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Dannel P. Malloy
Chancellor

March 31, 2021

Lawrence M. Schall, President
New England Commission of Higher Education
3 Burlington Woods Drive, Suite 100
Burlington, MA 01803-4514

The University of Maine

RE: Response to January 4, 2021 Letter from Dr. Jim McClymer

University of Maine
at Augusta

Dear President Schall:

University of Maine
at Farmington

You wrote to University of Maine System (UMS) Chancellor Dannel Malloy on January 6, 2021, enclosing a January 4, 2021 letter NECHE received from Dr. Jim McClymer, faculty member at the University of Maine and President of the Associated Faculties of the Universities of Maine (AFUM), the MEA/NEA affiliate labor union that represents most faculty throughout the University of Maine System. Your January 6, 2021 letter invited UMS to respond to Dr. McClymer's letter by March 31, 2021 if UMS wished to do so.

University of Maine
at Fort Kent

University of Maine
at Machias

University of Maine
at Presque isle

Dr. McClymer's letter "express[ed] deep concern" over the claim that UMS presented its June 2020 Substantive Change request for unified accreditation with a representation that there was "no objection by [UMS] faculty and staff" to the UMS request. Dr. McClymer claims that "faculty were not provided a completed document [the Substantive Change application] until extremely late in the process (June), well after the NECHE deadline to provide comment."

University of
Southern Maine

University of Maine
School of Law

More generally, Dr. McClymer's letter seems to complain that UMS, in its Substantive Change application, did not give greater attention to one provision of the AFUM faculty labor contract known as "Cooperating Departments,"¹ and did

¹ Article 7, Section 7 of the [current AFUM-UMS labor contract](https://www.maine.edu/human-resources/wpcontent/uploads/sites/7/2020/08/2019-2021-AFUM-CONTRACT-signed-for-posting-08.13.2020.pdf) states terms and conditions under which faculty at two or more universities within UMS may cooperate to teach courses in each other's academic programs. The contract provisions in this section purport to set limits on the number of programs that may cooperate under its terms, as well as minimum percentage thresholds for the number courses in cooperating programs that must be taught by AFUM faculty and procedures for the faculty member's "home institution" to remain involved in faculty evaluation and promotion and tenure processes. (See <https://www.maine.edu/human-resources/wpcontent/uploads/sites/7/2020/08/2019-2021-AFUM-CONTRACT-signed-for-posting-08.13.2020.pdf>.)

not include full narrative detail about faculty governance across the System in early drafts circulated for comment to faculty.

As it is difficult to otherwise understand with certainty the precise nature of Dr. McClymer's concerns, and what response may be most appropriate, UMS simply offers the following facts regarding and responsive to the general nature of Dr. McClymer's letter.

1. To the best of UMS's knowledge, NECHE had not received any written objection to UMS's Substantive Change application through the time UMS representatives met with NECHE staff and the Commission via Zoom about the application on the afternoon of June 23, 2020. Thus, it was an accurate representation to assert there that there had been no objections to the application.
2. UMS faculty, staff, students and other stakeholders had ample opportunities to comment on, or ask questions or assert complaints or concerns about, the UMS plan to seek unified accreditation and the development of its Substantive Change application, and faculty leaders from all UMS universities were empowered to draft portions of the substantive change application related to faculty participation in internal academic governance.

Relevant Chronology For Developing the Proposal and Substantive Change Application to Seek Unified Accreditation, including Faculty Participation in Drafting the Substantive Change Application Regarding Faculty Governance

- **July 15, 2019:** At its regular meeting, the UMS Board of Trustees publicly charged Chancellor Malloy to present a recommendation in September 2019 about whether to pursue unified accreditation for UMS.²
- **September 14, 2019:** UMS Board meeting materials are routinely posted to a public website in advance of the Board's regular meetings. After Chancellor Malloy's unified accreditation report and recommendation were posted to the Board's website in advance of the September 15-16, 2019 Board meeting, UMS Chief of Staff and General Counsel Jim Thelen, who led the development and drafting of the report, emailed Dr. McClymer to alert him of the report's public availability for his review. Thelen's email provided a direct web link to the unified accreditation report and stated:

² See [July 15, 2019 Minutes](https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2019/10/BOT-Minutes-July-15-2019.pdf), UMS Board of Trustees (https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2019/10/BOT-Minutes-July-15-2019.pdf).

Hi Jim -

I wanted to reach out to you specifically with the Chancellor's unified accreditation report on the Board's agenda now.

Our engagement with you and AFUM will be critical to ensure we can give the faculty a leading role in the academic innovation that these efforts can make possible.

The Chancellor wanted me to convey too how important the Guiding Principles that we developed will be to our work ahead. We specifically called out shared governance and work with our bargaining units as being critical to the success of a unified accreditation effort.

If the Board directs us to go down this path, we'll be seeking your and AFUM's advice on appropriate matters to make sure we do this successfully together.

*Hope to see you in Fort Kent at the Board meeting -
Jim*

- **September 16, 2019:** Chancellor Malloy and UMS staff publicly presented a report and recommendation to seek unified accreditation for UMS at the UMS Board's regular meeting. Dr. McClymer was present for the meeting and addressed the Board during its public comment period, having been alerted in advance to the report and thus having had full opportunity to review the publicly posted unified accreditation report and recommendation before addressing the Board.³ Notably, in a resolution the Board passed at this meeting accepting the Chancellor's report, the Board directed the Chancellor "to visit and engage with all UMS campuses to obtain appropriate input from all UMS stakeholders" in developing a second report on the process that would be followed if unified accreditation were sought.⁴ Later that day after the meeting, UMS Chief of Staff and General Counsel Jim Thelen sent Dr. McClymer the Board power point presentation for the report and recommendation on unified accreditation via email.
- **October 28-29, 2019:** Faculty representatives to the UMS Board submitted a list of written questions and concerns about unified accreditation to the Board's Academic and Student Affairs Committee meeting on October 28, 2019. Chancellor Malloy and UMS staff prepared and publicly posted online on

³ See [September 15-16, 2019 Minutes](https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2020/02/BOT-Minutes-September-15-16-20191.pdf), UMS Board of Trustees (https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2020/02/BOT-Minutes-September-15-16-20191.pdf).

⁴ Id., at 7.

October 29, 2019 a written “FAQ” response to the faculty questions and concerns.⁵

- **November 18, 2019:** Chancellor Malloy and UMS staff publicly presented a second report regarding unified accreditation, this time addressing process issues and potential outcomes, to the UMS Board at its regular meeting. Dr. McClymer was again present for the meeting, having full opportunity to review the publicly posted report in advance of the meeting, and Board minutes reflect that he addressed the Board during public comment specifically on unified accreditation matters.⁶ A Board resolution passed during the meeting directed Chancellor Malloy to bring a formal request to the Board at its regular January 2020 meeting to authorize seeking unified accreditation for UMS. Notably, the resolution directed the Chancellor to continue “engage[ment] with all UMS campuses to obtain appropriate input from all UMS stakeholders” about the unified accreditation plan and application.⁷
- **November 18, 22, 2019:** Then-NECHE President Barbara Brittingham and Jim Thelen, UMS Chief of Staff and General Counsel, had a telephone conference call on November 22, 2019 with Dr. McClymer and fellow AFUM faculty leader Lisa LeDuc to answer their questions about collective bargaining and accreditation, which Dr. McClymer had emailed to President Brittingham on November 18. In the November 22 phone call, President Brittingham offered her views on the impact of the AFUM collective bargaining agreement provisions on “cooperating departments” in a potential future unified accreditation environment.
- **December 11-12, 2019:** Following his comments to the UMS Board at its November 18, 2019 meeting, Dr. McClymer submitted a written statement to Board members through the UMS Board office about his concerns about unified accreditation relative to student registration for courses offered by different universities within UMS. Chancellor Malloy and UMS staff prepared a written response to Dr. McClymer’s December 11 statement and posted the response the next day, December 12, to the UMS unified accreditation public website.
- **December 17, 2019:** By email, Chancellor Malloy invited each UMS university faculty senate or assembly president to an organizational meeting in January 2020 to ask them to consider developing a framework for drafting the faculty internal governance portions of a unified accreditation substantive change

⁵ See [October 28, 2019 Minutes](https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2020/02/ASA-Minutes-10.28.191.pdf), UMS Board Academic and Student Affairs Committee, at 3-4 (https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2020/02/ASA-Minutes-10.28.191.pdf).

⁶ See [November 17-18, 2019 Minutes](https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2020/02/BOT-Minutes-November-17-18-2019.pdf), UMS Board of Trustees (https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2020/02/BOT-Minutes-November-17-18-2019.pdf).

⁷ Id., at 6.

application in anticipation of the UMS Board's expected January 2020 approval of the initiative. Chancellor Malloy's email was copied to Dr. McClymer for his and AFUM's general awareness.

- **January 6, 2020:** In response to Chancellor Malloy's December 17, 2019 email to faculty leaders, Dr. McClymer emailed Jim Thelen to ask whether AFUM would participate in the faculty internal governance work for the substantive change. Thelen responded the same day, explaining that "the idea is to give the Faculty Senate/Assembly presidents the first opportunity to meet and think about what faculty and academic governance might look like with the opportunities provided by unified accreditation, and then let them determine who else [e.g., AFUM] needs to be brought into that conversation."
- **January 14, 2020:** All UMS Faculty Senate/Assembly leaders met in person in Orono with Chancellor Malloy to discuss beginning their work to develop the framework for UMS-wide faculty governance/internal governance that would be presented in the substantive change application. UMS arranged for the group to have a Zoom-based video conference call with NECHE President Barbara Brittingham during the meeting, and faculty leaders present were also given the time to meet by themselves to discuss how to organize internal faculty governance at the System level for unified accreditation. Faculty leaders were empowered to continue working on their own thereafter to develop faculty governance standards System-wide and to draft that portion of the substantive change application themselves.
- **January 18, 2020:** Chancellor Malloy and UMS Chief of Staff and General Counsel Jim Thelen met with Dr. McClymer and the entire AFUM executive board to discuss unified accreditation plans and answer questions from the AFUM leadership.
- **Late September 2019 – Mid January 2020:** After making his recommendation to seek unified accreditation to the UMS Board in September 2019, Chancellor Malloy committed to visiting each UMS university at least three times to discuss unified accreditation, answer questions, and in doing so, inform his and his staff's work in developing a final recommendation to the Board for their January 2020 meeting. The input and perspectives gained were critical in the later preparation of the substantive change application to seek unified accreditation for UMS. All told, Chancellor Malloy and his senior staff held more than 50 meetings during this period in person with UMS students, faculty, and staff to discuss their thoughts and concerns about unified accreditation, more than meeting his commitment to visit every university at least three times.
- **January 27, 2020:** The UMS Board approved Chancellor Malloy's recommendation to seek unified accreditation, directing UMS to ensure that it

did so, among other things, in compliance with “the Board’s policies on academic freedom and shared governance, and current labor agreements.” The Board also directed that “all System and university constituencies be updated regularly on the status of UMS’s application for unified accreditation.”⁸ As with the September and November 2019 Board meetings summarized above, Dr. McClymer has advance public access to the proposed unified accreditation authorization resolution before the Board, and he addressed the Board about unified accreditation issues during the public comment period that day.⁹

- **Early February 2020 – Late April 2020:** Nearly three dozen academic and administrative leaders from every UMS university and UMS senior administration contributed to drafting the substantive change application for unified accreditation for UMS. Faculty Senate/Assembly leaders were empowered to draft the faculty internal governance portions of the substantive change application on their own, but had not completed the work in time for the April 27, 2020 substantive change application draft posted internally for UMS community review (as explained immediately below).
- **April 27, 2020:** Chancellor Malloy sent an email to all UMS faculty and staff to inform them a nearly-complete draft substantive change report had been posted online for their review and comment. That same day, Dr. McClymer emailed UMS Chief of Staff and General Counsel Jim Thelen and UMS Vice Chancellor for Academic Affairs Robert Placido to express concern that there was no mention of the AFUM collective bargaining agreement provisions for “cooperating departments” in the first draft.
- **April 30, 2020:** UMS Chief of Staff and General Counsel Jim Thelen responded to Dr. McClymer’s April 27 email in relevant part as follows:

Hi Jim -

It would be great if we could get back on Zoom in the next week and continue this conversation.

... [W]e should talk more about your views on cooperating departments. We certainly want to take advantage of that in the unified accreditation environment.

How should we go about getting our next conversation on the calendar?

*Thanks -
Jim*

⁸ See [January 27, 2020 Minutes](https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2020/03/BOT-Minutes-January-26-27-2020.pdf), UMS Board of Trustees (https://www.maine.edu/board-of-trustees/wp-content/uploads/sites/12/2020/03/BOT-Minutes-January-26-27-2020.pdf).

⁹ Id., at 2.

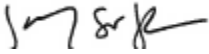
- **May 5, 2020:** Chancellor Malloy sent another email to all UMS faculty and staff to remind them of their opportunity to review and provide comment on the draft substantive change application for unified accreditation, which was posted on a public facing unified accreditation website.
- **April 27 – May 15, 2020:** The UMS draft substantive change application for unified accreditation was available for UMS faculty and staff review online for this entire period, with an online feedback and comment tool provided for easy response. In total, 745 total individuals accessed the draft substantive change application during this period; of them, 104 individuals (59% faculty, 31% staff, 2% students, with the remaining “other” or undesignated) accessed the online survey tool associated with the draft, and 54 people provided a total of 466 total comments on the document, all of which were reviewed and considered for revisions to the document before it was finalized through late May into early June. Additional comments were accepted via email and considered as well.
- **May 29, 2020:** UMS Faculty Senate/Assembly leaders finalized a narrative section for the substantive change application for unified accreditation that described their plan for internal faculty governance to satisfy that portion of Standard Three of NECHE’s Standards for Accreditation. These faculty leaders had discretion to address whatever matters of System-level faculty governance they deemed appropriate for the substantive change application, and to accept input from whomever they felt necessary; Chancellor Malloy and UMS administrators did not restrict their work in any way. It bears noting that neither UMS policy nor the AFUM collective bargaining agreements gives AFUM any formal role in internal faculty academic/shared governance, which is left to each university’s faculty senate or assembly and, under unified accreditation at the System level, the Faculty Governance Council.
- **June 10, 2020:** UMS submitted its substantive change application for unified accreditation to NECHE. The document submitted included references to the AFUM collective bargaining agreement’s “cooperating departments” provisions at p. 18, as Dr. McClymer had requested.

The facts presented in the above chronology speak for themselves, and loudly. UMS leaders engaged Dr. McClymer and AFUM early in their consideration of unified accreditation and throughout the entire period from mid 2019 to the UMS Board’s January 2020 authorization to seek unified accreditation and the drafting and submission of the substantive change application from February through early June 2020. UMS leaders not only answered Dr. McClymer’s questions and offered several opportunities for input on the UMS recommendation to seek unified accreditation and development of the substantive change application for it, but also directly connected both him and faculty senate/assembly leaders with then-NECHE

President Barbara Brittingham on two different occasions to discuss how UMS could meet the Standards for Accreditation within the context of their concerns.

If you have additional questions about Dr. McClymer's January 4, 2021 letter or this response, please contact me at your convenience.

Respectfully,

A handwritten signature in black ink, appearing to read "J St John".

Jeffrey St. John, Ph.D.
Associate Vice Chancellor for Accreditation and Strategic Initiatives
University of Maine System

cc: Mr. James Thelen, Vice Chancellor for Strategic Initiatives and Chief Legal Officer, UMS
Dr. James McClymer, AFUM President, UM