

UI Staff Council  
Wednesday, December 8, 2021  
2:30 – 4:30 pm  
Online via Zoom

## **ATTENDANCE**

### **Present**

Wendy Askling, Brian Baxter, Damien Blair, Mihaela Bojin, Matsalyn Brown, Brett Cloyd, Dawn Coffman, Jackie Curnick, Em Domingues, Brian Douglas, Jadvyga Gerasimovic, Zach Girazian, Shari Heick, Anne Hinkle, Erika Holm-Brown, Makur Jain, Molly James, James Jorris, Becky Keogh, Sarah Ling, Emily Milke, Heather Mineart, Sam Mitchell, Brian Morelli, Evans Ochola, Debra O'Connell-Moore, Jamie O'Meara, Stephen Pacha, Yelena Perkhounkova, Lisa Piper, Isaac Podolefsky, Ted Potter, Tracey Pritchard, Molly Rechkemmer, Jeremy Richardson, Rubia Ruiz, Teri Schnelle, Lisa Schumacher, Sonia Slevinski, Glenda Smith, Warren Staal, David Stenersen, Erin Turnis, Jessica Welter, Carrie Whittaker, Darrelle Wilkinson, Toni Woodbury, Jennifer Yoder, Kevin Zihlman

### **Absent**

Cody Howell, Jackie Kleppe, Liz Lara, Carlton Petty, Mary Shumaker, Jim Verry

### **Administrative Liaisons**

Marla Rosenblum

### **Guests**

Neda Barrett, Debra Hendricks, Robert Kirby, Sara Livesay, David Rooney, Mike Schluckebier, Anne Sieren, Nicole White, Kate Perez (DI), Julie Rothbardt, Grace Kreber

### **Presenters**

- Cynthia Joyce, Gigi Durham, Nadia Sabbagh Steinberg, Jennifer Lynch, Office of the Ombudsperson
- Lauren Lessing, University of Iowa Stanley Museum
- Professors Joe Yockey and Todd Pettys, UI College of Law

## **WELCOME, MEETING PROTOCOL, ATTENDANCE, MEETING MINUTES**

Covered zoom meeting protocol.

New Staff Councilor: Sam Mitchell, a program coordinator in hospital administration, is the new Administrative, Audit, Compliance, Legal & Risk Management function representative.

### **Minutes approval:**

- December 2021 SCEC Minutes were provided to councilors prior to the UISC meeting; no questions or comments
- November 2021 UISC Minutes: Isaac Podolefsky motioned to approve, Ted Potter seconded, motion passed with no changes.

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## OMBUDSPERSON ANNUAL REPORT

Cynthia Joyce, Gigi Durham, Nadia Sabbagh Steinberg, and Jennifer Lynch, from the Office of the Ombudsperson presented their annual report. Information not included in their PowerPoint presentation is included below.

- The Office of the Ombudsperson is a confidential, neutral/impartial, informal, and independent resource.
  - Exceptions to confidentiality are risk of physical harm to anyone or if ordered by court or required by law.
  - Neutrality can be helpful to help coach people through potential solutions.
  - Informality allows people to discuss the situation before taking any formal steps.
- 646 visitors seen last year, a decline from the prior three years. This may be due to:
  - Faculty, staff, and students interacting less due to remote teaching, learning, and work.
  - Fewer opportunities to publicize the work of the Office of the Ombudsperson.
- UI Staff are largest group of people served (41%) and the Office serves higher numbers of women and people of color than would be predicted based on their representations on campus.
- People can reach out to the Office for consultations, brainstorming ideas on how to best address situations.
- Major themes from the last year include:
  - COVID – distress over public health measures during the pandemic. The Office recognizes the constraints on actions by UI administration. Cynthia and her team ask for kindness, patience, and flexibility as the campus deals with the ramifications of the pandemic.
  - Department Responses to Diversity, Equity, and Inclusion – the Office acknowledges that administrators work hard to navigate situations with a DEI component and want to point out some common errors they see, including delaying action; poor communication with stakeholders; and failure to reach out for help from campus experts. They recommend being alert to DEI components in difficult situations, quickly convening a meeting of key resources to develop a plan of action, and proactively implementing DEI training.
  - Student Academic Accommodations – these can be challenging and emotional for students and faculty may be overwhelmed by the volume of requests. The Office recommends more training for faculty and a more proactive approach to student academic accommodations, including increased collaboration among Student Disability Services and other campus offices, increased awareness of diversity in learning styles, and greater emphasis on universal design.
- Those wanting to meet with the Ombudsperson should make an appointment ahead of time given staffing levels.
- “No problem too big or too small. Let’s talk!”
- UISC maintains the [Workplace Support Matrix for Non-Organized UI Employees](#)

Questions from Staff Council included:

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- Has the Office of the Ombudsperson seen any impact from the increased supervisor trainings?
  - There has been positive discussion about the trainings, but they haven't seen the results yet.
- Can you talk more about the 14% who may not have had the satisfaction you hoped?
  - The Office does short-term follow up but not long-term due to confidentiality. Some people come in with situations that cannot be resolved.
- What is the proportion of health care and academic staff?
  - The number of visitors seems to follow the proportion of people on the health care vs academic side. The Office spends a good amount of time working with health care members.
- Is there a way to know if a person left the university after working with the Ombudsperson?
  - Though the Office can help staff develop exit strategies, they do not know if people decide to follow through with them.
- Can you expand on the Department Responses to DEI issue?
  - Don't minimize or ignore the DEI component in a situation. It can be an awkward situation and people don't always feel prepared to handle those components. They have seen issues on campus where there is a clear DEI problem, but a department did not respond for a while.
  - If you see something happening, please alert someone, even if you don't know how to handle it yourself. Ignoring the situation can be damaging to all.
  - Acknowledging the situation can go a long way for those who have been hurt. "I don't know how to handle this right now. I'm going to work on that. I want to acknowledge you've been hurt..."
- From the chat and answered later: What do you do with repeated conflicts or errors (the DEI slide for example)? How much can actually stick with no policy changes or enforcement?
  - This is a great question. Part of our role is to identify trends and discuss them with the appropriate administrator. We can talk with that person about what needs to happen to make enduring changes, including changes in policies, greater attention paid to the problem, building the issue into performance evaluations, etc.

## UNIVERSITY OF IOWA STANLEY MUSEUM UPDATE

Dr. Lauren Lessing, Directory of the University of Iowa Stanley Museum of Art, provided an update on the new building.

- The museum will open to the public on September 2, 2022, at 3:00 pm.
- The new building preserves all previous green space by resting on the footprint of the former surface parking lot. Parking is now provided in an underground parking garage beneath the building. Trees that could be saved were moved for construction and will be returned.
- The first floor is transparent and reflects the mission to be a transparent art museum and share the collections and operations with the public.

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- Some outdoor sculptures, previously underwater during the 2008 flood, will return to the museum.
- The museum's location next to the Main Library, Colleges of Education and Engineering, and CRWC help support the mission of teaching, learning, and the role the arts play in wellbeing.
- The museum boasts many features:
  - Outdoor bricks are textured and have an iridescent sheen, reflecting weather conditions.
  - Front lobby features a white ash acoustic ceiling to allow the space to function as an auditorium and entrance foyer. It will also be used as a gallery to display works by Iowan artists.
  - The light well, a three-story atrium space open to the sky, will help illuminate the museum.
  - A coat room will be available. Large bags will not be allowed in the museum.
  - A coffee cart will be available in the lobby.
  - Some gallery walls are moveable based on exhibitions.
  - Two public terraces will be available on the third floor.
- Staff will begin moving into the space in January and art will move in during April in preparation for a September opening when students return.

Questions from Staff Council included:

- Will there be a fee for the museum?
  - The museum will be free and open to the public, except there will be a fee for museum rentals.
- Will the Jackson Pollack mural return?
  - Yes, it will be on view in the Dewolf Family Gallery. The museum will focus on UI's collection for the first three years.

## **FREE SPEECH PANEL**

Professors Joe Yockey and Todd Pettys from the UI College of Law presented on free speech and academic freedom.

### **Academic Freedom**

Professor Yockey started the presentation with background information on academic freedom and free speech.

- This topic has been in the news lately. The Board of Regents (BOR) created a special taskforce to investigate how expression and speech were being handled on regent campuses. A recent BOR survey on these topics will be used to develop a training program.
- Academic freedom and free speech are related but there are key differences:
  - Academic freedom refers to a specific way of doing things on a university campus and how the university should operate.
  - UI is here to educate and engage in research. Academic freedom is one of the fundamental principles supporting this broad mission.

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- Academic freedom is freedom for faculty and students to engage in teaching and scholarship in accordance with their desires and the requirements and principles relevant to their academic discipline, free from pressure and risk of penalization from non-academic actors, such as outsiders, university administrators, donors, trustees, and politicians. It is the approach of trying to advance knowledge, to the best of our ability, as effectively as possible through rigorous debate, scrutiny, and inquiry.
- Historically, the alternative to academic freedom is indoctrination. Over time, an argument was made for the toleration of dissent as the most effective way to advance knowledge. For something to be true, it must be able to withstand scrutiny.
- An example shared included a faculty member publishing information about run-off in rivers. Academic freedom allows the individual to share their findings and for others to question and demand proof.
- UI supports academic freedom through tenure, policy, and value statements.
  - Academic tenure: faculty cannot be terminated because the university disagrees with what they say.
  - Policy: [Board of Regents rule 4.2 Freedom of Expression](#) operationalizes academic freedom as a policy.
  - Policy: [UI Operations Manual, section three, 15.1](#)
  - Value statements: [UI Faculty Senate Statement on Freedom of Expression and Academic Freedom](#)

## Free Speech

Professor Pettys continued the presentation to discuss free speech rights of government employees, including staff members who draw their paycheck from the government.

- When a government employee has said something and the employer (government) has taken adverse action because of the speech, start with the following question:

*Is this job performing speech?*

When you say this, are you doing your job? Is it because of your job duties that you're saying it? This is different than making statements about your job or all speech at your job.

*If yes, first amendment protection does not exist.*

- Ruling on this topic: [Garcetti v Ceballos Supreme Court decision](#) from 2006. When people are doing their job when they speak, whatever the job performance, it is what the government is paying you to do. If the employer (government) is not happy with performance, the employer can act as it wishes.

*If no, when you spoke, are you talking about a matter of some public interest?*

- Am I talking about a topic I can imagine reporters talking about? Examples include politics, religion, history, education, etc.
- If speech is of a private matter, there is no first amendment protection (commenting on someone's clothing, complaints about the coffee pot, etc.)

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First amendment protection can occur when it's not job performing speech and it is speech of some public interest.

- Courts will weigh the employee's interest in joining the conversation about the matter of public interest against the employer's interest in running an effective and efficient workplace.
- A hypothetical example was presented: Professor Pettys finds out the Dean is doing something terrible. He believes the public should know and writes a letter to the Daily Iowan.
  - Is this job performing speech? No, it is not Professor Pettys' job to monitor college leaders and report on it.
  - Is it a matter of public concern? Yes, the public has an interest.
  - The court will weigh Professor Pettys' interest in speaking vs the government's interest in maintaining an effective workplace. The professor works with the Dean so if the speech is going to undermine workplace relationships, then the employer is entitled to say the employee is undercutting workplace values.
- [A second example was presented](#): a high school teacher disagreed with how the district was spending its money. They wrote a letter to the local paper with their opinions. The school district was upset and wanted to terminate the teacher.
  - Is this job performing speech? No, this teacher is a high school science teacher and it is not their job to comment publicly on things like bond issues.
  - Is it public interest? Yes, it's taxpayer money and the news may report on it.
  - Will it undermine the work relationship? No, this teacher does not interact with the school board regularly and it does not prevent them from teaching the class.

Questions from Staff Council:

- Can you elaborate on the [Free Speech at Iowa FAQ](#) regarding hate speech being protected?
  - Though there may be shared agreement over what is considered hate speech, the Supreme Court has declared that even though it can be deeply offensive, it is still protected.
  - It is contrary to our goals of inclusiveness, but the Constitution does not allow punishing the speaker by expelling or firing them.
  - Harassment is not protected. This occurs when speech is severe and pervasive, and a reasonable person would find it intolerable.
- What happens when someone is attacked, and it seems related to hate speech?
  - This is called incitement, where someone says something that provokes someone else to commit an illegal act of violence.
  - Incitement includes two parts:
    - When the person says what they said, did they intend to provoke someone to do something illegal?
    - Was there a great likelihood that is what would happen?
- How do social media comments fit into this?
  - Work through the questions: Is it their job to be commenting? Is it a matter of public interest? Will workplace effectiveness be undercut by this?
- Could you clarify understanding between hate speech and harassment?

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- Harassment is severe and pervasive. Speech being targeted at someone could be the beginning of a problem but may not be pervasive.
- Could you speak to the complexities around free speech and someone's position at the university and what they're commenting on? Specifically, not representing the university's position on pending matters of legislation.
  - Work through the questions again and understand university policy.
  - Before you start speaking, understand possible consequences.
  - The law allows the university to control its own voice and there are rules of who can speak for a particular unit. The Supreme Court also declares you do not lose your first amendment rights when you work for the government. These are where the questions of job duties, public interest, and workplace effectiveness come into play.
- Does freedom of expression/speech mean you can say whatever you want? Shouting fire, etc.
  - No, but you can say a lot that many would be preferred not to be said.
  - The First Amendment does not protect obscenity, incitement or acts of violence, specific threat of physical violence or intimidation, incitement to break the law, the destruction of property, or harassment as defined by law and University policies. These categories have strict legal definitions.
  - It is a huge freedom in this country to be absolutely obnoxious with your voice.
- What is an example of an "imaginative way" of creating the community we want when dealing with objectional speech?
  - This question should be a predominant question in every conversation where we're talking about the kind of campus we want to build.
  - Many can be quick to say the remedy for speech we don't like is more speech. This can be a lot to add on to someone who is already a target of hurtful speech. We need to find a way to express our disapproval without putting the burden on those experiencing the hurtful speech.
  - Keep putting additional thought into how best to model respectful disagreement about serious, controversial topics.

## COMMITTEE UPDATES

Community Relations: there are upcoming volunteer opportunities for gift wrapping and Holiday Lights at the Lake

DEI: an anonymous and annual survey draft is available for UISC to view. The goal is to capture a current representation of staff council. Most identification questions came from the fall 2020 climate survey. The committee is asking for feedback from UISC about the survey and the annual DEI event.

## OPEN DISCUSSION AND GENERAL UPDATES

Those looking for imaginative ways to create the community they desire may be interested in the National Coalition Building Institute (NCBI) Building Effective Relationships Across Difference training on 3/24/22 from 8:30 am to 12:30 pm.

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#### **ADJOURNMENT**

- Meeting adjourned: Molly James moved to adjourn; Rubia Ruiz seconded motion; Kevin adjourned the meeting at 4:33 pm.

#### **NEXT MEETING**

- January 12, 2022, 2:30-4:30 pm, via Zoom