

September 22, 2005

STATEMENT BY THE CPCS POLICY BOARD ON THE STATUS OF THE CPCS CONSTITUTION

On Monday, September 19, 2005, Dean Awotona forwarded to the CPCS community an email he had received that day from Provost Fonteyn on the subject: "Constitution of CPCS." The first sentence of the Provost's message to the Dean stated: "The Constitution of CPCS has not yet been approved." Since the Provost's statement may have created the erroneous impression that CPCS does not have a valid and operative Constitution, the Policy Board has felt obligated to issue this statement to the CPCS community in order to dispel any confusion about the status of the Constitution. The statement has been formulated through discussions by the Policy Board, with input from other members of the CPCS community and consultation with legal counsel.

In the fall of 2002 a new CPCS Constitution was approved by the CPCS Policy Board and ratified by a College referendum. The Constitution was sent to the UMB Faculty Council for ratification. At the Faculty Council, the Chancellor and Provost raised issues about several provisions of the Constitution. These issues were resolved through discussions between representatives of the UMB administration and representatives of the College, leading to revised language that was approved by the CPCS Policy Board. As revised, the Constitution was resubmitted to the UMB Faculty Council, which ratified it and sent it to the Provost for transmission to the Board of Trustees. The Provost stated that he would transmit the CPCS Constitution to the Board of Trustees upon receipt of other College constitutions, so that they could be acted upon as a package by the Trustees.

It is thus correct that the CPCS Constitution has not yet been ratified by the Board of Trustees. This does not mean, however, that the CPCS Constitution, as ratified by the College and the Faculty Council, with the assent of the College and University administrations, is not valid and operative. Indeed, the Provost's comment does not assert that the CPCS Constitution is not valid and operative, although that is an inference that some might draw from his comment.

The validity of the CPCS Constitution, despite the lack of ratification by the Board of Trustees, rests on two grounds:

- 1) For the past three years the provisions of the CPCS Constitution have been the basis not only for College operations, administration and governance, but various actions by the UMB central administration. That is, not only did the UMB administration fully accept the CPCS Constitution in its current form at the time of ratification, it has accepted it in practice ever since.
- 2) Within the framework of governance and procedures of the University system, the Board of Trustees would need to explicitly reject the CPCS Constitution, as ratified by the campus, in order for it not to be valid and operative.

To be sure, as a result of deliberations by the College, it may be decided that certain provisions of the CPCS Constitution should be changed. Such changes may, however, only be made through the process specified in Article IX of the Constitution.

Taken in its entirety, the Provost's email statement may therefore be understood as a decision by him to further delay sending the CPCS Constitution to the Board of Trustees pending possible Amendments, rather than an assertion that the Constitution is in any way not valid and operative.