IN THIS ISSUE:

We highlight proposed changes in grievance review at UM (p. 1), and the fallout from public ballot initiatives on University policy and behavior in diversity efforts in recruitment and retention of students, faculty and staff (p. 2), and in domestic partner benefit programs (p. 2). We also cover the new Faculty Scholarship Fund for undergraduate students, and offer you a pledge form for a contribution (p. 3)! Annual summaries for our own Chapter activities (below), and the 16th Davis, Markert, Nickerson Lecture by NY Times editor William Keller (p. 3) are included. Finally, new Michigan AAUP conference executive director Jeff Lee gives his first year end summary of happenings across the state affecting faculty in Michigan colleges and universities. His article reports on the recent state conference meeting in Lansing (p. 4).

2007 ANNUAL MEETING

The Annual Meeting of the Chapter will be held at noon on Thursday, May 10, 2007, in the Michigan Room of the Michigan League. Professor Mary Steinhardt of the University of Texas at Austin will be addressing us on Faculty Grievance Procedures at UT (article, p. 2). Professor Steinhardt’s talk is entitled “How We Strengthened the Faculty Grievance Process at Texas”. Her talk will be followed by a very short business meeting. Coffee and tea will be served. This meeting is free and open to the general public.

FACULTY GRIEVANCE PROCEDURES: PROPOSED CHANGES AT UM

John Lehman

At its January 22 meeting, the University of Michigan Senate Assembly approved by unanimous vote a proposal to reform the current Model Faculty Appeal Procedures for Schools, Colleges and Academic Units. This action followed the recommendations of a Faculty Grievance Procedures Task Force appointed by SACUA in September, 2006 that delivered its report to SACUA and the Senate Assembly in December (http://www.umich.edu/~sacua/Facres/01-22-2007-ApprovedReportFacultyGrievanceProceduresTF.pdf). The next step will be discussions between SACUA and the Office of the Provost about implementation.

Creation of the Task Force was prompted by experience and observation that the present Faculty Appeal Procedure has proven poorly suited to resolving disputes concerning administrators’ treatment of faculty with respect to professional conduct. In particular, the report notes that because the Director of Academic Human Resources (DAHR) acts as the Provost's representative in the grievance process, it is widely understood that DAHR conduct has not been neutral. Similarly, it is clear that both the DAHR and the Office of General Counsel act, in their own words, “to protect the administration” and they are widely perceived to be prejudicial to fair proceedings under the existing model.

The new model endorsed by the Assembly articulates at the outset a set of basic principles that conform with AAUP guidelines, and with generally understood practices to ensure fairness.

Elements of a fair hearing

A fair hearing must provide a full review with the following set of elements:

- The opportunity to be heard is the fundamental requisite.
- Impartial decision makers are essential.
- The hearing must be at a reasonable time and it must be held in a reasonable manner.
- There must be opportunity for oral presentation so that grievant can mold arguments to issues the decision makers seem to regard as important, particularly where credibility and veracity are at issue.
- There must be adequate opportunity to confront and cross-examine witnesses. When administrative actions harm a grievant and the reasonableness of the action depends on fact findings, all evidence used to prove the
CHAPTER ACTIVITIES

Professor Frederick K. Askari, Chair of the Committee on the Economic Status of the Faculty (CESF), was the keynote speaker at the Annual Meeting of the Chapter on May 10, 2006. Professor Askari’s talk was entitled “The Unfunded Retiree Health Benefit Liability: Cause for Concern?” The Chapter co-sponsored the Sixteenth Annual UM Senate’s Davis, Markert, Nickerson Lecture on Academic and Intellectual Freedom on October 16, at the University of Michigan Law School. The lecture, by Bill Keller, Executive Editor of The New York Times, was entitled “Editors in Chains: Secrets, Security and the Press.” (Article, p. 3.)

The Chapter was involved in the defense of faculty in at least five important cases this year. Two involved allegations of plagiarism, one the right to send email to colleagues, one in which a faculty member alleged that his teaching evaluations were modified by an administrator, and one in which a professor was accused of academic misconduct when he refused to accept a course teaching assignment. In this last case removal of the professor’s tenure was threatened through a proceeding under Regents’ Bylaw 5.09, but the unit executive committee found against the dean.

Chapter members are extensively involved in faculty governance. These currently include the chair of SACUA, the secretary of the faculty and chairs of two other Senate Advisory Committees. Five of the six members of the Special Taskforce to Revise Faculty Grievance Procedures are members of the Chapter’s Executive Committee.

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administration’s case must be disclosed so that the grievant has an opportunity to test its truthfulness and completeness. This opportunity for rebuttal requires that evidence be exchanged in advance of the hearing.

- This is important not only for documentary evidence, but even more so when evidence consists of testimony from individuals whose memories may be faulty, or whose statements may be untrue or subject to questionable motive.
- Decision makers’ conclusions must rest solely on the rules and evidence adduced at the hearing.
- Decision makers must state the reasons for their determination and indicate the evidence relied upon.
- Grievance Review Boards (GRBs) should have limited ability to dismiss a grievance without affording a grievant the opportunity for a hearing on its merits.
- Decisions by the GRB must not be ignored by administrative officers.
- There must be meaningful consequences for non-compliance with stated rules by participants or the GRB itself.

In order to turn these principles into practice, the Assembly called for specific changes to current procedure, including most notably creation of a central faculty committee to which appeals can be directed. Key features of the new model are as follows:

1. Appeal to an elected faculty committee—(Faculty Grievance Committee, FGC) – 12 members, all to come from members of the Senate Assembly or chairs of Senate Assembly standing committees, 8 elected by the Senate Assembly, and 4 appointed by the President. No more than 3 of the 12 can be from one school/college of the University. The Final Appeal under current procedures is made to the Provost. The new model would make the final appeal to the FGC rather than the Provost. If both parties do not voluntarily abide by the decision of the FGC, the matter is turned over to the Provost for administrative resolution.

2. Informal Reconciliation—At present, informal efforts toward reaching settlement of a dispute cease when a grievance is filed. The new model encourages both the Central Faculty Ombuds and the Provost to help the parties reach a mutually agreeable settlement at any stage of the process.

3. Timeliness of the grievance procedure—The current process has a Faculty Grievance Monitor (FGM) who monitors the process, but has no power, and currently reports unacceptable delays in writing to the Director of Academic Human Resources (DAHR). The new model would have the FGM report such delays in writing not only to the DAHR, but also to the newly formed FGC. The FGC shall have the authority, if necessary and by majority vote, to rule against the party responsible for inexcusable delays.

4. Fairness in proceedings—Currently, the Grievant may not always have complete access to relevant information and records. In the new procedure, to ensure fairness, the grievant will have complete access to all relevant information and records that will be used in decision-making by the Grievance Review Board (GRB).

5. Composition of GRB—Because common sense and experience have demonstrated an apparent conflict of interest when GRB members are faced with ruling against an administrator within their own college/school who may subsequently affect their merit reviews and professional opportunities, the proposal is to constitute the GRBs from the members of the FGC, no one of which can be from the college/school in which the grievance arises unless the grievant expressly waives this condition.

The AAUP Executive Committee takes a keen interest in reforms that promote a “covenant of fair dealing” between administration and faculty, commends the U-M Senate Assembly for its action, and calls on faculty governance leaders to bring the reforms to life.

John Lehman is professor in EEB, and Faculty Senate secretary.
Dan Burns

Michigan voters passed Proposition 2 (2006) on November 6, 2006, a state constitutional amendment which precludes preferential treatment of individuals on the basis of race, gender, color, ethnicity and national origin. Exceptions are made for federal mandates and for actions necessary for a UM program to be eligible for federal funding. After a turbulent period of first reaction to the enactment, the University formed a Diversity Blueprints Task Force to gather suggestions from the UM community as to how the University should move forward in light of the new amendment. This group issued a written report online on March 15th. The report was presented to the faculty Senate Assembly on March 19th by Provost Theresa Sullivan and Vice Provost Lester Monts. Provost Sullivan outlined the main suggestions brought forward by the group. While most of the discussion centered on student recruitment and retention, on questioning the Provost admitted that not much data was available yet on the effects on faculty and staff hiring and retention, but she did allow that she was aware that other institutions were aggressively raiding UM minority faculty on the basis of perceived future difficulties in the campus environment.

The new amendment does not prohibit collecting data on admissions according to race, gender and ethnicity, among other variables, and indeed, such recording and reporting are still required by law. UM has found that minority applications went down immediately after the election. The situation with graduate students is less clear as yet, though there is obviously cause to worry.

Besides sounding out community reactions and suggestions here at UM, the Task Force met with representatives of higher education in California, Georgia, Texas and Washington, states where ballot initiatives or court orders similar in effect to Michigan’s amendment have been passed or issued. Several common threads emerged. All reported significant setbacks in under-represented minority applications, enrollments or hires, and even found discouraging changes in campus social dynamics. These institutions also saw potential minority applicants immediately interpret court or referendum decisions as an institutional decision against them. Socio-economic status as a proxy for minority status has been disappointing, and indeed, a trend was found whereby the under-represented students of middle class family background were thinning out, leaving two widely separated strata within that student sub-community. Public scrutiny continued well after the passage of ballot initiatives or court orders, questioning the very motives of the actions these institutions had taken in the name of diversity. There is a strong similarity legally and politically between what has been passed in these states and what Michigan now has on its books, so that UM must be prepared for all these eventualities. Fortunately, these fellow institutions have shared their experiences generously with UM.

The Diversity Blueprints group recommends many specific courses of action, both short and long term, at UM. Among them are a greatly increased interaction and outreach with Michigan high schools and eventually junior highs, attention to the inter-personal climate on campus to avoid the chilling effects observed elsewhere, and ensuring transparency of all campus efforts for diversity, especially for the general public. The Supreme Court decisions altered UM’s application process, moving us towards a more “holistic” evaluation of applicants which has been seen by many as an improvement in the quality of applicant evaluation here. Similarly, Proposition 2-2006 and these recommendations by the Diversity Blueprints Task Force can offer UM a chance at improving our relations with many parts of the community, but the challenges are very real for even maintaining what progress has been made to date on diversity. The general counsel’s office is of the opinion that the recommendations made by the Task Force are compatible with the new Proposal 2, and on some points have already been accepted in other states’ courts.

It is ironic that in the future, public institutions of higher learning, which were introduced historically as a way to make college education accessible to all citizens, may be less accessible for many citizens than private colleges and universities. The Diversity Blueprints Task Force’s recommendations do not seem to break a lot of new ground. The University’s range of action has been seriously constricted by the new law. The recommendations are mainly that we will have to work harder with a more limited set of tools to achieve an effective diversity on this campus. This could prove to be a pivotal moment in our history.

Dan Burns is professor of mathematics.

PROPOSITION 2-2004: THE BENEFITS SITUATION FOR DOMESTIC PARTNERS AT UM

Wilfred Kaplan

In 2004 Michigan voters approved a “marriage amendment” to the state constitution, restricting marriage to that of one man and one woman. A question then arose as to whether the amendment affected employers’ authority to give benefits to same-sex couples living as domestic partners. Michigan’s Attorney General ruled that the amendment did in fact forbid such granting of benefits, since (he argued) the granting of such benefits to the two partners would be treating them as married persons, contrary to the amendment. His opinion was
challenged in a lawsuit (brought by the City of Kalamazoo et al.), in which the Michigan Conference of AAUP submitted an amicus brief on behalf of the plaintiffs. The suit was successful (ruling of September 27, 2005), but was appealed by the Attorney General; the AAUP resubmitted its amicus brief; the original plaintiffs were replaced by National Pride at Work, an organization affiliated with AFL-CIO. On February 2, 2007 the appeals court overturned the previous verdict, so that the granting of the benefits described is now forbidden. A further appeal to the State Supreme Court is expected; the prospects for success appear to be poor. The Attorney General has also ruled that the denial of benefits applies only to public sector employees; thus employees of public universities are affected, but employees of private universities are not.

This legal issue is of significance to higher education in Michigan. The reality is that benefits to employees are based on the demands of the marketplace. To attract and retain top quality professors, universities in Michigan must be able to match comparable offers from universities outside the state or from private universities anywhere. The present situation discriminates against professors based on sexual orientation.

The decision also affects staff and students. At the University of Michigan at present about 200 persons are receiving medical and dental benefits as domestic partners of faculty, staff or students. Examination of individual cases reveals the severe hardship which will ensue if the benefits are denied. As an example, one employee would not have accepted a position here if domestic partner benefits had not been promised; her partner has a serious illness and is able to function only with appropriate medication. Loss of the medical benefit would make it impossible for the partner to pay for these required medications.

Wilfred Kaplan is emeritus professor of mathematics.

**ANNUAL MEETING SPEAKER: MARY STEINHARDT**

Efforts to strengthen faculty grievance procedures at UM are a focus of AAUP attention this year, so when seeking a speaker for this year’s annual meeting, we thought to raise awareness among the faculty of this issue. Mary Steinhardt was recommended to us as emblematic of what we can accomplish at UM. She is Professor of Kinesiology and Health Education at the University of Texas at Austin. Texas has strengthened significantly its faculty grievance process the last several years, and Professor Steinhardt has been very active in these developments. She continues to play a key role in implementing the new procedures as chair of their Faculty Grievance Committee. Professor Steinhardt read John Lehman’s lead article (p.1) when considering whether to speak at the annual meeting, and laughed at reading it, she said, because she recognized so many features from her experience in Austin. She promises to focus her talk, “How We Strengthened the Faculty Grievance Process at Texas”, on ways Texas confronted very similar problems, and how she thinks they have a new system which addresses many of our concerns. There is a real hope that we may be able to make progress on this front at UM in the near future. Please join us for this timely discussion!

**UPDATE: PROBATIONARY PERIODS FOR JUNIOR FACULTY**

Last year’s AAUP newsletter covered developments in the proposal to extend the possible length of the probationary period for non-tenured faculty at UM. This issue has largely disappeared from the active public forum, but continues to be considered by Provost Sullivan in consultation with the Academic Affairs Advisory Committee. The AAUP has taken a position against the extended probationary period as being unnecessary from the point of view of support for women and minority candidates for tenure. Provost Teresa A. Sullivan asked the Academic Affairs Advisory Committee (AAAC) to advise her on this issue. The AAAC has now issued a report, endorsed by SACUA and the Senate Assembly, which concludes that “while available data are not perfect, they do not suggest that the tenure track system at Michigan would benefit from radical change.” The AAUP continues to monitor this situation closely.

**NATIONAL AAUP STUDY OF FACULTY RETIREMENT POLICIES AND BENEFITS: SOME SURPRISES!**

AAUP has conducted a second study on retirement policy and benefit changes going into effect across the country in reaction to the banning of mandatory retirement of faculty in 1994. This new survey tracks such inducements for earlier retirement as bonus payments, part-time status and phased retirement, and redistribution of responsibility for health benefit costs. It updates an earlier survey from 2000. The new study is sponsored by the national AAUP and several other groups, and funded by the TIAA-CREF Institute and the Cornell Higher Education Research Institute.

While it had been expected that most institutions were pressing for regaining some control over faculty retirement ages in order to guarantee the timely renewal of the professoriate, the surprise in the survey is that there is an emerging need for more faculty in order even to fill hiring needs at the current rate of retirement and of college and university expansion due to general population growth. The national discussion on this topic has just begun.

William Keller: Davis, Markert, Nickerson Lecturer

Peggie J. Hollingsworth

Bill Keller, Executive Editor of *The New York Times*, delivered the Sixteenth Annual University of Michigan Senate’s Davis, Markert, Nickerson Lecture on Academic and Intellectual Freedom. More than 500 members of the University community attended the lecture on October 16, 2006, at the University of Michigan Law School. The lecture was entitled “Editors in Chains: Secrets, Security and the Press.” In his lecture Keller made the following comments:

“…the stories I’ve been discussing, along with the reports about secret CIA prisons, the treatment of captives in Guantanamo and Afghanistan, and the outsourcing of prisoner interrogation, this coverage is not just something to defend as our Constitutional right. It is something to be celebrated as our obligation to the national good. This coverage has raised important questions about the proper balance between liberty and security and about the limits on executive power in our democracy. It has somewhat emboldened the courts and Congress to play their assigned roles in the systems of checks and balances. It has blossomed into one of the most urgent political debates of our time, joining the question of how we protect ourselves to the question of what exactly is it we are protecting. And it is just possible that by forcing these questions on to the national agenda the press has created the possibility of a national consensus, a foundation for the long defense of our freedoms.”

The full lecture, in streaming video, is available at [http://umtv-live.rs.itd.umich.edu/aflf/dmn_06.asx](http://umtv-live.rs.itd.umich.edu/aflf/dmn_06.asx).

Over the years professors from the University of Michigan have played key roles in protecting and preserving academic and intellectual freedom. UM professors William Herbert Hobbs (geology) and Karl Eugen Guth (physics and first Dean of Rackham) played prominent national roles in the establishment of the AAUP in the mid-1910’s. Nearly 50 years later UM President Harlan Hatcher suspended Clement Markert (assistant professor, biology), and fired Mark Nickerson, (tenured associate professor, pharmacology) and instructor Chandler DAVIS (mathematics) for refusing to testify before a subcommittee of the House Committee on Un-American Activities based on their rights under the United States Constitution. Because President Hatcher had fired Professor Nickerson in the face of overwhelming advice from members of the University faculty not to take such an action, the American Association of University Professors in 1957 placed the University on its list of censured colleges and universities signaling to the academic world that faculty and students could not expect to enjoy the benefits of academic and intellectual freedom at the University of Michigan. Within a year the Regents of the University of Michigan changed the Regental Bylaws believing that the new bylaw would prevent a University President from terminating without proper and sufficient cause, a faculty member’s tenure -- and the American Association of University Professors removed Michigan from its list of censured institutions.

In the late 1980s former UM history professor David Hollinger wrote a history of the McCarthy era at the University of Michigan. His student, Adam Kulakow, created a video “Keeping in Mind: the McCarthy Era at the University of Michigan.” Subsequently, many faculty members called for an action of reconciliation to be made to the three dismissed faculty members. When this request was rejected by both the University administration and the Board of Regents, the University of Michigan’s Senate Assembly created an annual lecture to be named the University of Michigan Senate’s Davis, Markert, Nickerson Lecture on Academic and Intellectual Freedom.

Each of the 16 past lecturers has been an outstanding scholar who, through research, public service, the arts or contributions to public discourse, has shown an enduring and extraordinary commitment to the values of intellectual freedom, especially as they relate to academic freedom.

Peggie J. Hollingsworth is President of the Academic Freedom Lecture Fund. Portions of this article were excerpted and condensed from comments made by the author at the time of the Sixteenth Annual University of Michigan Senate’s Davis, Markert

More Katrina Fallout:

At the recent State Conference meeting, Cary Nelson, national AAUP President, pointed out that long-established, written agreements on shared governance were being jettisoned wholesale in the New Orleans area in the aftermath of Hurricane Katrina, including firing without prior notice of tenured professors. While this has been justified on the basis of fiscal emergency, the Universities’ financial records do not support this claim. The results of an AAUP investigation of this disturbing situation will appear online this summer at [http://www.aaup.org](http://www.aaup.org).
NEW FACULTY SCHOLARSHIP FUND FOR UNDERGRADUATE STUDENTS:

SACUA and the faculty Senate Assembly have initiated a new scholarship fund, to be administered by the faculty, and dedicated to supporting undergraduate students who have demonstrated excellent academic promise and financial need. The Faculty Undergraduate Scholarship Program is one way that the faculty as a group are helping to advance the Michigan Difference Campaign currently underway. The scholarship fund will be sustained by a permanent endowment. The timing of this initiative coincides with a generous offer of President Coleman to match contributions of $25,000 or more towards such an endowment with some of her discretionary funds for the University. The funds will be maintained by the usual University endowment managers, but the selection of the funded students each year will be made by a committee of faculty appointed by SACUA. For more details on this, contact SACUA member Professor Semyon Meerkov in EECS. While the effort to raise the threshold amount in the first period has started well, the fund still needs contributions to assure successfully meeting President Coleman’s challenge in the allotted period, that is, by December 31, 2007. Please consider contributing to this worthy cause!

University of Michigan
Faculty Undergraduate Scholarship

Name(s): ________________________________  Enclosed is my/our gift of $ __________

Mailing Address: ________________________________  □ Enclosed is check made payable to: University of Michigan
                                  Write “Faculty Undergraduate Scholarship” on memo line
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Executive Director Jeffrey Lee

It is easy for a faculty member to get caught up in his/her individual work. With classes to teach, students to advise, research projects to manage and findings to publish, most of us are busy on a good day. One a bad day, we’re swamped. And yet, there are still more professional responsibilities – duties to your department, college, discipline and your profession. The last of these includes the work of the AAUP, and in the state of Michigan we have been very active protecting faculty rights and strengthening faculty influence.

The tenure system is a pillar of American higher education and has been since the AAUP advocated its creation. Today, administrators are attempting to erode the strength of that system. In the fall of 2005, U-M’s Committee to Consider a More Flexible Tenure Probationary Period circulated its preliminary report, a report suggesting an extension of the tenure clock to 10 years. The committee did not investigate the need for such a change. When the data were analyzed, virtually no one since 1990 required even the full 8 years to reach a probationary period decision. As it stands now, this proposal appears dead. However, it was action by SACUA, in conjunction with the AAUP, that forced this issue to its current conclusion.

Elsewhere, the situation is worse. Just down I-94, Albion College announced layoffs of four tenure-track professors in December 2006. It is unclear how these four were chosen, however, budgetary limitations were given as a reason for the layoffs. In February 2007, Cornerstone University in Grand Rapids ended the practice of giving tenure in its academic programs. Those with tenure will be allowed to retain it; those on the tenure track will be switched to a term appointment. Again, budgetary concerns triggered the move. This is an unsettling trend, especially considering the dire fiscal condition of the state of Michigan. Administrators are seeking ways to cut expenditures and they claim tenure limits their flexibility. However, the faculty can have a voice, and through the AAUP, a strong voice. At Western Michigan University, a plan by the provost to eliminate several graduate programs and in all likelihood some faculty therein, resulted in a vote of no-confidence eventually leading to the resignation of the provost and the termination of the president.

Ron has also been very active in monitoring changes to retiree benefits. Due to a legal accounting change, future retiree health care contributions now must be listed as a liability. Because of this, universities across the state are working to limit or eliminate this liability. At Oakland University, the faculty negotiated a new contract last fall that ended retiree health care contributions for those not already collecting it. In a win-win exchange, faculty members received a 1% increase in retirement contributions. The U-M AAUP chapter has been advocating retaining all retiree benefits, at least letting current and retired faculty members know of prospective changes.

Finally, the AAUP has been involved in legal cases regarding two recent state constitutional amendments. On February 1, 2007 the Michigan Court of Appeals ruled in favor of the attorney general’s position that employee benefits cannot be extended to domestic partners. To do so would violate a clause in the amendment that prohibits similar unions since domestic partner benefits are based on an “agreement recognized as a marriage or similar union.” While this is certainly a setback, the case will continue to climb the legal ladder. Similarly, the recently passed Michigan Civil Rights Initiative (Proposition 2) eliminated many Affirmative Action programs in Michigan’s public universities. As we did with the Michigan Marriage Amendment, the AAUP will likely submit an amicus brief as this issue progresses in the courts.

The Michigan Conference of the AAUP is affiliated with a charitable organization – the Professor’s Fund for Educational Issues (PFEI). PFEI supports the mission of the AAUP by providing scholarships and other financial assistance to AAUP members from small chapters. This past year, PFEI provided scholarships for one member to attend the national AAUP annual meeting in Washington D.C. and two members to attend the AAUP’s Summer Institute in Portland, Oregon.

The AAUP continues to work on behalf of the faculty and staff of the University of Michigan. On April 14, 2007 the state conference held its annual meeting at the Radisson Hotel in Lansing. Charles B. Smith from U-M was elected as an at-large member of the executive board after four successful years as the conference treasurer. Teresa Sullivan, Provost and EVPAA of the University of Michigan, delivered a keynote address on how faculty governance can be more effective and have a more constructive relationship with the administration. With several chapter members present, hopefully an improved relationship will come from her appearance. The other keynote address was given by Cary Nelson of the University of Illinois, the current national president of AAUP. He detailed the decline of shared governance nationally, due in large part, in his estimation, to the instrumentalization of the University. Even venerable Universities such as his own Urbana-Champaign are considering abolishing all research support in the humanities and social sciences apart from team research on topics with immediate applicability, while at the same time witnessing phenomenal salaries paid for administrative assistants to top administrators.