

Report to the
Faculty, Administration, Trustees, and Students
of
University of Maryland College Park
College Park, MD

by
A Visitor/Team Representing the
Middle States Commission on Higher Education

Prepared After a
Follow-Up Visit to the Institution on:
Mach 31-April 2, 2019

The Visitor(s):
Dr. Eric Barron, Team Chair
President, The Pennsylvania State University

Dr. Christopher Mayer, Team member
Associate Dean for Strategy & Initiatives, U.S. Military Academy

Working with the Visitor(s):
Dr. Hilda Colón Plumey,
Vice President, Middle States Commission on Higher Education

Representing Maryland Higher Education Commission (MHEC)
Ms. Karen King-Sheridan,
Associate Director, Collegiate Affairs
Maryland Higher Education Commission

At the Time of the Visit:
Dr. Wallace Loh, President/Chief Executive Officer
University of Maryland College Park

Chief Academic Officer:
Dr. Mary Ann Rankin,
University of Maryland College Park
Senior Vice President and Provost

Chair of the Governing Board:
Ms. Linda Gooden, Chair
University System of Maryland Board of Regents

Dr. Robert Caret
Chancellor, University System of Maryland

I. Institutional Overview

The University of Maryland College Park is the state's flagship university and one of the nation's preeminent public research universities. A global leader in research, entrepreneurship and innovation, the university is home to more than 41,000 students, 14,000 faculty and staff, and 352,000 alumni all dedicated to the pursuit of Fearless Ideas. Located just outside of Washington, D.C., the university is involved in discovery and sharing of new knowledge through its renowned research enterprise and programs in academics, the arts and athletics. UMD College Park is committed to social entrepreneurship as the nation's first "Do Good" campus.

UMD College Park was founded in 1856, when the tiny Maryland Agricultural College was carved from part of Charles Benedict Calvert's plantation along a dirt road now called U.S Route 1. From its start with 34 students, the institution slowly grew to include engineering and the liberal arts, and to add athletics, women and minorities. It survived the Great Fire of 1912, re-emerged as a public college, and boomed following World War II. Today, the university is a national powerhouse in research and academics, even as it embraces its roots as a land-grant institution.

Mission

The mission of the University of Maryland College Park is to provide excellent teaching, research, and service. The University educates students and advances knowledge in areas of importance to the state, the nation, and the world. The University is committed to being a preeminent national center for research and for graduate education, and the institution of choice for Maryland's undergraduates of exceptional ability and promise.

The University of Maryland is a public research university, the flagship campus of the University System of Maryland, and the original 1862 land-grant institution in the state. It is one of 62 members of the Association of American Universities, which is comprised of the leading research universities in the United States and Canada. The University creates and applies knowledge, nourishing a climate of intellectual growth and providing outstanding instruction in a broad range of academic disciplines and interdisciplinary fields. As a land-grant institution, the University shares its research, educational, cultural, and technological strengths with the Maryland citizenry and other constituencies. Its collaborations with state, federal, private and non-profit partners promote economic development and improve quality of life. The University offers faculty and students a vibrant ecosystem that nurtures and encourages innovation and entrepreneurship in a variety of ways.

As a public flagship campus, the University is committed to providing high quality educational opportunities that are affordable to all students regardless of family income. The excellence of the University's faculty, staff, and students is vital to these activities. The University counts the diversity of its community as among its greatest strengths and

integral to its mission of excellence. It is committed to diversity and inclusiveness in both educational and work environments. Providing equal educational opportunity, hiring and retaining a diverse faculty and staff of exceptional achievement, recruiting and graduating talented students from traditionally underrepresented groups, and providing a supportive climate for their health, well-being, and professional growth are institutional priorities.

Carnegie Classified as Doctoral University: Highest Research Activity.

Last MSCHE accreditation: 2017. MPPR 20121-2022

II. Nature and Conduct of the Visit

The visit of this follow-up team is part of the action taken by the Middle States Commission on Higher Education in its November 15, 2018 meeting that reads as follows:

“To acknowledge receipt of the supplemental information report. To request a supplemental information report, due March 1, 2019 providing evidence of a clearly articulated and transparent governance structure that outlines roles, responsibilities, and accountability for decision making by each constituency (Standard VII). To note the institution’s obligation to inform the Commission on the status of any investigation(s) conducted by the institution or by state, federal, or other government agencies, related to the action of August 16, 2018. To note that copies of the report(s) that follow from any of these investigations must be submitted to the Commission within 10 calendar days of their completion. To direct a follow-up team visit following submission of the supplemental information report. The next evaluation visit is scheduled for 2025-2026.”

The team met with:

1. The University of Maryland (UMD) Board of Regents Chair, Ms. Linda Gooden and representatives
2. The Chancellor of the University of Maryland System, Dr. Robert Caret
3. UMD College Park, Provost Student Advisory Council Representatives
4. UMD College Park, Deans
5. UMD College Park President’s Cabinet members including the Provost, ALO and the Legal Counsel
6. UMD College Park University Senate

(The lists of names of specific participants in each meeting is included as an appendix).

Documents reviewed before the meeting are:

1. Action mandated by MSCHE -November 15, 2018.
2. Letter sent to UMCP Community Presidential Search – March 2019
3. University System of Maryland Response – December 2018
4. USM BOR Response to Senate Resolution Condemning BOR

5. DUP Letter on Regents decision November 1 2018
6. Message from Senate Leadership
7. Timeline of Documents; Middle States February 28 2019
8. UMD Self-study and Middle States Review 2017
9. USM Bylaws, Policies, and Procedures of the Board of Regents VII-10.0 Policy on Board of Regents Review of Certain Contracts and Employment Agreements

III. Affirmation of Compliance with Requirements of Affiliation Under Review

IV. Commendations and Summary of Institutional Strengths

The Board of Regents should be commended for the actions it has taken to improve its ability to manage crises, conduct training, and form an executive council.

V. Compliance with Accreditation Standard(s) Under Review

Standard VII Governance, Leadership and Administration

The visitors' judgment is that, at this time, the institution appears to be not in compliance with this standard.

Summary of Key Evidence and Developments:

The University of Maryland College Park provided a Supplemental Information Report (February 28, 2019) in order to provide "evidence of a clearly articulated and transparent governance structure that outlines the roles, responsibilities and accountability for decision making by each constituency (Standard VII) in relation to the series of actions by the Board of Regents, President Loh and the University Senate that transpired in the aftermath of the tragic death of student athlete Jordan McNair and the subsequent review of UMD's football program. Several specific events were the focus of the Middle States' review committee: (a) the decision by the Regents to assume authority over the review of UMD's athletics protocols and procedures, (b) the press conference on October 29, 2019 where the Board of Regents Chairman, James T. Brady, announced the Board's recommendation to retain then UMD Head Football Coach D.J. Durkin and (c) the subsequent announcement by President Loh that he would retire and then his announcement that the University would part ways with the football coach. The Board announcement was met with widespread complaints by both the academic leadership and the University Senate, as well as the broader community. Then, Chairman Brady announced (November 1) that he would be resigning and he was replaced by Linda R. Gooden six days later.

Board Chair Gooden directly communicated that the decision to recommend the retention of the Head Football Coach was a mistake, although indicating that the Board

had the right to make the recommendation. Chair Gooden also outlined a series of actions by the Board (creation of an executive committee, assessment of Board governance by AGB, and annual training of Board members) as evidence of improved governance. In addition, the Board announced that President Loh would be retained until June 2020. Further, the University leadership at multiple levels cited the positive relationship developing between the new Board Chair and the University. These new steps serve as evidence that the Board has a renewed commitment to components of Standard VII.

However, the interviews conducted by the review team reveal a deeper set of issues related to Standard VII, criteria 1-3 that involve profound differences in the interpretations and comments from those reported by Board members and those reported by members of the University community. These differences, articulated across many topics, directly raise concerns about: Standard VII, Criteria 1 on a clearly articulated and transparent governance structure; Standard VII, Criteria 2 (b, c, d, g, and i) on sufficient independence to ensure the integrity of the institution with members having primary responsibility to the accredited institution and not to allow other influences to interfere with governing responsibilities, the interference with day-to-day operations of the institution, the oversight of personnel, and overall good practices in governance; and Standard VII, Criteria 3c on the authority and autonomy required for the Chief Executive Officer to fulfill the responsibilities of the position. It is the significant difference between the statements of the Board, Chancellor and University members that raise these concerns.

- *Degree to which the President welcomed oversight of personnel and athletics.* Board members cited issues of safety, concern over perceptions of independence, and the nature of the media onslaught as reasons why the Board assumed authority over the review of UMD's athletics protocols and procedures while citing the support of the President. The University community had selected independent members to serve and offered to add additional members to ensure oversight while maintaining University governance over athletics. University leadership expressed considerable concern over the actions of the Board although supporting the decision publicly. The review team finds that the basis for the decision inappropriately removed authority from the President and in fact the decision created more concern over the perceptions of independence and even greater media attention than if the University had completed the review and the Board had then exercised its oversight authority to review it.
- *Appropriateness of the Board recommendation on personnel actions.* Board members cited safety matters as an over-riding issue that warranted involvement in personnel and athletics. Board members, the Board Chair and the Chancellor of the System had different opinions about whether the decision was based on a legal opinion or not, with one comment that the decision was "green-lighted" by legal counsel and others saying safety was the decision-maker. In contrast, the University community believes that the decision both violated Maryland law, and accreditation standards. The concern was expressed that if the Board could

decide on a personnel matter two levels down from the President then the next step might be a similar decision for a faculty member. The review committee finds the diversity of views on whether the Board actions were appropriate to be problematic, and the personnel decision raises many concerns about adherence to Criterion 2.

- The degree to which the President was boxed in by a public announcement and whether the decision announced in public by the Board Chair was a recommendation or a decision. The Board members expressed opinions ranging from (a) surprise that the President would step down, (b) that the Board had clearly issued a recommendation that the President could choose not to follow, (c) that the President resigned because the public announcement was a surprise to the President and therefore he felt that he had no choice but to resign, and (d) that if the announcement hadn't been in public, but instead communicated in private to the President, that the Board and the President may have come to a different outcome involving the Coach and the recommendation. However, we heard different opinions from the Board members and the Chancellor on whether the President was actually informed prior to the public announcement. In contrast, the University community universally believes that it was not a recommendation but rather a decision and/or an ultimatum. They noted that it is highly unusual for the Board to vote (and vote repeatedly) on "recommendations." The review committee finds it difficult to view a public announcement by the Board Chair as only a "recommendation," especially given the announcement of the resignation of the President and the evidence that the Coach was informed that he was being retained outside the line of command through the President. This finding suggests failure to adhere to Standard VII, Criteria 2c, d, and e and Criterion 3c.
- The degree to which specific improvements in governance are key or whether a greater pathology remains. Board members cite the specific changes in governance (e.g. formation of an executive committee, Board training and Board review), the unique situation surrounding the death of a student and subsequent media attention, the admission that the decision about retaining the coach was wrong, and their stated recognition of the authority of the President as evidence that the Board has self-corrected. In contrast, the University community cites concerns that the Board did not appear to follow Maryland law or accreditation standards, and that the Board indicated that they made a mistake to recommend the retention of a coach but didn't make a mistake in assuming control over personnel matters and athletics. Other policies were also cited as a concern, such as review of new appointments by the Attorney General and the Chancellor (USM Bylaws, Policies, and Procedures of the Board of Regents VII-10.0) as ongoing involvement of personnel decisions of the University below the level of the President with the potential of undue influence (Criterion 2). University members are also concerned about the level of academic involvement in the development of search efforts for a new President.

- *Degree of overall transparency.* The review team notes the meager amount of communication across the spectrum of University governance. It appears that many of the decisions and the locus of communication between the Board and the University depended largely on the actions of the prior Board Chair and the Chancellor. At times, Board members cited views of the President, “as communicated by the Chancellor,” or noted the dominant role of the Board Chair, as well as surprise that the President would consider a recommendation to be a directive. In contrast, the University community cited the considerable “opacity” of Board discussions, the exclusion of the President during meetings discussing the athletics programs, and a coaching personnel decision. They expressed surprise at the Board announcement and the decision by the President. A major source of information was found in newspapers rather than in an orderly discussion between the Board, Chancellor, and President that would have potentially kept some concerns at bay. The review committee believes that too much University governance was vested in two individuals, in opposition to both good practice and transparency.
- *Political influence.* Board members interviewed stated that there were no signs of political influence. In contrast, members of the University community expressed concerns about the Board Chair’s motivations (citing specific instances of his unhappiness with unrelated decisions), types of appointments suggested for the Commission and specifically their connectivity to the Office of the Governor, and communications received from outside the University. The appearance of conflicts of interests and the potential for personal interests raise a number of concerns and allow various theories (real or not real) to take hold.

The decision to create an Executive Committee of the Board, as well as other steps taken by the Board, have the potential to mitigate many of the concerns described above. The positive relation between the new Board Chair and the University is also noteworthy. However, the lack of consistency in interviewee responses is of considerable concern to the review team, as is the Board interpretation of its role in personnel and athletic matters. Combined with the lack of direct involvement of the President in several of the matters described, these factors suggest a lack of clear adherence to Standard VII.

Requirements:

The Chair of the Board emphasized the assessment of the Board of Regents as one of its main corrective actions to the former situations that emerged during the months of June to September 2018. This assessment of the Board of Regents level of involvement in the governance of UMD, especially in the areas of athletics and personnel, should include the level to which their relationship allows UMD President to exercise the authority and autonomy required to fulfill the responsibilities articulated in the Standard VII criteria (cited above). Board assessment must, at a minimum, employ Middle States Commission on Higher Education accreditation standards and applicable state laws to identify the appropriate scope of involvement for the Board of Regents.

The occurrence of a crisis reveals that the Board of Regents and the UMD administration do not have a clearly articulated and transparent governance structure. The team encourages all efforts to improve the transparency, communication, and participation between entities that constitute the governance structure.

Recommendations:

To improve the articulation and transparency of the governance structure, the Team recommends sharing information between the Board of Regents and the UMD administration to include: announcing Board of Regents meetings and their agendas; inviting the UMD president to meetings when an item of discussion involves one of the president's responsibilities; publicizing results of Board of Regents votes; and facilitating direct communication between the UMD President and Board of Regents members rather than relaying information to the President through the Board of Regents Chair or Chancellor.

The trust between the Board of Regents and the UMD administration, faculty, staff, and students has been damaged. Although the initiatives undertaken by the Board of Regents are commendable, they are not likely to fully restore this trust. The UMD governance structure should collaboratively identify actions to restore trust between the different elements of the UMD governance structure and clarify the roles, responsibilities, and accountability of each component of the governance structure.

Suggestions: *N/A*

VI. Summary of Compliance

Based on a review of the *follow-up report* and appendices, interviews, and other documents reviewed during the visit, the team draws the following conclusion.

The visitors' judgment is that, at this time, the institution appears to be **not in compliance** with Standard VII.

Appendix:
Middle States Higher Education Commission Small Team Visit
April 1, 2019

List of Attendees present at individual group meetings:

Board Chair

Ms. Linda R. Gooden (via phone)

Chancellor

Robert L. Caret

Board of Regents

Barry B. Gossett (Vice-Chair)
William T. "Bill" Wood
D'Ana Johnson

Provost's Student Advisory Council Members

1. Noah Eckman, Speaker of the Legislature, Student Government Association
2. Han Kleman, Graduate Student, Sociology
3. Christopher Niccolini, Junior, Government & Politics
4. Annie Rappeport, President, Graduate Student Government

Provost and Accreditation Liaison Officer

1. Mary Ann Rankin, Senior Vice President and Provost
2. Elizabeth Beise, Associate Provost and ALO

Council of Deans

1. Gregory Ball, College of Behavioral and Social Sciences
2. Bonnie Thornton Dill, College of Arts and Humanities
3. Steve Fetter, Graduate School
4. Donald Linebaugh, School of Architecture, Planning and Preservation
5. Darryll Pines, A. James Clark School of Engineering
6. Jennifer King Rice, College of Education

University Senate Leadership

1. Pamela Lanford, Senate Chair-Elect
2. Reka Montfort, Executive Secretary and Director

3. Vincent Novara, Parliamentarian
4. Christopher Walsh, Senate Chair

President's Cabinet

1. Linda Clement, Vice President for Student Affairs
2. Carlo Colella, Vice President for Administration and Finance
3. Paul Dworkis, Associate Vice President and Chief Financial Officer
4. Michele Eastman, Assistant President and Chief of Staff
5. Jackie Lewis, Vice President for University Relations
6. Laurie Locascio, Vice President for Research
7. Michael Poterala, Vice President for Legal Affairs and General Counsel
8. Mary Ann Rankin, Senior Vice President and Provost
9. Ken Ulman, Chief Strategy Officer for Economic Development

President

Wallace D. Loh (individual meeting and exit meeting with Eric Barron)