Senate ad hoc committee to work with administrators on UROP to ensure there was adequate peer review by faculty of projects. These changes will create a process similar to the one for Article XXX committees whereby people in different fields can be nominated or self-nominate and then the Office of the Provost and Policy will select an ongoing committee from those nominations. This will ensure that the UROP committee represents a cross-section of disciplines.

Pawlowski (Honors) noted some concerns discussed regarding how the new flat rate tuition would work since it may encourage students to take more credits than they can successfully complete. She asked whether we have data yet on that question in terms of DFW rates or average GPAs. Beale responded that Policy and the standing committees plan to see data for the full year to evaluate how well block tuition works. Some students may have thought to save money by taking 18 credits but that courseload could be beyond their ability to keep up; while other students may have been wiser in determining the number of credits to take. That data will also help academic advisors know more about how to talk with students about how many credits to register for.

#### V. REPORT FROM THE CHAIR

Winter census shows overall enrollment is essentially flat (down 0.9%). While those numbers are encouraging, enrollment has not grown at the pace hoped, though Wayne State is consistent with its peers. First-year student retention from fall to winter semester is 92%, a testament to the work of faculty and academic staff in engaging students who often might have left after the first semester.

The presidential investiture will take place on March 18 at 3 p.m. at the DIA. It is an opportunity to celebrate, look forward, and coalesce around a future vision for the

university.

Clabo thanked Senate representatives who have agreed to serve on the Budget Planning Council (BPC). Like university promotion and tenure, BPC work should get extra service credit since members will sit through more than 25 budget hearings during February, March, and possibly early April. Deans and division heads have been asked to use BPC templates to prepare contingency plans on desired investments and savings that might offset them. BPC is using the same percentages as last year—preparing for a 3% or 6% cut. That does not indicate that cuts of that magnitude are certain, but it is likely that there will be marginal budget reductions. BPC's goal is to avoid suggesting across-the-board equal cuts to the president but rather to look carefully at places where investment can generate additional revenue and other places where slightly larger cuts can be taken. There is much more to come as the budget season moves forward, and, as usual, there will likely be a fuller discussion at a later plenary session.

Clabo thanked the Policy Committee for robust and frank discussions, both at the end of last semester and the beginning of this semester, on several important issues. She is grateful to be working together through a governance structure that supports all of our academic programs. In particular, she noted that the university has had a rather eclectic process for moving our interdisciplinary efforts forward with few overarching principles to guide how those programs should be housed. In some cases, graduate programs have been proposed or housed in the Graduate School, and then there have been a series of governing committees. Discussions with members of the Policy Committee and the Council of Deans suggest a desire for a more formalized structure for academic appointments, workload, and funds for interdisciplinary programs—including both programs that cross departments within the same college as well as offerings across colleges. Part of this is a concern that a participant in instruction in an interdisciplinary program may not get appropriate workload recognition and credit in the home unit. The future of higher education is in interdisciplinary and interprofessional efforts, so it is important to find ways to support those. Beale and the provost have discussed forming a joint working group to explore the relevant issues and bring forward recommendations to both the Academic Senate and university administration on moving that process forward. A charge for the working group is under development, and then people will be

asked to join the group to move it forward.

Clabo shared an update on current searches. Dr. Ezemenari Obasi, the new vice president for research, started at the beginning of February, bringing excitement about a renewed look at incentivizing research. The search process helped members consider, among other things, not only how the university supports faculty research but also how to move from a culture that is focused primarily on single PI, R01 grants to more interdisciplinary scholarship and a culture expecting more multiple-PI, mega-grants. Obasi has a demonstrated history of success at his previous institution. Clabo hopes that is something that he will bring to Wayne State.

The search for the senior vice president for finance and business affairs is in its early stages, following a single meeting of the search committee. The search firm has met with a variety of constituents across campus to help develop the position profile, a draft of which will circulate to the search committee this weekend. The search firm, SP&A Executive Search, will actively recruit candidates for the position over the next few months, with the hope that we might complete the search by late spring. That is, of course, an ambitious timeline.

Four university relations officer and chief of staff candidates are now visiting the campus. Senate members have received invitations to join open presentations over the next few days. This university relations officer will be responsible for three units that have had direct reporting relationships to the university president in the past: Marketing and Communications, the Office of Government Relations, and the Board of Governors office. This person will help us tell Wayne State's story to diverse audiences: internal students, faculty and staff; governmental; potential students and their families; the local community and beyond. Hopefully, there will be an announcement of the appointment within a few weeks of the campus visits.

Lastly, Clabo mentioned two recent events in which she had the opportunity to participate. Last week was the 30th anniversary celebration of the Humanities Center. It was a wonderful opportunity to recognize, elevate, and celebrate the work of humanities faculty. In a university with substantial faculty, staff, and students in professional schools, it is especially important to recognize the significance of faculty work in providing an educated citizenry to serve Detroit and beyond. The

Humanities Center has had a significant impact over the last 30 years, and it now has many new possibilities under new leadership. The event combined a symposium during the day that concluded with a gala, which Clabo attended. It was a pleasure to celebrate and talk to the faculty at the gala.

Another event worth noting was the inaugural lunch meeting of the “Faculty with Ties to India Engagement Group” that took place about a month ago. Clabo appreciates the ongoing efforts of the faculty to join together in community and consider how to leverage experiences to attract students, faculty, and research funding. She is grateful for Khosla's (CLAS) leadership in establishing this group and looks forward to activities moving forward.

VI. COLLEGE-TO-CAREER INITIATIVE WITH Q&A

Regrettably, President Espy was unable to attend to discuss the College-to-Career initiative due to illness. She will join our next plenary session.

VII. FREE SPEECH IN THE UNIVERSITY SETTING

Brad Roth (CLAS, Law) and Jon Weinberg (Law) hosted a two-person panel to discuss free speech in the academic setting.

At the request of Provost Kornbluh and Law Dean Bierschbach, Weinberg, Roth, and Nancy Cantalupo (Law) led a public event on free speech in the academic context last fall. That stemmed from discussions initiated in the Policy Committee more than a year and a half ago that led to a memorandum, primarily drafted by Weinberg, on the special issues of speech in the academic context. That memorandum has been distributed to Senate members for this discussion. As members are likely aware, the issues have proliferated in the last year, so it was thought appropriate to engage with the full plenary around these free speech issues. Cantalupo, who would have brought a DEI perspective specifically to these free speech matters, expressed her regret that she could not be here due to illness.

What Roth would like to see is a robust discussion here, with full expression of people's concerns about these matters. Weinberg is a leading constitutional law scholar

and a distinguished professor of law who can answer questions along those lines. Roth is a professor of political science and law whose work is the application of political and legal theory to problems in international comparative law, so he tends to consider these matters from a different perspective and to focus on different aspects worthy of discussion. In respect of some of these issues, there are hard and fast answers because there are binding court decisions, while others continue to be matters of intense debate. Informed persons of good faith and sound reason have radically different views not only about the substantive matters that are debated all the time but also about the ground rules for those debates and the limits needed. All is open for question.

Roth began by noting that many people find it counterintuitive that the free speech doctrines binding upon public institutions include a doctrine of viewpoint neutrality. It created some consternation when university presidents were called before a congressional committee and had difficulty answering questions on controversial matters. The principle of viewpoint neutrality is a rather blunt and harsh principle. There are serious arguments to be made for and against that principle and whether it should be adopted in circumstances other than public institutions where it is not required to be applied. Presidents of private institutions were before that congressional committee, and those private universities are free to adopt the doctrine but not required to do so. On the other hand, Wayne State University is bound by the principles of viewpoint neutrality, particularly in respect of sanctions against speech, as laid out in some detail in the memorandum. Nonetheless, there is room for discussion not only in terms of *how* the doctrine applies but also in terms of what principles *ought* to apply ethically in respect of matters that are not directly governed by that doctrine.

Weinberg added a caveat about the project. The memo distributed to the Senate primarily addressed the university in its *disciplinary* capacity. When is it that a university can punish people for their speech? When can the university tell people "You are not allowed to say that" and when should the university acknowledge a problem by saying "We are embarrassed that the person said that. We disassociate ourselves from that." That disciplinary capacity of the university around speech on campus was, in large respect, the focus of the referenced congressional hearings. Legislators were essentially asking "Why are university presidents not punishing people on campus for these things they say that we find

offensive?" The memo makes clear that, in fact, the university's legal authority to punish people for what they say is strikingly limited. That said, that is not the end of the discussion. Beyond disciplinary action, we need to consider what the university's role should be in encouraging a culture of discourse that elevates community members rather than tearing them down. A recent email from President Espy announced a conference on February 29 on university discourse. We also hope to have additional programming on discourse in a complex and polarized world during the coming year. Although today our discussion is on law and legal restrictions on what the university can do, that is only one part of a larger picture.

Henderson (CLAS) noted that the DEIC meeting recently discussed this issue with General Counsel. One of the members asked about resources that people could refer to if they had a question—i.e., something that might illustrate different scenarios or provide information on legal cases of which people should be aware. There is no committee training on these issues. Is there something that provides that information? Roth responded that the distributed memo can serve that purpose, although the issues of course run much deeper. You would need a memo 10 times as long to cover a fuller range of issues. Weinberg added that lawyers tend to answer these kinds of questions with "Well, it depends." Indeed, part of the rationale for the memorandum was to provide basic guidance for understanding the university's ground rules for telling a member of the university community "You're not allowed to say that." Roth noted that the memo also addresses another significant aspect of university speech considerations—that is, the wisdom of university personnel (i.e., the president or other spokespersons) speaking to certain matters collectively. It also addresses students' behavior in response to unwelcome speakers on campus—a genuinely fraught topic.

Calkins asked what President Espy should say if she were hauled before Congress. Weinberg responded that it would be useful to say forthrightly, rather than hemming and hawing, that the university supports and is bound by the First Amendment to the Constitution. That is a position that can be defended without falling into the trap of appearing to say nothing (as the presidents at the hearing did). A president should make it clear that the issue is *not* whether the university is "supporting genocide" (as suggested in the hearings) by not *punishing* speech; instead, *the issue is whether the*

*university has appropriately carried out its role to ensure that students, faculty, and staff are able to express their views, so long as those expressions of views do not cross guardrails the law sets out. Those guardrails were not reached in the controversies that the questioners were asking about in the congressional hearings.*

Roth added that it was unfortunate that the university presidents did not speak about the rationale underlying the First Amendment doctrine. There was a golden opportunity to do this because many of those same congressional representatives are strong supporters of particular Supreme Court justices who have come down strongly in support of the very speech doctrines to which representatives were objecting. As presidents of private institutions, they could have said, for example, the following: “This is a matter above my pay grade. Even though we are a private institution, we have committed to abiding by the public standard that has been widely embraced since 1969.”

Roth continued by seeking to dispel the notion that the First Amendment law as we know it comes to us from 1791 and that all these concepts have been with us from time immemorial. There is a certain kind of “lawspaining” where people are basically told that if you do not agree with this, you just do not understand free speech. In fact, First Amendment law has varied widely in the history of the republic. It varies widely among liberal democratic states. There is a different interpretation in international human rights law. There is thus room for disagreement about what the law ought to be, even though the existing legal standard is fixed. Weinberg pointed out in response that the historically contingent and internationally idiosyncratic nature of U.S. First Amendment law likely would not have been a useful topic to raise in that particular congressional hearing. Roth added that the presidents also failed to push the members of Congress to explain and justify their characterization of the speech they criticized.

Chrisomalis (CLAS) observed that a relevant factor for section five of the memo discussing the topics on which universities ought to speak is money. University presidents might not wish to say anything to anyone about controversial national and international issues, but there are external forces demanding that the university speak else the money spigot will dry up. Some of that comes from state legislatures, but it also comes from donors, even for public institutions. That can lead a

university’s board to demand that presidents make certain kinds of statements. Can we as faculty and staff better communicate to presidents our insistence that they exercise more restraint in that respect? Is there a way for the university to insulate itself from that kind of economic pressure? Broad abstract principles about free speech get conflated with the practical reality that those kinds of demands will not go away.

Weinberg responded that the University of Pennsylvania situation has provided a valuable object lesson on the problems of paying too much attention to wealthy alumni’s demands. Wealthy alumni made demands of the University of Pennsylvania, and those demands were in large part satisfied. What that did is encourage other ideologically driven wealthy alumni to make more demands in a self-reinforcing cycle that does not seem likely to stop. Many university administrations have gotten the message, in fact, that when ideologically driven alumni make demands, the university is better off refusing to comply up front, even if there might be some pain associated with refusal, rather than having to refuse later. Note, though, that it is not just funding sources and politically and financially influential community members who may want a university to make a particular statement. Sometimes a university’s influential board member may be unhappy and push the university to take a stand because the statement deals with an affinity group to which that board member belongs. Our own students feel torn, hurt, and threatened sometimes by speech they hear around campus. Weinberg noted that students on both sides of the current controversy in the Middle East in a class had shared how much they feel personally is at stake in the Middle East and in the campus discussions about the Israeli-Palestinian conflict. It is also important to remember that pressure to respond is not necessarily ginned up by people in bad faith. Whether the pressure comes from bad faith or good, it seems that university administrators have begun to understand that they must tread carefully in these matters, else they will only make matters worse. Either way, there will be community members who are upset that the university said this thing and not something else.

Roth added that it would always be preferable for an administrator to tie the university to the mast of some rigid principle that is not sensitive to particular circumstances because that allows the university to maintain a position that gives the impression of neutrality. The difficulty, of course, is that a university administration cannot be fiddling while Rome burns.



There will be times when there is a justifiable expectation that the university will speak about particularly provocative circumstances. It will be hard to find the appropriate position to take, and it will likely not be one on which there is consensus. In those cases, people need to use their imaginations to consider all the circumstances in which the shoe ends up being on the other foot because the circumstance they see is not the only circumstance that might arise, and that can lead to a statement that is not productive. For example, there was a particular administration statement targeted at a member of this faculty that made the faculty member's difficulties greater when that faculty member was already subjected to serious threats for something he had tweeted. This can come from any direction. Whatever interest being protected today may not be the one at issue tomorrow.

Pawlowski asked whether the panelists had suggestions for navigating discord when there are disagreements in conversations in or out of the classroom. Is there a way to make the discussion more accessible to students to help educate them proactively? How can members of the faculty and academic staff inform students about the better ways to engage in what may be uncomfortable discourse? The university has courses on controversial topics, and faculty are sometimes nervous about how the classroom discussion can be handled. Students tend to think that free speech covers anything said, but it does not. The Honors College talks to students about agency, reporting and advocacy, but how can that be handled in the ordinary classroom or hallway context?

Weinberg responded that Provost Clabo has recently started an initiative based on a discussion in the University Leadership Council to begin an annual "year of focus" program around a major theme at the university, with the 2024-25 year of focus theme being this topic of discourse in a complex and charged context. She has asked Dean of Education Denise Baszile and Professor Weinberg to co-chair a university steering committee to coordinate development of programming around this topic through a variety of activities (e.g., symposia, workshops, film festivals, presentations, readings, student activities). The steering committee will include Senate representatives and others from across the university. The hope is that this will provide a suitable format for bringing these concerns to everyone's attention.

Roth added a few caveats regarding teachable moments

with respect to these matters. What can be taught is the multiplicity of considerations and vantage points from which to view these questions. Those who do this kind of work can help provide a perspective that may otherwise be missing. The problem of civility, a matter Roth has engaged with for about a decade and a half, is that by its nature it conveys the sense that the interlocutor belongs in the conversation. Sometimes that is important, but some interlocutors do *not* belong the conversation. For example, history panels about the Holocaust do not include panelists asserting Holocaust denial. There are those who come to this and other campuses for the purpose of provoking people into acting out in ways that can make the provocateurs appear to be victims, even though they contribute nothing to understanding of any issue. One has to be on guard about that. There are also serious disagreements about what represents a legitimate point of view on issues. When the stakes of political contestation are sufficiently high, people do not agree about the ground rules for disagreements. What one considers "civil" or "respectful" may not apply for the other. For example, civil wars are a context in which people may strongly believe that invitations of certain government officials to a campus are inappropriate, and that an honor so conferred from above should be withdrawn from below. That is not always wrong. Roth recounted an episode a decade ago when UC Irvine Muslim Student Association students were criminally prosecuted for disrupting an event involving an Israeli official who had been the government spokesman justifying the earlier Gaza Strip bombardment. Whatever might be said about the tactics that the students employed, the overreaction to what they did (criminal prosecution) struck Roth and others as fundamentally unjust. A nuanced understanding of the complexity involved is necessary but difficult to accomplish because there are not obvious answers.

Edwards (Medicine) asked whether there is a legal difference between asking questions as opposed to making assertions in these kinds of heated arguments. He noted that when two groups are arguing heatedly it sometimes works to establish a disciplined way to deal with the confrontation by asking each group to write down its questions of the other side. The groups can respond to the questions, and the facilitator can also provide an answer. Is there a free speech disaster when people simply ask questions? Weinberg responded that this is a particular way to structure discourse, although it is not the primary way that discourse takes place, whether in the university setting or otherwise. Discourse

within the university is typically not structured. It may be groups of people marching with placards or seeking to occupy buildings to get their message out. You cannot say “No, we think marching with placards is wrong or uncivil or outside the rules. You need to come in here and use a question-and-answer structure we are imposing.” People must be enabled to speak the way they want to and have a right to speak, which may include marching with placards for impact. The ideal is to enable that without having it become destructive of community or harmful to the university or our students.

Rossi (Medicine) added that the memo mentions a legal problem when the discriminatory intimidation and insult are so severe that they alter the conditions of the victim’s education. It is important—in these conversations around difficult areas, such as the current discussion about the Middle East situation—not to lose sight of the fact that Wayne State is a university with a commitment to DEI with a diverse student, faculty, and staff with their own histories. Each person brings personal baggage to a discussion, and others may not be aware of those “raw nerves” from a past experience. A colleague who was in Kosovo during the war, reacts in fear of a bomb falling when she hears a plane, making it hard for her to fly. We need to learn how to be cognizant that an individual or group may have experienced a trauma that colors the response to statements that seem neutral to those without those experiences.

Weinberg noted that it is important in discussing the memo to draw a distinction between speech that is addressed to the public and speech that is addressed to an individual. Speech addressed to the public will not contravene the limitations noted in the memo, but speech addressed to and attacking an individual based on that individual’s identity characteristics surely could. That is within the category of speech that the university can legally respond to in a disciplinary matter if it so chooses. As for needing to be cognizant that some may be impacted by what seems to be neutral speech differently than others because of their past experiences, clearly that is important. As Roth would say, however, this is a much more complicated situation. What we can do here is encourage members of the university community to be caring of each other.

Bock (Medicine) noted that the discussion at the DEIC suggested there are few limits on free speech at the university, but being able to say something does not mean that it should be said or that it should be said

aggressively. As Rossi pointed out, a small comment that comes across negatively to someone who has experienced microaggressions may be poorly received by them and their peers. The university cannot act on that, but people who are taking part in the discussion can do so by calling it out, letting leaders know it is a concern, and setting a good example. This conversation seems to be more about how to engage in speech meaningfully rather than whether there is actionable recourse to speech that someone finds offensive. The university has limited options in response to most speech, even when some find it personally hurtful. Being aware that people have that freedom of speech is important. That is why the university’s DEI policies are so important, as are any recommendations on having controversial conversations or dealing with people who unknowingly promote disinformation.

Weinberg agreed that the mere fact that a person can say something does not mean that it should be said. An additional complication is the role of power relations. Sometimes a claim that someone should not make a certain statement because such statements are not “civil” functions as a means of silencing underrepresented voices who may have no choice but to be “uncivil” to get their message heard. That makes it hard to maintain community but avoid using civility as a bludgeon. Roth added that there is a difference between having a right and being in the right. People often fail to understand that. Jeremy Waldron, a leading legal philosopher, talks about the right to do wrong. In fact, right discourse provides a certain immunity with respect to action where people are entitled to do things that other people regard as morally wrong: that is part of the essence of having a right. That pertains to rights against various kinds of coercion and punishment. How a person is regarded by their peers when committing those acts is different. The exercises of power operate from below as well as from above. There is a phenomenon most associated with secondary boycotts—the idea that those acting are putting pressure on other people to shun the target of the protest, that disruption can be caused by mobilizing a response to how people conducted themselves. No institutions decide whether this is fair or whether it is based on truth. One of the difficulties is that the impact that speech will have on any given person is not necessarily known in advance and, therefore, the line between what is prohibited and what is permitted cannot be specified on that basis. Additionally, there are many things that are hard to hear that are either true or plausibly true or worthy of being discussed in the

context of a particular policy decision. If there is an attempt to silence speech because it disturbs people, that may well block discussion about something that is quite important to the enterprise.

Lewis (Education) noted that class discussions about contested issues depend on instructors' ability to manage that contested space, to have good judgement, and to see competing legitimate narratives. Most faculty think they can do that, but we sometimes overestimate our abilities. People say "I am able to take a stance that makes all of my students feel welcome in expressing their views" when it is not true. This situation arises between faculty as well. We faculty and academic staff should be more humble about our ability to navigate contested and difficult discussions. Roth agreed, noting that he tries to point out to students that informed persons of good faith and sound reasons disagree with each other vociferously about a substantial range of ideas. As a faculty member, he lets students know that there is a difference between things taught that are the consensus view in the field versus the majority view versus the minority view versus his own view as instructor. It is easy for faculty to forget to do that or to think that it is implicit in the way the class is conducted. Our tendency to overestimate our capacity to do this well is certainly worth remembering.

Weinberg also agreed, but noted the additional problem that some faculty may decide what is the range of legitimate views in the classroom and treat a variety of perspectives as inappropriate that they are not willing to have discussed because it does not ensure a safe space for the other people in the room. That is hard to do, even if faculty were as skillful as most consider themselves.

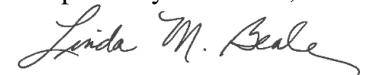
Robinson noted that the emphasis on DEI and First Amendment creates complexity. We want people to be able to speak their minds, but we do not want to infringe on the rights of others. Roth noted that the university community is constrained by norms. One could take the position that it is necessary to violate the Constitution—J.D. Vance opened the door to that in a different context. Maybe that opening allows freer conversations about whether people can flout the constitutional rules that bind us. Those are real issues with which to grapple, Roth noted, but he argued that as a public institution, we should not flout the rules so long as they are in place. Part of the problem is that the rules are, in his view, bad: viewpoint neutrality does undermine our ability to manage speech controversies more effectively. Standards consistent with the international law of human

rights—that treats advocacy of discrimination, hostility, or violence toward particular groups as something that governments have a responsibility to prohibit—would provide a basis for addressing, in the majority of cases, the harmfulness of speech while still protecting offensive speech that is a legitimate contribution to discourse. Unfortunately, Roth concluded, we are stuck in the box that First Amendment jurisprudence has created.

Weinberg suggested that it is not the case that the First Amendment always pushes in favor of allowing speech when DEI consciousness pushes us in a different direction. There are controversies debated in which people *on both sides* feel in good faith that they, as a marginalized group, are threatened by the speech of folks on the other side who should be shut down. Using DEI-centeredness as the guidepost could lead to censoring people on both sides of that debate, but that result would not be helpful.

The meeting adjourned at 3:29 p.m.

Respectfully submitted,



Linda M. Beale  
President, Academic Senate