

November 28, 2017

Dear members of the University of Oregon Senate:

In the spirit of shared governance, we want to provide some reactions to the resolution US17/18-02 noticed on November 15 on behalf of the group known as the Student Collective. We do not intend to engage in a point-by-point discussion of the various elements of the resolution. Instead, we will provide a broad overview of some of our most serious concerns.

Before addressing those concerns, it is worth reinforcing and restating that we all—faculty, staff and administrators—care deeply about our students and are unwavering in our shared commitment to provide an excellent, world-class postsecondary educational experience to our undergraduate and graduate students. Supporting students is the core mission of the UO—it is the reason we all do what we do—and we appreciate that the Senate is demonstrating a willingness to engage in conversation with and counsel a group of students who feel their voices are not being heard. We are supportive of Senate leaders providing guidance and assistance that is grounded in compassion, firmly rooted in rational discourse, and consistent with the UO's academic values and policies.

For the purposes of this discussion, it is also important to remind ourselves that, as a public institution, we must uphold and defend the protections for free speech found in the United States and Oregon Constitutions. That obligation is not negotiable. Likewise, it is beneficial to highlight the Senate-crafted and -approved Freedom of Inquiry and Free Speech policy that codifies the UO's shared values on this issue by stating the following:

*Free speech is central to the academic mission and is the central tenet of a free and democratic society. The university encourages and supports open, vigorous, and challenging debate across the full spectrum of human issues as they present themselves to this community. Further, as a public institution, the university will sustain a higher and more open standard for freedom of inquiry and free speech than may be expected or preferred in private settings.*

*Free inquiry and free speech are the cornerstones of an academic institution committed to the creation and transfer of knowledge. Expression of diverse points of view is of the highest importance, not solely for those who present and defend some view but for those*

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*who would hear, disagree, and pass judgment on those views. The belief that an opinion considered by some to be pernicious, false, and in any other way despicable, detestable, offensive, or “just plain wrong” cannot be grounds for its suppression.*

*The university supports free speech with vigor, including the right of presenters to offer opinions, the right of the audience to hear what is presented, and the right of protesters to engage in discussion with speakers to challenge ideas, so long as the protest does not disrupt or stifle the free exchange of ideas. It is the responsibility of speakers, listeners, and all members of our community to respect others and to promote a culture of mutual inquiry throughout the university community.*

Adherence to the constitutional protections for free speech, the university’s Freedom of Inquiry and Free Speech policy, and the Student Conduct Code is not permissive. These documents embody norms that are important and foundational to all that we do at the University of Oregon. Regardless of our personal views on free speech or prohibitions against disruptions, we are bound by these laws and policies, and must apply the rules in a consistent and nondiscriminatory fashion.

The proposed resolution makes some sweeping generalizations about the university’s priorities that are not consistent with our actions. As we have noted, the UO exists to educate our students; their welfare is always paramount in our minds. In just the last two years we have increased our commitment to the PathwayOregon scholarship and advising program (which provides free tuition and fees to Federal Pell Grant–eligible students), launched a student success initiative, fulfilled or made progress on the majority of the demands of the Black Student Task Force, raised funds to build Willie and Donald Tykeson Hall (a building devoted to student success, academic advising, and career services), and hired faculty members to begin a Black studies program, just to name a few student-focused initiatives. It is true, we cannot realistically meet every demand of every student, but our deans, faculty, staff, and administrators work tirelessly, day in and day out, to promote student success, experience, welfare, and achievement. The Senate has been a partner in a few of these efforts.

Several of the provisions of the resolution accuse the administration of “retaliating” against student protestors by pursuing student conduct charges, which is a serious allegation. We urge the Senate to consider carefully whether it has sufficient information to agree with this claim. There is a difference between peaceful protest and civil disobedience. No student would ever be punished for peaceful protest or appropriately drawing attention to issues or areas of concern. But students who disrupt the peaceful activities of others and interfere with their rights may be held



accountable for violating the Student Conduct Code and university policy. *Accountability is not retaliation.*

Prior to the student protest on October 6, the students were informed about the avenues that are available for peaceful protest versus what actions would constitute a violation of the Student Conduct Code and the university free speech policy. Whether you agree with these students or not, those who took the stage during the State of the University address and stayed despite being asked to leave made a conscious decision to violate university rules and policies. Holding people accountable for their deliberate actions under the Student Conduct Code is not retaliation. It is presumable that some of them felt strongly enough about their message and cause that they were willing to accept the consequences of violating the rules.

In addition, following the disruption, the president explicitly stated that he would not take any role in any disciplinary process. This hands-off approach is appropriate because the Student Conduct Code places authority for such action in the Division of Student Life and not in the Office of the President. Furthermore, our Student Life leaders did what they are supposed to do under the Student Conduct Code by sending notices to students that clearly informed them of possible violations. What is more important, the students were offered an option that allowed them to schedule a meeting to do what they said they wanted: talk to administrators about their concerns. Students who chose this option would not be subject to any conduct proceeding or sanction. We do not think this constitutes retaliation. Indeed, a failure of the Division of Student Life to take any action in the face of an apparent violation of the conduct code might well have led to a claim of arbitrary and selective enforcement of the university rules and would have left us powerless in the future to stop disruptions of classes or events on campus.

The resolution also asserts that the students have been denied a right to assistance. ASUO provides legal services to help students as needed, but when it was brought to our attention that there were challenges in ensuring that all students in this case could access these services, we identified an independent local attorney willing to provide advice to these students.

One of the most troubling statements in the resolution is that “white supremacist groups have been allowed and welcomed on the University of Oregon campus by the administration.” It pains both of us to think that even a small number of our students think we would welcome white supremacists on campus. Nothing could be further from the truth. We both find the views of white supremacists to be utterly reprehensible. In fact, both of us have been targets of these groups because of our backgrounds. At the same time, under the law, we have no power to block groups





from coming on campus unless they constitute true threats to the physical safety of members of our community. If we were to try to block them, they would likely file a lawsuit, win damages against the university, get an injunction permitting them to visit, and have more resources to spew their hateful message. Indeed, that is what they want, and we will not satisfy their desires.

We close by stating that we take seriously the role of the Senate in our system of shared governance. That is why we attend Senate meetings, consult with the Senate leadership, and have taken the time to write this letter. As leaders of our institution, each of us has a role in modeling responsible behavior for our students. In our view, allowing this resolution to go forward or voting in favor of such a resolution, as it is currently worded, would not fulfill this obligation.

We look forward to the meeting on November 29 and working with you and our students.

Sincerely,



Michael H. Schill  
President and Professor of Law



Jayanth Banavar  
Provost and Senior Vice President

