Middleton seeks to reassure lawmakers as they mull UM budget

By Rudi Keller

Wednesday, February 3, 2016 at 8:25 pm

JEFFERSON CITY — Lawmakers should be happy with the way their demands for change are being addressed at the University of Missouri and provide the school a budget that protects the school from a potential loss of tuition revenue, top administrators told the House Appropriations-Higher Education Committee on Wednesday.

Interim University of Missouri President Mike Middleton and Vice President for Finance Brian Burnett defended the university’s tuition rates, efficiency and responsiveness to political pressure during their appearance.

The university is looking at its system for faculty teaching waivers, the way athletes use their positions to influence policy and how issues of free speech are handled on campus, Middleton said. He added that the Board of Curators suspended Assistant Professor Melissa Click and is investigating the actions during campus demonstrations that led to a municipal misdemeanor assault charge against her.

“I hear your concerns and take them very seriously,” Middleton said. “I am taking steps to address those concerns in the very best way possible.”

Middleton and Burnett appeared before the committee as it reviewed the budget requests for all higher education programs in the state. They heard friendly questions about the impact of budget cuts on the campuses and the communities that surround them and more pointed questions about the size of administrative expenses for hotel space and professional association memberships.

The appropriations committee is the first group of lawmakers who will decide whether to accept Gov. Jay Nixon’s recommendation for a 6 percent increase in support for state colleges and universities. That proposal would add $26.8 million to the university’s $434.2 million allocation for the current fiscal year.

Some lawmakers, including the Senate’s top leader, President Pro Tem Ron Richard, R-Joplin, have said they want to see the university’s budget cut to send a message about political
frustration with UM. Committee Chairwoman Donna Lichtenegger, R-Jackson, said no decisions about funding have been made.

“I am trying to work as hard as I can to make sure the university gets the funding that they need,” Lichtenegger said.

The Republican majority is determined to cut the budget and there is little the university can do about it, state Rep. Stephen Webber, D-Columbia, said.

“I told them back in December that there were no changes that they could make that would appease the Republican supermajority in Jefferson City, that they were going to come after the budget regardless of what they did,” Webber said.

The Columbia campus faces a potential loss of $20 million to $25 million in tuition revenue if enrollment falls next year, Burnett told the committee. A budget cut on top of that loss would be hard to take, Middleton said.

“We’re down to the bone,” Middleton said. “A significant cut in our budget at this time would be devastating.”

State Rep. Joshua Peters, D-St. Louis, challenged that claim. He pointed to large expenses at the Ritz-Carlton and Four Seasons hotels in St. Louis, where the university rented meeting space and held interviews with prospective deans. One such expense cost $19,857 in 2014 for selecting two deans on the Missouri Science & Technology campus in Rolla.

Each campus has multiple facilities that could be used for interviewing or meeting with candidates for employment, Peters said.

“Why are we using taxpayer dollars for individuals who are supposed to be serving the state to spend nights at the Ritz-Carlton?” Peters asked.

Burnett tried to explain that some of those expenses were for the convenience of the candidate but Peters did not seem convinced. Middleton said he did not know why the expenses were necessary.

“I have never stayed at a Ritz-Carlton or a Four Seasons nor do I intend to on the taxpayer dime,” Middleton said.

**ST. LOUIS POST-DISPATCH**

Middleton: UM System budget cuts would be "devastating"
JEFFERSON CITY • University of Missouri System Interim President Michael Middleton said he understands state lawmakers' concern about the recent system upheaval, but hopes they understand the harm significant budget cuts would do.

"I don't think (cuts) are the solution," Middleton said Wednesday after a House budget hearing.

Lawmakers have been battling with Mizzou since last summer, when they targeted the university's ties with Planned Parenthood. In August, graduate students lost their health insurance subsidy only to get it back later. In November, UM System President Timothy Wolfe stepped down following student-led protests on the Columbia campus. Student demonstrators were angered over Wolfe's perceived indifference to a number of racist incidents on campus.

Then a video surfaced of Melissa Click, a Mizzou assistant professor of communications, confronting student journalists after Wolfe resigned. Despite legislative calls for her termination, Click was suspended while the university's general counsel conducts an investigation to determine whether more discipline is necessary.

Three UM Board of Curators have resigned since Wolfe stepped down.

Even while facing these issues, Middleton told a House committee Wednesday the "university never stopped fulfilling its mission."

"We cannot forget the value the UM system brings to the state," Middleton said.

Rep. Stephen Webber, a Columbia Democrat running for state Senate this year, questioned Middleton on what budget cuts would do to the system because it is "no secret some people in the Capitol have threatened the budget."

To this, Middleton said a significant cut would be "devastating"

"We're working hard to rebuild confidence in the system," he said. "We're moving quickly to rebuild the campus culture so it's more welcoming to all students."
The interim president of the University of Missouri system told lawmakers Wednesday their concerns about the turmoil last year at the state's flagship campus are being addressed as he urged them not to cut higher education funding.

November protests by students over what some saw as administrators' indifference to racial issues culminated in the resignations of the former system president and Columbia chancellor. Since then, the University of Missouri has been a magnet for lawmaker complaints, with some calling for greater scrutiny of the budget this year and possible funding cuts.

Interim president Mike Middleton testified during a House committee hearing on state funding for public colleges.

"I certainly hear your concerns and take them very seriously," Middleton said. "I know that they represent not only your concerns but the concerns of your constituents back home, and I've taken steps to address those concerns in the very best way possible."

Much of the legislative fallout has centered on suspended assistant professor Melissa Click, who called for "some muscle" to help remove a student videographer from the protest area on campus. Click reached a deal with prosecutors to do community service instead of facing charges and has said she regretted her actions.

Middleton told lawmakers Columbia campus interim Chancellor Hank Foley in response launched a free-speech taskforce. He also noted Click's suspension and progress on diversity initiatives.

The system announced Wednesday $921,000 would be spent toward diversity and inclusion initiatives such as a campus climate survey, additional training for Mizzou and system administrators and students, and mental health support.

Lawmakers on the House panel didn't threaten budget cuts, but asked questions about spending in the system, a recent drop in the system's credit rating outlook by one rating agency and the financial impact of the Mizzou campus turmoil.

Middleton said budget cuts could do "real damage" to the system, particularly amid the efforts to address problems in Columbia.

"It's difficult for me to imagine the damage that would be done to our university if we were to suffer significant cuts at this point in time," Middleton said.

Brian Burnett, vice president and chief financial officer for the system, said the Columbia campus could be down 900 students next year, which would represent an estimated $20 million to $25 million drop in revenue from tuition.
Interim UM President testifies at higher education committee meeting

Watch story: http://www.abc17news.com/news/interim-um-president-testifies-at-higher-education-committee-meeting/37804008

JEFFERSON CITY, Mo. - A House Appropriations Committee on higher education wrapped up Wednesday afternoon at the state Capitol after hearing presentations from colleges and universities from across the state.

**Interim UM System President Mike Middleton was at the Capitol to testify before the committee.**

Middleton discussed what a budget cut for the University of Missouri System would mean. He said a budget cut at this time would be devastating to the UM System.

"I can assure you our higher education institution is much, much more than the recent event we have faced."

The UM System turned in a 153 page document to lawmakers about it's budget.

The UM System's Vice President of Finance Brian Burnett also testified at the hearing to answer any questions from lawmakers, and there were a number of them.

One question that stood out was about the donor and endowment program.

Right now, the UM System has $1.3 billion in endowment funds.

Another lawmaker asked about how much money the university was using to investigate current events on campus.

Representative Joshua Peters dug through that more than 150 page document and found some questionable expenses the system has made in the past.

He pointed out the System paid for job candidates to stay in the Ritz-Carlton hotel for several nights in 2014.
Peters said taxpayer dollars should not be going to things like this, and the university needs to be held accountable for where the money is going.

"These are serious dollars and these are serious funds," he said. "There are universities who are trying to do good deeds and can utilize these dollars instead of them being spent at the Ritz-Carlton hotel and being spent on china glasses for the luxury of some chancellor."

Representative Stephen Webber agreed that accountability is important, but said cutting the budget would hurt the students.

"We shouldn't lose sight that the larger goal is that students have access to a high quality education. If we need to change things for accountability we should, but that doesn't mean we just blindly cut the budget to punish administrators for that," said Webber.

UM leadership discuss budget amidst threats of cuts


JEFFERSON CITY - University of Missouri System Interim President Mike Middleton, along with the system's vice president of finance, spoke with lawmakers Wednesday after some legislators threatened budget cuts.

Rep. Stephen Webber, D-Columbia, said it's no secret some lawmakers want to reduce funding for the next fiscal year because of the events that recently transpired on MU's campus.

Middleton said a budget cut "would do real damage," and he asked the House Higher Education Appropriations Committee to remember the UM System is much more than those recent events.

The chair of the committee, Rep. Donna Lichtenegger, R-Jackson, said the committee has yet to make any decisions about future funding for MU. She also said she's looking to the UM Board of Curators to show strong leadership as this issue is further discussed.
"I think that there's some questions of leadership that need to be answered," Lichtenegger said. "Some questions of using budgets wisely, and so we're going to be looking at those things, and we're going to be looking at them very hard."

The Board of Curators is scheduled to meet Thursday, and finances are on the agenda. Later this month, the board, Middleton, and MU's chancellor will discuss the budget with members of the Joint Committee on Education.

Local groups back MU in response to threats of budget cuts

COLUMBIA - Several Boone County organizations supported MU in response to threats made by lawmakers to cut the university's budget.

The Boone County Commission, Columbia Public Schools, and the Columbia Chamber of Commerce collaborated on a resolution backing MU that was approved by the Boone County Commission Tuesday.

Boone County Presiding Commissioner Daniel Atwill said taking away funding from MU would be detrimental, to not only the surrounding community, but the entire state.

"The ultimate goal of this resolution is to shed some light on the financial aspects of what is being discussed by the legislature and to bring people, to bring to the attention of people, the consequences of what is being discussed," Atwill said.

Rep. Chuck Basye, R-Rocheport, said the discussion of cutting funding for the university began during the student protests in 2015.

Basye said, immediately after former Chancellor R. Bowen Loftin and former UM System President Tim Wolfe stepped down in November, the subject of MU's funding came up among lawmakers.
"I know that they, some of my colleagues, are adamant that Mizzou needs to get some funding taken away," Basye said.

The University of Missouri System will have a chance to explain its budget proposal to the House Higher Education Appropriations Committee Wednesday afternoon.

Rep. Kip Kendrick, D-Columbia, said the Columbia campus would likely be taking the hardest hit in the committee meeting.

"It's going to come across as more of a witch hunt. There's going to be a lot of questions directed at the university," Kendrick said.

The consensus at the Capitol is that the cuts will happen despite the resolution passed by the Boone County Commission.

Both Basye and Kendrick agreed that the threat of cuts to MU's funding is very real.

Atwill said it is probably more a matter of when the budget is cut, rather than if.

"I think the real issue is, is it going to be severe to the point that it impacts the people who work at the university," Atwill said.

The lawmakers said no set amount has been officially suggested to cut from MU's budget.

University sets forums with diversity officer finalists

By THE TRIBUNE'S STAFF

Wednesday, February 3, 2016 at 2:47 pm

The three finalists for the job of Chief Diversity, Equity and Inclusion Officer for the University of Missouri System will visit Columbia in the next two weeks, where they will participate in public forums in addition to meeting campus and system leaders.

After the resignation in November of President Tim Wolfe, the Board of Curators voted to create the new system-level job and increase funding for campus initiatives designed to promote racial harmony. In addition to naming the finalists, the university said $921,000 has been allocated to
conduct surveys of the racial climate on the four system campuses, additional training for administrators and students and additional mental health treatment.

The first forum will be held at 8:30 a.m. Tuesday at the Old Alumni Center on Carrie Francke Drive with Paulette Granberry Russell, currently senior adviser to the president for diversity and director of the Office for Inclusion and Intercultural Initiatives at Michigan State University, a post she has held since 1998.

The other forums will be:

- 1:30 p.m. next Thursday at the Old Alumni Center with Kevin McDonald, vice president and associate provost for Diversity and Inclusion at Rochester Institute of Technology.
- 9:30 a.m. Feb. 16, also at the Old Alumni Center, with G. Christine Taylor, who most recently served as the inaugural vice provost for diversity and inclusion and chief diversity officer at Purdue University.

Increasing diversity and inclusion is a top goal for Interim President Michael Middleton, he said in a prepared release. “As part of that effort, we are committed to involving all of our student groups on our four campuses as we look for solutions to the issues that challenge us, and have been developing mechanisms to ensure student voices are heard.”

University of Missouri system announces diversity spending

COLUMBIA, Mo. (AP) — The University of Missouri system has announced more than $920,000 in spending on diversity efforts as it seeks to recover from racial unrest on its Columbia campus.

The four-campus system also announced Wednesday that it is planning forums with finalists for the role of the first ever system-level chief diversity, equity and inclusion officer. The forums start next week.

Protests erupted in November over what some saw as university leadership’s indifference to racial issues. Two top administrators resigned amid the unrest.

The system says the initial funding of $921,000 will be spent on a campus climate survey, additional training for students and administrators and mental health support.
Interim system president Mike Middleton said in a statement that the system is "developing mechanisms to ensure student voices are heard."

UM System announces nearly $1 million in funding towards diversity

COLUMBIA, Mo. — The University of Missouri System has announced nearly $1 million in funding towards diversity initiatives at the four-system campuses.

This news comes as the system looks to recover from the protests and racial unrest on the Columbia campus in November of 2015.

Two top administrators resigned amid the unrest.

In a press release issued Wednesday afternoon, it was announced that campus initiatives to improve progress for diversity and inclusiveness would receive an one-time fund of $921,000.

Those initiatives include a campus climate survey, mental health support and additional training for campus and system administration and students.

The initial funding support will be augmented at a later time.

The University System also announced they will be hosting open forums in their search for three final candidates for the position of Chief Diversity, Equity and Inclusion Officer (CDO).

The forums are expected to begin next week.

The university has been searching nationwide for the first-ever CDO, using a committee including members of the faculty, staff and student leaders from each campus.

"As one of the goals during my interim presidency, the UM System is focused on achieving the diversity, equity and inclusion initiatives established by the board," UM System Interim President Michael Middleton said. "As part of that effort, we are committed to involving all of
our student groups on our four campuses as we look for solutions to the issues that challenge us, and have been developing mechanisms to ensure student voices are heard."

You can continue to follow their progress on the initiatives by visiting www.umsystem.edu/president/doi.

UM System announces initiatives to improve diversity

COLUMBIA - The University of Missouri System announced initiatives to address the racial climate on its campuses.

In a press release, the UM system declared one-time funding of $921,000 for campus initiatives to create a “more diverse, inclusive, and equitable organization.”

Those initiatives include a campus climate survey, additional training for campus, system administration and students, and mental health support.

The UM system will also continue the search for a chief diversity, equity and inclusion officer by hosting open forums for three final candidates.

"As one of the goals during my interim presidency, the UM System is focused on achieving the diversity, equity and inclusion initiatives established by the board," UM System Interim President Michael Middleton said. "As part of that effort, we are committed to involving all of our student groups on our four campuses as we look for solutions to the issues that challenge us, and have been developing mechanisms to ensure student voices are heard."

The open forums begin February 9.
Mizzou braces for enrollment drop in wake of campus discord

7 hours ago  •  By Koran Addo

There's no doubt the University of Missouri-Columbia has been wounded by a chain of recent events.

First, graduate assistants were upset with the university about losing benefits. Then, some legislators were angry because the school had ties to Planned Parenthood.

And of course, the school came under national scrutiny when many students protested after a series of racist incidents — the aftermath of which toppled top leadership.

What's unclear is how all that discontent will affect enrollment and student recruitment.

Barbara Rupp, Mizzou’s director of admissions, sees cause for concern.

As it stands, applications and deposits made toward tuition are down. School leaders are projecting 900 fewer incoming freshmen for fall 2016 than fall 2015, according to currently available information.

University officials are quick to add that the 900 number is just a projection based on snapshots taken throughout the school year. The number could change drastically between now and next fall, they said.

Rupp said the university had been predicting over the last few years a decline in students based on certain demographic trends, such as a shrinking pool of high school graduates.

That pattern may explain much, or even most, of Mizzou’s projected enrollment decline.

But Rupp also acknowledges that some of the projected declines are “undoubtedly part of the aftermath of last fall.”

In particular, recruiters working in the Chicago area are more frequently hearing the same concerns from prospective students, she said.
Those concerns are tied to the growing perception of Mizzou as a national symbol for strained race relations.

“Because those students are geographically removed from the campus, they don’t really have a sense of what’s going on and they are relying on what they are seeing and hearing in the media,” Rupp said. “And it’s not particularly positive.”

According to the university’s data, applications from out-of-state student have seen some of the sharpest declines. Among those students, deposits toward tuition are down 25 percent since last year.

But there are also barriers toward luring students from within Missouri, perhaps especially in rural areas.

Rupp said potential students in those areas were offering “more conservative viewpoints,” including opinions on Melissa Click, an assistant professor who gained infamy during the campus protests of last fall.

Click was caught on video trying to prevent student journalists from interacting with students celebrating the resignation of University of Missouri President Timothy M. Wolfe. Wolfe stepped down over criticism of his perceived indifference to racist incidents on campus.

Click’s actions in defense of a black cause have been interpreted by some as an example of hyper-liberalism and political correctness gone too far.

Should the university’s enrollment projections hold true, the campus is looking at a roughly $20 million loss in revenue, according to Chief Financial Officer Rhonda Gibler.

But university officials say the negative attention is only a fraction of the enrollment challenges the school is facing.

For one, a number of other schools have stepped up their recruiting efforts in Missouri and Illinois, providing more competition for Mizzou recruiters.

And more to the point, there are simply fewer students in the pipeline, as the number of high school students in Missouri, Illinois and Kansas has leveled off.

The Western Interstate Commission for Higher Education studies college enrollment trends. President David Longanecker said Missouri’s high school graduating class peaked at 70,600 students during the 2009-10 school year before dropping to 64,500 by the 2013-14 school year.

The number is expected to hover somewhere around 65,000 over the next 10 years, he said.
Those projections fall in line with national trends, compiled by the National Student Clearinghouse Research Center.

Researcher Jason DeWitt reports that high school graduation should remain flat through 2026, especially in the Midwest and the Northeast.

To mitigate some of the projected enrollment losses at Mizzou, the university has beefed up the number of recruiting events it holds, made reaching out to high school counselors a higher priority and is expanding recruiting efforts in other areas, including Atlanta.

Rupp, the admissions director, said the trick would be to persuade more students than usual to visit the campus.

“Our No. 1 message to everyone is, ‘Please visit the campus,’ ” she said. “Walk around, see it for yourself. That’ll help than anything else to make an informed decision.”

**Fair Play?**

In the aftermath of events at the University of Missouri, Eric D. Bentley examines whether athletes at public higher education institutions across the nation have a First Amendment right to strike.

**In November, a series of events at the University of Missouri captivated the collective college athletic and academic world.** With racial tensions at a boiling point at the Columbia campus, where students conducted protests and a highly publicized hunger strike in an effort to force the removal of then president of the system, Timothy Wolfe, some 30 Missouri football players did what no other college athletes have ever done: during the middle of the football season, they refused to participate in any practice or game until the president was removed.

College and university officials across the country began asking, can the football players do that? Should they do that? What will the university do? What happens if the football team is forced to forfeit their upcoming game against Brigham Young University where, at a minimum, the $1 million guarantee to be paid to Missouri would be lost?
Almost immediately, head football coach Gary Pinkel came out in support of his players by tweeting a photo of white and black Mizzou students standing arm in arm, captioned, “The Mizzou family stands as one. We are united. We are behind our players.” The next day, Wolfe resigned, followed soon after by the resignation of the chancellor of the Columbia campus.

Some observers praised the Missouri football players for taking a stand and having such leverage to set forth change. Others were not so impressed with this power play that placed the Missouri athletic department on center stage and at jeopardy of violating its contractual agreements to participate in an upcoming game. They wanted Missouri to take action against the athletes.

With the large-scale civil unrest occurring in 2014 regarding the police shooting of a black man in Ferguson, Mo., (just a two-hour drive from Columbia) still fresh in most everyone’s minds, and the racial tensions that were present at the university, it seems unfair to play Monday-morning quarterback and second-guess Missouri’s response to the football players’ strike. However, the events there ask the question of whether student-athletes at public educational institutions across the nation have a First Amendment right to strike.

Before social media provided an instant stage on which anyone with fast-moving thumbs and a smartphone could proclaim to millions the conditions and reasons for a student-athlete strike, students were forced to resort to old-school methods of protest. For example, in the seminal 1969 case of Tinker v. Des Moines Independent Community School District, the U.S. Supreme Court decided a case in which two high school students protested the Vietnam War by wearing antiwar armbands to school. Believing this was a disruption to the school, officials suspended the students. The students then sued the school, claiming their First Amendment rights were violated.

The Supreme Court held that the students possessed a First Amendment right to wear the antiwar armbands and that their actions were not a substantial disruption to the school’s activities. In one of its most frequently quoted opinions regarding First Amendment school cases, the court stated, “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” However, the court carved out a category of
unprotected speech by noting that a school can discipline students for expressive activity “by a showing that the students’ activities would *materially and substantially disrupt the work and discipline of the school.*” (Italics added.)

As a result, a student-athlete who tweets “Black lives matter” or wears a T-shirt with that caption on a campus would clearly have the First Amendment right to do so and that would likely not be considered a disruption under the standard set forth in Tinker. However, what standard would apply to student-athletes who wish to protest during a game or who go on strike and refuse to practice or play in a game?

In 1972, the 10th Circuit took up Williams v. Eaton, a case in which several black University of Wyoming football players indicated they would wear black armbands during an upcoming football game against Brigham Young University in protest of what they alleged were the religious institution’s beliefs on racial matters. In response to only the proposed protest and potential for disruption during the upcoming game against BYU, the university dismissed the players from the football team, and the football players sued the university. The 10th Circuit upheld the university’s actions, stating that they “…denied only the request for the armband display by some members of the team, on the field and during the game [and that] in these limited circumstances … the trustees' decision was in conformity with the Tinker case and did not violate the First Amendment right of expression of the plaintiffs.”

Subsequently, in 1987, a Kansas district court decided a case in which several black football players at Washburn University of Topeka decided to boycott team practices in protest because they believed the coaching staff and administration were treating them in a racially discriminatory manner. The football players were kicked off the team, and they brought suit against the university arguing, in part, that their First Amendment rights were violated. The university responded by claiming the removal of the players from the team was not a violation of the First Amendment because their actions constituted a disruption to the school.

The district court denied the university’s motion for summary judgment on the First Amendment issue, due in large part to the admission of the coach during his deposition that the student-athletes were excused from practice during their
protest. Because of that admission, the court held that the boycott of football practice could not be considered a disruption under the Tinker standard.

However, we’re not in Kansas anymore, and this is not 1987. College football has become a multibillion-dollar industry, and the thought of forfeiting a college football game at the financial expense of the university because a group of student-athletes are protesting a social issue is hard for some athletic departments to stomach. Unlike the football coach at Washburn, who excused his players from practice during the protest, as well as Missouri’s football coach, who supported his players’ boycott of practice and games, a coach may voluntarily decide there is too much on the line to excuse an athlete from practice or a game when the athlete is engaging in a protest.

What would a court likely rule today if a football player refused to practice or participate in games and the coach did not excuse his missing these team functions?

The 10th Circuit’s decision in Williams with regard to the University of Wyoming football players is instructive. If it was not a First Amendment violation for the university to remove from the team the football players who wanted to wear black armbands to a game to protest their opponent’s racial viewpoints, a university would likely be found to possess the right to kick players off the football team who refuse to participate in practice or games. Under the Tinker disruption standard, it is hard to imagine how, for example, a starting quarterback who refuses to show up for a week of practice and an upcoming game because he is protesting would not be a material disruption to the team or the university.

Moreover, student-athletes are bound by their scholarship agreements, which in part, require attendance at team functions, including practice and games. If the student was missing classes to engage in protests, it would result in the removal of his or her scholarship. Similarly, the refusal of a student-athlete to participate in required practice and games because of a protest could result in the removal of the student’s scholarship. In such a case, the student-athlete’s First Amendment claim against the university would likely fail.

Other Legal Considerations
In addition to applying the Tinker disruption standard, a court may apply a Garcetti-like analysis to student-athlete speech. In Garcia v. Ceballos (2006), the Supreme Court held that a public employee who is speaking as an employee pursuant to his or her official job duties does not have First Amendment protection. If, however, the public employee is speaking as a private citizen on a matter of public concern, the employee may enjoy First Amendment protection. Even though courts have yet to apply the Garcetti public employee speech standard to student-athletes, a court may someday decide to do that.

A court applying the Garcetti framework could conclude that a student-athlete who speaks as a private citizen on a matter of public concern -- for instance, who engages in a protest in the middle of campus after practice -- has First Amendment protection. But a student-athlete who engages in speech as a student-athlete -- for instance, who boycotts team practice or games -- is not entitled to First Amendment protection.

As for the right to strike as a unionized employee, the Northwestern University football players’ petition to be treated as employees and be allowed the right to unionize (and ultimately the right to strike) was dismissed in August of 2015 via a unanimous decision by the National Labor Relations Board. (It should be noted that even if the NLRB had determined that the football players enjoyed the right to unionize and strike, public colleges and universities would not be bound by such a decision, as the National Labor Relations Act does not apply to state agencies and the NLRB does not have jurisdiction over state entities.) As a result, a student-athlete does not have the right under the NLRA to engage in a strike, as student-athletes are not considered employees for purposes of the NLRA.

**Not ‘Super Referees’**

What does this all mean for colleges and universities going forward? What are the key takeaways?

An institution would be treading on thin First Amendment ice if it were to revoke the scholarship from a student-athlete who supports or encourages other student-athletes to strike or participates in a protest that is not during practice or game time. Additionally, under a Garcetti-like analysis, the student-athlete would be speaking as a private citizen on a matter of public concern and would be entitled to First Amendment protection.
But an institution would likely be able to survive a First Amendment claim, according to the Tinker disruption standard, if it disciplined or removed a student-athlete’s scholarship for refusal to practice or participate in a game, even if the absences were because the student was engaging in a protest. Student-athletes do not possess the First Amendment right to engage in materially disruptive behavior that is in violation of their scholarship agreement such as boycotting practice or games.

And a court would likely be hesitant to second-guess the actions of an athletic department that in good faith believes an athlete who misses practice or a game is a material disruption to the program. The Fifth Circuit has stated that judges are not “super referees,” and the Supreme Court has indicated, “Courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate basic constitutional values.” As the Texas Supreme Court concluded in 2005 in NCAA v. Yeo, “Judicial intervention in [student-athlete disputes] often does more harm than good.”

Eric D. Bentley is associate general counsel for the University of Houston System and teaches sports law as an adjunct faculty member in the university’s Department of Health and Human Performance.

**THE CHRONICLE OF HIGHER EDUCATION**

**AAUP Asks Mizzou to Lift Suspension of Melissa Click**

The American Association of University Professors has called on the University of Missouri to lift its suspension of Melissa A. Click, the assistant professor who drew scorn for her videotaped attempt to remove a student journalist from the site of a campus protest.
Ms. Click, who was charged last week with assault but reached a deal to avoid prosecution, is serving a suspension while the system’s Board of Curators investigates.

In a letter to the Columbia campus’s interim chancellor, Henry C. (Hank) Foley, the association’s associate secretary, Hans Joerg-Tiede, said the suspension violated due process. “It seems clear,” Mr. Joerg-Tiede wrote, “that, in not affording her a hearing prior to placing her under suspension, she has been denied the safeguards of academic due process.”

Group urges reinstatement of suspended Missouri professor

COLUMBIA, Mo. (AP) — A national association is calling for the reinstatement of a suspended University of Missouri assistant professor who was involved in a run-in with two student journalists during campus protests.

The Columbia Missourian (http://bit.ly/1QFIsD1) reports that the American Association of University Professors sent a letter Tuesday to the Columbia campus’ interim chancellor, Hank Foley. The group’s associate secretary, Hans-Joerg Tiede, wrote that the campus denied academic due process when Melissa Click was suspended last week.

Click had a confrontation with a student photographer and a student videographer during November protests at the Columbia campus over what some saw as university leadership’s indifference to racial issues. Click called for ”some muscle” to help remove the videographer from the protest area on the campus. She later said publicly that she regretted her actions.
Group urges reinstatement of suspended Missouri professor


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MISSOURIAN

DAVID ROSMAN: Melissa Click seems to have learned her lesson

DAVID ROSMAN, 22 hrs ago

Melissa Click did apologize to the students involved. A previous version of this article misstated that fact.

Melissa Click's actions on Nov. 9 during a student protest at MU took less than five seconds, creating a conflict of law and U.S. constitutional amendments.

You all know the story by now. Click confronted two photographers reporting on the Concerned Student 1950 protest on the Mel Carnahan Quadrangle.
In the short confrontation, Click reached out and pushed one photographer's camera away in an attempt to have him leave the encampment. She then called out for "some muscle" to remove him from the area. (You can watch a 12-minute video on YouTube.)

David Rosman is an editor, writer and professional speaker. You can read more of his commentaries at InkandVoice.com and New York Journal of Books.com.

This was preceded by a confrontation between the photographers and students who seem to believe that they had the right not to be photographed while in a public area.

The First Amendment guarantees the freedom of speech and the press, as well as "the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The Fourth Amendment provides "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures…"

This has been interpreted to include the taking of pictures or recordings of individuals in private venues without a court order. Things change when the person is in a public venue like the Carnahan Quadrangle.

One photographer, Tim Tai, identified himself as working for a "national news organization," in this case ESPN. The second photographer, identified as Mark Schierbecker, made no such declaration, based on the online video. We do not know if either was wearing press credentials at the time.

In the legislature, State Rep. Elijah Haarh, R-Springfield, has introduced HB 2058, the "Cronkite New Voices Act," to protect student journalists. The proposed statute "provides that a student journalist has a right to exercise freedom of speech and of the press in school-sponsored media regardless of whether the media is supported financially by the school district or public institution of higher education…"
In addition, the bill would prevent "a school district from sanctioning a student operating as an independent journalist." Of course there are some limitations.

Concerned Student 1950 is upset with the University of Missouri Board of Curators’ decision to suspend Click while investigating her actions. Members wrote what could be read as a provocative memorandum on their Facebook page, opening with "White supremacy is on the hunt for social degradation once again."

The Facebook posting continues by declaring Click an ally and that supporters of the movement seek to voice their position over an "oppressive and RACIST social system…"

I understand that the students, especially students of color, are angry. I also understand that the demands they are making — including a change of culture within the university, and better recruitment and retention of black students and faculty — cannot be accomplished overnight.

As of last Friday, Click had agreed with Columbia's prosecuting attorney to 20 hours of community service as "deferred prosecution" on a third-degree misdemeanor assault charge. It appears that Click realized that her actions were wrong and is taking the punishment deemed appropriate by the legal system.

The Board of Curators and the university have a number of decisions to make. First, Click is currently in the tenure review process. Should the university allow the process to proceed?

If she is awarded tenure, what actions can the university take concerning her "unfortunate incident?" If not, should she be dismissed or disciplined?

*Click’s actions are not covered under the pretext of "academic freedom," though she has apologized to the general public, the media and to the two students involved."

I believe Click has learned her lesson. I believe her current suspension has covered the disciplinary action, yet a personal apology to the two reporters is still warranted. I also believe that Click's application for tenure should be delayed for one year.
As to the demands by Concerned Student 1950, they are legitimate but there needs to be reasonable time to implement them. Culture does not change overnight.

Melissa Click case continues to plague curators as criticism of suspension escalates

By Rudi Keller

Wednesday, February 3, 2016 at 10:48 am

The University of Missouri Board of Curators’ attempt to appease legislative critics stirred up a backlash from a national faculty organization, charging the suspension of Assistant Professor Melissa Click denied her due process rights and departed from normal disciplinary procedures.

The American Association of University Professors, which questioned the suspension in an email to the Tribune last week, urged Click’s reinstatement in a letter Tuesday to interim Chancellor Hank Foley. Hans-Joerg Tiede, associate secretary of the association, wrote that the suspension violates association guidelines and university regulations.

“We appreciate that you may have additional information that would contribute to our understanding of what has occurred,” Tiede wrote. “We shall therefore welcome your comments.”

Foley did not address the criticism in his response.

“Thank you for the note, the letters and for the additional reading materials,” he wrote in an email to Tiede. “I understand your interest in this case and the matters involved.”

Curators’ chair Pamela Henrickson responded to similar criticism from the Executive Committee of the MU Faculty Council with a letter promising that no final decision has been made regarding Click. The curators will not regularly inject themselves into faculty personnel matters, she wrote.

“Unprecedented cases such as this can require extraordinary attention and potential action but I can assure you that the Board is not seeking nor intends to set a precedent regarding faculty governance,” Henrickson wrote.
The curators voted last Wednesday to suspend Click with pay pending an investigation of her actions Nov. 9 during student demonstrations on Carnahan Quadrangle. Click was charged Jan. 25 with misdemeanor assault for her actions to remove a videographer recording the demonstrations. Click will avoid prosecution under a deal to defer the charges.

The vote to suspend Click came after weeks of clamor from lawmakers for her to be fired. The decision to file charges forced the curators to take a closer look at her actions, Henrickson wrote.

The Faculty Council Executive Committee wrote that the curators should have waited. The proper venue was the normal process for investigating charges of faculty irresponsibility. The decision to file charges did not change any of the underlying facts, MU Faculty Council Chairman Ben Trachtenberg said Wednesday.

“I don’t see any reason why our normal processes would be inadequate,” he said.

The association letter said the organization’s standard for faculty suspension is a showing of potential danger for others on campus. There is nothing to show that Click poses a danger, Teide wrote.

“Moreover, it seems clear that, in not affording her a hearing prior to placing her under suspension, she has been denied the safeguards of academic due process called for under the aforementioned standards,” Teide wrote.

The curators meet this week and that is a chance to revisit the suspension, Trachtenberg said.

“I think people are hopeful something positive will happen at this weeks’ meeting but I have no idea what they are going do to,” he said.

Missouri graduate students pass employee status resolution

COLUMBIA, Mo. (AP) — The University of Missouri’s Graduate Professional Council has passed a resolution affirming graduate students’ status as university employees.

The Columbia Daily Tribune reports the council passed the resolution Tuesday night. The question of employee status for graduate students has come up in the ongoing discussion about the possibility of graduate students voting to unionize this spring.
Demonstrations by graduate students seeking better benefits and pay were sparked after university officials told graduate assistants in August that health insurance subsidies would no longer be offered. The school later rescinded its decision.

The University of Missouri Board of Curators is scheduled to start a two-day meeting Thursday, and the agenda includes an executive session of the Compensation and Human Resources Committee, which could include discussions about graduate students' employee status.

Council resolution says MU graduate students are employees

By Alicia Stice

Wednesday, February 3, 2016 at 2:00 pm

The University of Missouri’s Graduate Professional Council sent a strong message Tuesday night to the UM Board of Curators, just days before the board is set to meet and possibly discuss an issue related to the campus strife surrounding graduate students’ status at the university.

The council passed a resolution affirming graduate students’ status as university employees, citing the professional obligations and standards the university holds graduate students to as evidence that their status as students does not preclude having the same status and rights as university employees. The question of employee status has become central in the discussion about the possibility of graduate students voting to unionize this spring. If they are not considered employees, the UM System could try to stop a student election on unionization, co-chair of the Coalition of Graduate Workers, Connor Lewis, said.

“If we’re students, they can claim ‘they don’t have the right to organize a union,’ ” Lewis said. “We’re very confident if that case is made, our understanding of ourselves as employees would eventually be upheld, but that’s kind of a messy legal situation that I don’t think anyone really wants to get into.”

In passing the resolution, the Graduate Professional Council recognized that the Coalition of Graduate Workers would almost certainly gather the roughly 2,000 signatures it needs to hold an election on whether the students should form a union, said Matt McCune, director of communication for the Graduate Professional Council.
“We are asking the university not to stand in their way,” he said.

The resolution stopped short of taking a stance on the question of unionization but is advocating for the UM System to allow the vote to happen, McCune said, citing rules that bar the student group from making an endorsement of the union vote.

The question of employee status has salience in the broader conversation about graduate students’ ability to unionize because it allows them to entertain the idea of unionizing. Graduate students at MU often hold university jobs, often as teaching assistants, for tuition waivers and stipends.

The UM Board of Curators is set to start a two-day meeting Thursday, and the agenda includes an executive session of the Compensation and Human Resources Committee, which could include discussions about graduate students’ employee status. The agenda does not list a specific discussion of unionization.

“I suspect the union question will probably come up during that meeting,” Graduate Workers Coalition Co-Chairman Eric Scott said when discussing his reaction to the council’s resolution. “We just wanted to be sure the Board of Curators are aware that we have done our due diligence, looked into relevant laws and relevant parts of rules and regulations, and understand that we have standing as employees.”

In August the university told graduate students it would no longer provide subsidies for health insurance. Although the university later rescinded that decision, it sparked broad debate about the benefits graduate students receive. This debate continued and intensified in the fall when the university revealed possible changes to its tuition waiver program, which many graduate students who work at the university rely on to cover their course costs.

“We want people to be educated and to make the right decision for themselves,” McCune said. The Graduate Professional Council “in no way is telling people how they should vote.”

**the maneater**

**Student Debt Relief Act aims to aid graduate students**

Matt McCune, Graduate Professional Council director of communication, is no stranger to issues of student debt. He and his wife chose to attend community college while working full time just to avoid it. Although they don’t have any student loans, they’re now 36 and 37 years old and still in graduate school.

“If you look at statistics you could say wow you did very well, you don't have very much debt,” McCune said at a press conference Monday. “Well, we sacrificed years of our lives to have that.”
These struggles led him to “nag” Missouri legislators for years to make changes involving student debt.

Rep. Kip Kendrick, D-Columbia, heard his complaints. Over the last year, Kendrick has had listening sessions on campuses across the district, including MU’s. Through these, he said he has learned about student issues, and student debt, specifically, was one topic that kept coming up.

**Wanting to tackle the issue, Kendrick introduced House Bill 2432, or the Student Debt Relief Act, with the help of GPC, Associated Students of the University of Missouri, the Missouri Students Association and Tigers Advancing Political Participation.** The bill would provide a refinancing option for graduate students. Kendrick spoke about the bill at the press conference Monday on the main floor of the Student Center.

“Rather than a debt crisis, we have a repayment crisis,” Kendrick said at the conference. “The standard 10-year repayment plan requires borrowers to repay the bulk of their debt when earnings potential is the lowest and job security is the least.”

MU processed about $240 million of student loans just last year, Financial Aid Director Nick Prewett said. Prewett said students will often avoid checking how indebted they are because they have so many student loans. He said it is better to be aware of the debt in order to know how much they will owe monthly.

Sixth-year doctoral student Jesse Kremenak and his fiancee’s combined incomes have not been enough to sustain them through graduate school, so they have taken out student loans. They borrowed a little each year to “make ends meet,” which adds up, Kremenak said.

“The amount of money that we’re paid really gets stretched thin,” Kremenak said. “A lot of times we have to rely upon student loans in order to make up that gap, in order to keep the lights on, keep food on the table, put gas in the tank, make car repairs … It’s pretty darn stressful going through school knowing that you have this large balance kind of looming over your head.”

This issue prompted him to create Grads Have Debt 2, which is part of the National Association of Graduate-Professional Students. The program, a former GPC committee but now a separate entity, researched foundational data that prompted ideas for change, Kremenak said.

“I decided to found the Grads Have Debt 2 campaign, which was really to address the inequalities in all these federal student loan bills, and to provide a voice for students that, prior to this, didn’t really have a voice,” Kremenak said. “They were drowning in debt and weren’t able to get out from under, and didn’t really have a venue to get it out and express what was going on.”

ASUM Legislative Director Steven Chaffin wants to go to graduate school. His goal, he said at the conference, is to reduce inequality in his hometown, St. Louis.
“As Representative Kendrick can surely speak to, helping others often doesn’t come with a big paycheck,” Chaffin said at the conference. “In fact, my student debt actively discourages me from helping others.”

Graduate students owe 40 percent of the $1.3 trillion in U.S. student debt, Kendrick said. On average, graduate students borrow nearly 45 percent more than undergrads, totalling $47 thousand, he said. His bill aims to help make college debt more manageable for graduate students.

Kendrick said the Student Debt Relief Act would:

- Reduce interest rates and save money
- Extend the repayment period to 20 years with low cost options up to 30 years or decrease down to 10 years
- Cap monthly payments based on income

Research shows that 90 percent of those defaulting on their student loans don’t have a degree, and 60 percent didn’t make their first payment, Kendrick said. The bills requires student to have obtained an associate’s degree or higher and make their first payment on the original loan, in order to refinance. If the bill passes, students would not be able to borrow any more than the debt they owe when consolidating and refinancing loans.

Because of these requirements, Kendrick said he considered the bill “a safe bet for Missouri.” He also has confidence that he could gain some Republican support, as student debt is an issue that “transcends party lines.”

“$20,000 in debt, and I feel lucky,” Chaffin said at the conference. “That should be a sign that there’s a problem.”

Columbia Daily Tribune

Case of 2014 racist threats at MU still open

By Alan Burdziak

Wednesday, February 3, 2016 at 2:00 pm

Though University of Missouri police were able to quickly make arrests in two recent cases of anonymous social media threats on campus, investigators so far have been unable to identify who wrote a post in December 2014 that promoted arson at The Gaines/Oldham Black Culture Center.
Maj. Brian Weimer, MU police’s spokesman, said the case is still open and being investigated but that information provided by the owners of two anonymous apps has not pinpointed a suspect. People reported seeing posts Dec. 2, 2014, about the center on Yik Yak and Erodr, with a post on the former saying, “Let's burn down the black culture center & give them a taste of their own medicine.”

The comments were posted while students rallied against racism on campus in the days after a grand jury declined to indict the white police officer who shot Michael Brown, a black teenager, in Ferguson.

During the height of demonstrations on campus against racism in November, MU police swiftly arrested Hunter M. Park, 20, hours after he allegedly threatened to “shoot every black person I see” on Yik Yak. A little more than a month later, police arrested Nathan W. Benz, 18, on suspicion of posting that he would “blow up” his calculus exam. Both have been charged with making a terrorist threat. Park faces a Class C felony, punishable by as much as seven years in prison, the stiffest possible charge allowable by statute for a terrorist threat. Benz faces a Class A misdemeanor, which carries a maximum sentence of as much as a year in jail.

Sometimes the app companies can provide police with a phone number or Internet provider addresses that investigators can trace back to an individual, Weimer said. Other times, the apps can only give an approximate location, he said, declining to go into detail about the December 2014 case.

Observers are watching Park’s case closely. A Columbia group called Race Matters sent a letter in late December to Boone County Prosecuting Attorney Dan Knight and one of his assistants, Brouck Jacobs, who was assigned Park’s case. The group has appealed to the prosecutors to not reduce Park’s charge to a misdemeanor.

Traci Wilson-Kleekamp of Race Matters said it’s important to keep Park’s charge a felony to show that racist threats and comparable crimes won’t be tolerated.

“It’s an opportunity to send a message and set a precedent about that kind of behavior,” she said.

Jacobs on Tuesday said he and Knight have received the letter and that they respect Race Matter’s concerns. Jacobs declined to talk in detail about the case, citing ethical standards. Law enforcement is making a point to crack down on cases like these, he said.

“The problem is it saps a lot of resources, and the school has to investigate every threat,” Jacobs said. “That’s why we’re cracking down on it.”

Park recently pleaded not guilty, and his attorney, while arguing for a reduction in bond, said Park has no weapons to use to go through with his alleged threat.

In these cases, “The crime is not whether or not someone is actually going to carry out the threat,” Jacobs said. “The crime is basically causing the panic.”
Uptick in violent crime last year an anomaly over past decade

JACK WADDELL, 22 hrs ago

COLUMBIA — Despite a recent uptick in the number of reported violent crimes in 2015, the rate of violent crime per capita in Columbia has remained fairly steady in the past decade.

Between 2014 and 2015, reports of violent crime rose from 410 to 600. But the rate of reported violent crime per capita in 2015 — about five reports per 1,000 people — is consistent with the per capita rates from the past decade, according to Uniform Crime Report data published by the Columbia Police Department. The appearance of an uptick is also affected by 2014's low crime rate, which was Columbia's lowest violent crime rate per capita in the last decade.

Jill Schlude, Columbia Police Department deputy chief, said the uptick seems extreme because previous statistics were relatively low, making violent crimes seem more pronounced.

Schlude said accurately portraying crime rates can be an uphill battle because of the media's portrayal of the incidents.

"To (the public), crime is happening all the time, but then when you look at the trends and numbers it doesn’t match up," Schlude said. "But this is still something we have to take seriously to make people feel safe."

In the past 10 years, Columbia's population has grown from 92,485 to more than 116,000. When population growth is factored in, the rate of violent crime per capita in 2015 is the third highest in the past decade. Homicide, rape, robbery and aggravated assault are the four crimes included in the Uniform Crime Report's violent crime category.
In 2007, 617 violent crimes were reported — the highest in the past decade. The 600 reports of violent crimes in 2015 was the second-highest number in the decade, but because of population growth, the crime rate per capita decreased 26 percent between those two years.

Schlude said the Police Department is constantly talking about how to keep crime levels per capita low, but it is hard to do when the city is growing bigger.

The number of rape cases per capita has doubled in the past five years, though a broader definition of rape might account for part of the change. In 2013, the FBI redefined the crime as any sexual penetration without consent, regardless of whether force is involved.

**Schlude said this increase in reports is also a response to the Columbia Police Department and MU Police Department advocating for more people to come forward.**

"The fact that the number (of reported rapes) is up is actually good because it means more people are reporting it," Schlude said. "We would love for it to be zero, but we're at least happy more people are reporting it when it happens."

The rate of violent crime per capita has changed little over the last decade, but reports of property crime have steadily declined since 2011. Between 2014 and 2015, the rate of property crime per capita declined 10 percent, and it has declined 26 percent in the past five years.

Property crimes were more common than violent crimes by far. In 2015 there were about six times as many property crimes as violent crimes, and a decade ago there were almost seven times as many property crimes as violent crimes. Property crimes include reports of burglary, larceny (theft) and motor vehicle theft.

Schlude said she is happy that property crimes are down, but that doesn't mean people can be less careful.
"There is sometimes this belief that you can leave your purse in your car in certain parts of town, and that is not true," Schlude said. "Crime is all across the city, and people need to be aware of that."

MU Hosts “The African American Experience in Missouri

Erin Quinn, 10 HRS AGO

Diane Mutti-Burke presented a lecture titled "Contesting Slavery: Enslaved Missourians' Enduring Struggle for Self Determination" during the first installment of The African American Experience in Missouri lecture series in Jesse Auditorium on Wednesday. Mutti-Burke is an award-winning author and a professor of history at University of Missouri-Kansas City.

Members of the UM System Board of Curators and MU administration attended the first lecture of the African-American Experience in Missouri series in Jesse Auditorium on Wednesday.

Mutti Burke spoke about the interactions between enslaved African-Americans in Missouri and their owners.

GENE ROBERTSON: Black History Month needs honest perspective

GENE ROBERTSON, 1 hr ago

William E. "Gene" Robertson is a Columbia resident and a professor emeritus at MU. He writes occasional columns for the Missourian.
As we enter Black History Month 2016, it is important that black history be written with black people who experience the history making occasions, geography and stories.

When the economic, political and mainstream media write black history, black juke joints become economic districts, and systemic racism becomes only occasionally racial name calling and naive student outburst.

Now that there is a Black Studies Department at the university, it is imperative that attempts be made to collect the narratives, data, maps and all related research that will lead to a true perspective of the life of African Americans in every timeline and geographical area.

Only then can a process of remedy began to take place.

Quick gimmicks based on fabricated false generalizations, heroes and celebrations are false representations of reality.

Until a more truthful story is told and accepted, there will never be a beginning of a genuine pursuit of humanity, tolerance, equality, justice and transparency.

What better time for us all to begin that process than Black History Month.