



MEMORANDUM

TO: Michael Range, Senate Chair
FROM: George M. Philip, President
DATE: August 9, 2010
SUBJECT: Senate Legislation

I am writing to inform the University Senate of my actions regarding legislation adopted by the University Senate and advanced to my office for consideration.

I am pleased to approve the following Senate bills:

- 0910-07: Revisions to University Policies on Student Absences
- 0910-10: Policy for Student-elected S/U Grading
- 0910-14: Organizational Studies
- 0910-15: Suspend Admissions to E&S Science BA
- 0910-16: CHEM Deactivate Major Track BS
- 0910-18: CHEM Deactivate 3-2 Program

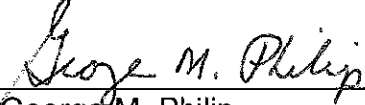
With respect to Senate Bill 0910-11 entitled *Deletion of "Principles of a Just Community" from University Documents*, I am asking the Senate to reconsider this legislation. The bill justification suggests that the Principles of a Just Community (PJC) are in conflict with Community Rights and Responsibilities (CRR) implying that freedom of expression as defined in PJC is at odds with the CRR's statements regarding the campus protecting all members of the community from conduct constituting bias and/or hate crime. This implication does not take into consideration policy and legal distinctions between "speech" and "crime," and suggests that the expression of ideas, even outrageous ones, might be prohibited. Therefore, I am not approving the bill. Accordingly, if CAFFECOR is interested in amending Senate Bill 0910-11, they could do so as follows:

1. Eliminate the paragraph stating a contradiction between PJC and CRR.
2. Modify the PJC so that it reflects the desired sentiments of the campus community or,
3. Simply eliminate PJC from all University documents for consistency on the basis that it is outdated.

Regarding the position of Senate Bill 0304-25 on the Campus Policy of Freedom of Expression, I will not be approving that legislation as it reaches beyond the Senate's advisory role to the President and is likely unconstitutional with the exception of the introductory article. The content of the bill attempts to foster civility and respect on campus by circumscribing the delivery of and the listening to free speech on campus. However, under current federal law, the University becomes vulnerable to lawsuits when its policies regulate speech and conduct based on the grounds of civility, respect, and social balance. Consequently, should the University Senate decide to revisit this legislation, I ask that future amendments addressing speech and conduct regulations be developed for the purposes of maintaining public order and safety on campus as opposed to "good manners." Moreover, the University Senate should note that the first Article is constitutionally sound and needs only the deletion of the word "invited" as it references "guests." Articles II and IV are problematic in that they attempt to define a "time, place and manner" regulation, which exceeds the University Senate's authority to create such regulation, as set forth in the Faculty Bylaws (Faculty Bylaws, Article I, Section 2.2.2 (c)). Additionally, Article IV's content might be deemed unconstitutional with respect to its restrictiveness, and should be redrafted after the University Senate reviews the provisions established by other universities only to be later struck down in court. With respect to Article III, subparagraphs A and B are problematic. Paragraph A attempts to define civil and respectful conduct, but such policies are routinely held as unconstitutional since conduct is now being defined as a form of expression and is therefore constitutionally protected. Paragraph B should be removed as current federal cases are in the process of redefining what type of speech is and is not protected. Article V is problematic for the same reasons; restricting these forms of expression is unconstitutional. Article VI should be redrafted as the Senate does not have the jurisdiction to hear complaints from students, staff, and the public. Finally, Article VII also exceeds the Senate's advisory role and could be read as unconstitutional because the policy applies to various parties.

Finally, with respect to Senate Bill 0910-04 on Honors College Retention Students, Counsel's office is awaiting clarification and feedback from the Chair of the Undergraduate Academic Council (UAC) with respect to this legislation.

If you should have any questions, please feel free to share them with me at your convenience.


George M. Philip
President

August 9, 2010
Date