

SPECIAL MEETING, NOVEMBER 2017

*The University of Michigan
Ann Arbor
November 21, 2017*

The regents met at 7:11 p.m. in the Anderson Room, Michigan Union. Present were President Schlissel and Regents Behm, Bernstein, Ilitch, Newman and Weiser. Also present were Chancellor Borrego, Vice President Churchill, Vice President Harper, Executive Vice President Hegarty, Vice President Lynch, Vice President May, Vice President Michels and Provost Philbert. Regents Richner, Ryder Diggs and White, and Vice President Wilbanks, Executive Vice President Runge and Chancellor Little participated by conference call. Vice Presidents Hu and Trosvig were absent. Regent Ilitch requested the special public meeting to discuss the request by Richard Spencer to speak on campus and Regent Ryder Diggs agreed.

Call to Order and President's Opening Remarks

President Schlissel called the meeting to order and made the following statement:

I apologize for the short notice to our community, as many are already heading out of town for the holiday. We only today have finalized plans for how we will proceed, and we wanted to share this information as soon as possible, knowing that we will continue to have conversations in the coming weeks.

After consulting widely with many members of our community, I made the difficult decision to begin discussions with Richard Spencer's group to determine whether he will be allowed to rent space to speak on the University of Michigan campus. If we cannot assure a reasonably safe setting for the event, we will not allow it to go forward.

When I accepted the presidency of this great university three and a half years ago, I did so in part based on my appreciation and respect for our shared values – that we can't be excellent without being diverse and that all individuals, regardless of their background, deserve full inclusion in our community and an equal opportunity to thrive.

We now face a very difficult test of our ability to uphold these values. This is a test we did not welcome, but it's one that we must face together. My foremost priority is ensuring the safety of everyone at this university. However, as a public university, the law and our commitment to free speech forbid us from declining a speaker based on the presumed content of speech. But we can and will impose limits on time, place and manner of a speaking engagement

to protect the safety of our UM community. Let me repeat: If we cannot assure a reasonably safe setting for the event, we will not allow it to go forward.

If we do decide a safe event is possible, we would share that information with the UM community in advance. Let me be clear. UM has not invited this individual to our campus, nor is anyone in our community sponsoring him. His representatives made a request to rent space on our campus for him to speak. We are legally prohibited from blocking such requests based solely on the content of that speech, however sickening it is.

Since the request came in, I have grappled with how to distance my personal feelings from the important safety considerations I must weigh as president. I recognize that an appearance by Mr. Spencer will cause genuine emotional hurt to many members of our community. I personally detest and reject the hateful white supremacy and white nationalism expressed by Mr. Spencer as well as his racist, anti-Semitic and otherwise bigoted views, as do the Regents and the entire leadership of this University. Many followers who show up at his rallies share his repugnant beliefs and should be shunned by our community. His views, and those of his organization and its followers, are antithetical to everything we stand for at the University of Michigan. We strive for intellectual rigor and equal opportunity for all who seek to learn, teach and conduct research for the public good.

We have heard from many of you about your concerns since the request was submitted. We discussed these concerns with many members of our community as we weighed our options:

1. As I mentioned, making the appearance as safe as possible for the members of our community and all involved was our foremost concern. We will continue to rely on a thorough assessment of safety considerations by our Division of Public Safety and Security. In general, limits on time, place, and manner of speech have been upheld in lawsuits alleging violations of First Amendment rights; content-based prior restraint – or denying the opportunity to speak in advance – has not. We will insist upon appropriate and lawful requirements on the time, place, and manner of his speech in ways that our experts conclude are most conducive to public safety for the entire community, including those who are not a part of our learning community.

2. Denying the request would provide even more attention to the speaker and his cause and allow him to claim a court victory. Those who would use public spaces as venues to promote hate are emboldened by denials they can fight in court. Their formula is clear: Request to use public space. Sue if not allowed to speak. Claim oppression by the state to stoke outrage. Use each moment as a rallying cry for their views.

3. As painful as it is to allow this speaker to rent our space, a democratic society without free speech is unimaginable. Historically, it is the speech rights of people from marginalized groups that are most often threatened, and always essential. If we refuse to rent space to this odious individual, it is easier to imagine our government at some point in the future deciding that some of your ideas are too dangerous, or too "opposed to our values" to allow others to hear. We can't let this happen, even though it means we must allow vile speech.

Here's what we can do as a community. We can ignore him, reject the hate and evil he espouses, and offer support to those he targets with his racist and discriminatory views. We can also deprive him of the attention he needs to survive and deny him the crowds he craves. Imagine

the power of a room mostly empty, with his only audience being a few followers surrounded by hundreds of empty seats. We can also support each other, speak out and protest in different venues. We know that many students, faculty, and staff might want to hold events of their own that reflect U-M values, away from the venue Mr. Spencer will rent. Once a time and place have been identified, we will work with our community to host these types of events. I will also encourage everyone to stay away from areas where the presence of his supporters might contribute to an unstable situation, which will help to keep our community safe while at the same time standing up for our values.

We have created a website with information about the request. It will be updated as details are developed. All of us can unite against the evils of racism, anti-Semitism, discrimination and those who seek to degrade and diminish others. The University of Michigan is home to our nation's strongest and best academic community – with students, faculty, staff and graduates who care deeply about their fellow Wolverines and who strive to lead in a better world. No one who rents space on our campus can take that away from us.

Statements from Regents

Regent Ilitch:

I want to thank each and every person who wrote to me about this complex and difficult situation. Your words made a significant impact on me. Many of the thoughts I write on this statement are your words. UM is a world-renowned institution and we have worked very hard to uphold our values and principles, of which is to create a diverse, equitable and inclusive world. I fully and adamantly reject the hateful white supremacy espoused by Richard Spencer. I reject his anti-Semitic, racist views and his hate of LGBT citizens as well as many others. Unfortunately, I do not agree with the UM administration. I agree with the position of MSU, OSU, Penn State, the University of North Carolina, and Auburn University in denying his request to speak on their campuses as well as ours. The First Amendment and free speech are the cornerstone of our democratic principles and while I am a staunch supporter of the First Amendment and stand firmly in support of our constitution, I remain very concerned that it is unsafe to allow him to speak at UM. Violence follows him wherever he goes. Physical and emotional safety are my number one priority and I am not willing to risk history repeating itself. I join President Schlissel and our administration in encouraging our UM community to promote peace, care and support of one another during this painful journey. That's what the UM Victors do. Go Blue.

Regent Bernstein:

Richard Spencer's views are vile, repugnant and hateful. But the only thing worse than Richard Spencer being on our campus is stopping him from being on our campus. We could do the easy thing. That's what Penn State, Ohio State, Michigan State and LSU did. They were not courageous. They were cowards. We could ban Richard Spencer. Everyone would celebrate. The board would be cheered. President Schlissel would be applauded. But we would be dancing on our own grave.

And on our tombstone will read - 'Here lies the University of Michigan. Afraid to do the right and difficult thing, it compromised its commitment to free speech and died failing to live up to the bedrock value of free expression that is essential to our mission as a great university because bold and honest thought requires it.'

With regard to this particular meeting, it is a showcase of political opportunism. To oppose this approach knowing we will lose, and should lose, is not principled. It is politically correct pandering, and from a tactical perspective this meeting does nothing but damage the governance of this university and compromise the public safety that we all agree is our primary concern. It's important to acknowledge that free speech does not work equally for everyone. But I know, from my nine years on the Michigan Civil Rights Commission, where I was on the front lines in the fight against hate groups, that the most dangerous elements of our society will not disappear because we look the other way.

The great Supreme Court Justice Robert Jackson was the lead Allied prosecutor at Nuremberg. He was familiar with Nazis. He would recognize Richard Spencer as a gutter racist and his repugnant views. It is Justice Jackson who called free speech the 'fixed star in our constitutional constellation.' In fact, this quote was referenced in Doe v. UM in 1989 when the Federal Court struck down our attempt to say no as people have advocated us to do. Jackson knew - as we must teach - that a government with the power to discriminate on the basis of viewpoint will use that power to stop speech it does not like. When we give government the power to ban speech, it will.

And look at our government today with its totalitarian impulses. A president who laments the fact that the media 'can say whatever it wants'. What speech do you think exactly this government will suppress?

That's why I fully support the administration's approach to protect his First Amendment free speech rights while applying time, place and manner restrictions that must maintain public safety.

Regent Newman:

I look forward to hearing the comments of those who have signed up to speak and I hope that you will give us the same respect as we speak, because we will listen to you when you speak. We are being called upon to advise and support President Schlissel on his decision as to whether a speaker who is offensive to the vast majority of our community should be allowed to rent space at this University. I wish to make myself 100% clear at the outset. I reject this speaker's views and everything for which he stands. His views are odious to me as they are to everyone that values the principles upon which this country was founded. But I must give full faith to my duties under the Constitution, especially the principle of free speech embodied in the First Amendment. Those duties are sometimes not easy to fulfill but it is at times like this that it is all the more important that Constitutional officers fulfill their duty.

I trust that the president in consultation with our highly experienced executive director of our Division of Public Safety and Security will determine whether this individual will be allowed to speak here safely. This University should not allow itself to be cowed by the voices of bigotry and hatred. Those voices will convict themselves by their own words. Our principles will not be

weakened by those who do not share them, but rather strengthened and tempered by our resiliency in defending them.

Regent Weiser:

I want to make clear that I fully support the decision of President Schlissel to move forward in the ways recommended. As a CEO and business leader, I believe it is critical to support the decisions of the chief executive, in this case the president of this great University. The views of this speaker are odious and I reject them with all my heart. As a human being and a Jew whose family was murdered by the Nazis, I reject his hateful views with every fiber of my being. However, I believe the University has a fundamental duty to fulfill our obligations under the Constitution of the State of Michigan and the Constitution of the United States of America, namely the First Amendment right to free speech, even if that speech is hateful. The best thing the students of UM can do is ignore this speaker. Do not give him an audience. Let the story be that our University upheld the right to free speech but no one was interested in hearing these vile and hateful remarks.

Regent Richner:

I agree with your approach Mr. President, and share the views of my colleagues who have expressed support for the University's position. The First Amendment scholar Alan Dershowitz once said, 'the best response to bigotry is exposure and shaming in the court of public opinion.' Secondly, while the First Amendment may require the University to provide access to its public facilities, even for those who spew hatred and vitriol, the First Amendment does not require anyone to listen.

Regent Diggs:

I want to be very clear: I support free speech, not hate speech. I support equality, inclusion and civil discourse. Unfortunately, I realize that we cannot cherry-pick parts of our democracy based on our personal views on race, gender orientation or religion. We know from Mr. Spencer's past speeches, exactly what he stands for. And although I disagree vehemently with his past remarks and find him to be utterly reprehensible, I am in support of the president's decision and I support and I appreciate his statement. We all have the choice. Our choice is to either attend, ignore or peacefully protest this event. I want to be clear that I urge everyone to exercise your choices and your rights.

Public Comment

The regents heard comments regarding the request from Richard Spencer to speak on campus from: students Brittney Williams, Matthew Thomas, Yazmyn Cross, Nando Felten, Zoe

Proegler, Vidhya Aravind, Dominic Bednar, Ismael Halaweh, Chris Campbell, Hafsa Tout, faculty member Michael Weiss and staff member Alicia Smith.

Adjournment

The meeting was adjourned at 8:01 p.m. The next meeting will take place on December 7, 2017.