

Date: November 19, 2014

From: Dennis K. Miller

Subj: Intercampus Faculty Council Report – November 13, 2014 Meeting

To: Faculty Council

The following summarizes important issues for the MU Faculty Council from the Intercampus Faculty Council (IFC) meeting on November 13.

1. The IFC formed a subcommittee that is working with the General Counsel's office to develop collected rules, policies, and procedures to adjudicate complaints of sexual harassment, discrimination and misconduct by faculty members. The subcommittee contains one representative from each of the four campuses and had its first meeting on November 6. I represent our campus and serve as subcommittee chair. The subcommittee is working closely with Marsha Fischer (UM General Counsel Office), Hank Foley (Executive Vice President for Academic Affairs) and Steve Graham (Senior Associate Vice President for Academic Affairs).

The subcommittee was tasked by President Tim Wolfe to work quickly, such that collected rule revisions can be presented to the Board of Curators in February. As such, work must be completed by mid-January. The President, under the authority given to him by the Board, can institute changes as an executive order.

At its November 6 meeting, the subcommittee reviewed confidential reports from outside consultants (NCHERM Group) on its concerns about each campus and the UM System. The subcommittee then met with the consultant, Dr. Daniel Swinton, on the history of Title IX law and its interpretation. Dr. Swinton presented his thoughts on Title IX and procedures to adjudicate complaints against faculty. The meeting concluded with a general discussion of an appropriate approach for the UM System campuses. An important concern is balancing equitable treatment of complainants and the protections afforded faculty by their tenure status. The discussion of a general approach continued at the November 13 IFC meeting. The subcommittee will continue its work in the first week of December with the goal of developing a general plan for adjudicating complaints against tenured faculty.

The President wants the UM System to be the national leader in developing new policies to prevent and adjudicate sexual harassment, discrimination and misconduct on campus. Our policy must be consistent with the fluid interpretation of Title IX by the Department of Education: The IFC subcommittee is under pressure to develop a policy that adjudicates an accusation against a faculty member--including dismissal for cause and removal of tenure--within 60 days of the initial complaint. We must be sure we have a policy that fosters a safe campus, but that also is fair and protects faculty rights. Furthermore, we're challenged to respect the President's demand to have the policies developed rapidly (i.e., by mid January).

2. On the recommendation of Steve Owens (UM General Counsel), the subcommittee formed by our Faculty Council to critically review Executive Order 41 will report to the IFC. Mr. Owens, the IFC and members of the subcommittee agree that this is appropriate as the collected rules apply to all four campuses and a consistent faculty review is warranted. The membership of the subcommittee and its charge has not changed.

This subcommittee has focused its work on CRR 200.025 (Equity Resolution Processes for Resolving Complaints of Harassment, Sexual Misconduct and Other Forms of Discrimination Against a Student or Student Organization). The subcommittee has met several times and has identified three important concerns—the composition of equity panels, the role of advisors in the adjudication process, and mechanisms to compel witness testimony. There has been general consensus by subcommittee members that tenured faculty members should participate in equity resolution panels.

3. Tom Richards (Treasurer and Chief Investment Officer) reported on the overall health of our retirement plan. He said that the UM System has (almost) always fully funded the actuarially-determined annual contribution to the plan; however, there are always changes and challenges. Mr. Richards noted that even a small change in real returns versus

those anticipated (e.g., 6.75% versus 7.75%) can have a big impact on the plan's health. Currently, the balance sheet indicates that our plan is 93% funded (\$3.3 billion in assets, a \$3.6 billion liability, and an unfunded liability of \$250 million), which is better than other university systems and states.

Mr. Richards noted that the world economy is not terribly strong and is unlikely to improve. It will be a challenge for any investment plan to achieve its estimated returns. Everyone, institutions and individuals, will need to save more than they have previously. However, he said that he is not currently planning for an increase in employee contributions to the retirement plan.

4. Paul Maguffee (UM General Counsel Office) reported on the lawsuit from the National Council on Teacher Quality (NCTQ, www.nctq.org) to have copies of faculty syllabi. The UM System has supported the position that syllabi are protected as the intellectual property of the authoring faculty and are not subject to sunshine laws. The NCTQ has appealed to the Missouri Supreme Court and we are waiting to hear if the court will hear the NCTQ's appeal.

5. The IFC endorsed a policy on Evaluation of the Ability to Work for faculty members. The policy addresses the process and criteria to be used when determining what actions are appropriate with respect to a faculty member who may be unable to perform the essential functions of their position (e.g., neurodegenerative disorder or psychiatric illness).

6. Faculty members are encouraged to apply for UM System awards (www.umsystem.edu/ums/aa/awards).