

## **Resolution of the Faculty at the University of Dayton School of Law<sup>1</sup>**

Like the larger university it is part of, in recent years, the University of Dayton School of Law has sought to become more vocal in its support for the values of diversity, equity, and inclusivity that are inextricably linked to the University of Dayton's Marianist mission. Inspired by the Open Letter from Members of the President's Council Regarding Steps Toward Becoming an Anti-Racist University,<sup>2</sup> the University's Strategic Plan for Diversity, Equity and Inclusion,<sup>3</sup> and the Association of American Law Schools' Law Deans Antiracist Clearinghouse Project, the law faculty seeks to build upon the positive steps the law school has already taken toward greater diversity, equity, and inclusion and strengthen these efforts.

Thus, this resolution reflects the law faculty's alignment with the University of Dayton's commitment to becoming an anti-racist university and signals the faculty's commitment to engaging in an ongoing process of inquiry, reflection, and purposeful action to improve our ability to measure and evaluate the extent to which our institutional policies and practices yield racial equity and inclusivity, as well as our progress toward the increased diversification of our student body and faculty. The resolution further communicates the law faculty's commitment, as educators within a professional school,<sup>4</sup> to adequately prepare our students to develop the racial competence necessary to engage in the practice of law in its multiple social, economic, and political contexts and with a diversity of client constituencies. We understand that people of good faith can differ in viewpoints and interpretation of a document like this, but it is intended to push forward on the vitally important issues it discusses, while encompassing to the extent possible the varying approaches and viewpoints of our faculty within our larger culture of debate.

WHEREAS, the recent killings of Layleen Polanco, Rayshard Brooks, Sandra Bland, Aiyana Stanley-Jones, Trayvon Martin, Sean Bell, Philando Castile, Tanisha Anderson, Atatiana Jefferson, Charleena Lyles, George Floyd, Breonna Taylor, Maurice Gordon, Ahmaud Arbery, Eric Garner, Michael Brown Jr., Tamir Rice, John Crawford III, Walter Scott, Tony McDade, and many others have stirred concern and outrage at ongoing and systemic anti-Black racism both in the United States and globally and have precipitated the widespread and growing sense that recognizing the social norm of anti-racism is imperative; and

WHEREAS, the faculty recognizes the ongoing, systemic and perpetual racial and societal injustices embedded in this country's past and present; and

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<sup>1</sup> This resolution draws inspiration as well as parts of its text from the various counterpart resolutions made by faculty at other law schools around the United States. These include statements put out our colleagues at the [Hofstra University Maurice A. Dean School of Law](#) and [Rutgers Law School](#).

<sup>2</sup> <https://udayton.edu/about/diversity/antiracist-university.php>

<sup>3</sup> <https://udayton.edu/diversity/initiatives/plan.php>

<sup>4</sup> Model Rules of Prof'l Conduct, Preamble & Scope [14], r. 8.4(d), (g), cmt 3 (Am. Bar Ass'n 2016); Amer. Bar Ass'n, Report to the House of Delegates: Revised Resolution 2 (2016).

WHEREAS, the faculty recognizes that the aforementioned injustices arise from white supremacy, structural racism and implicit bias that have existed since slavery was added to the prior and counterpart dispossession and genocidal displacement of countless native American nations; and

WHEREAS, the faculty recognizes that said injustices have been compounded and sustained on into the present by the post-Civil War legacy of aborted Reconstruction and the advent of Jim and Jane Crow laws; by a system of criminal justice that, in crucial part, traces its roots back to the slave patrols and convict leasing system; and during the ‘modern’ post-war era, by the ongoing and pervasive unequal treatment of Black people in nearly every facet of life, including our policing, judicial and carceral systems, our patterns of residential and commercial interaction, our public health and medical care delivery systems and the outcomes they produce, and our ways of facilitating the accumulation of wealth, income, and economic opportunities and advantages of all kinds; and

WHEREAS, the faculty recognizes the frustration, outrage, and pain fostered by the killing and the persistent and consistent mistreatment and physical abuse of Black people by certain law enforcement officers, who, as recent history has shown, often fail to be held to account; and

WHEREAS, the faculty recognizes that the right to peaceful protest is deeply rooted in our Constitutional protections; and

WHEREAS, the faculty recognizes that institutional apathy, indifference or silence in the face of the ongoing violence and inequities foments an atmosphere of hatred, prejudice and intolerance; and

WHEREAS, the faculty recognizes that the city of Dayton, with its long-standing role as a site of African American history, is ranked 29th in the nation<sup>5</sup> for its share of residents who are Black but segregated along racial lines, with the more specific inequitable impacts of segregation being evident on its school systems, housing, placement of hospitals and healthcare facilities, mechanisms for access to food, social and recreational programs, and other human and commercial services of the kind that are important to the flourishing of any community;<sup>6</sup> and

WHEREAS, the faculty recognizes that Dayton’s Black residents, who comprise 41% of the municipal population according to the last U.S. Census<sup>7</sup> and continue to sustain the city through its toughest times, bear among the most detrimental effects of the city’s other challenges, including as deriving from the loss of resources, institutions, and services of the kind needed to sustain equitable economic development as well as from disparities in various other kinds of social, economic, health, educational, environmental, voting and civil rights-related, and safety and security-related indicators; and

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<sup>5</sup> [Being Black in Dayton: Can’t Close the Money Gap](#), *Dayton Daily News*, Sept. 13, 2018.

<sup>6</sup> [Segregation: Dissimilarity Indices: Ohio, CensusScope](#), Adam Millsap, [How the Gem City Lost its Luster and How it Can Get it Back: A Case Study of Dayton Ohio](#), *Mercatus Center George Mason University*; [The 15 Most Segregated Cities in the United States](#), *PA Patriot News*, May 22, 2019; [The 16 Most Segregated Cities in America](#), *Yahoo Finance*, July 21, 2017.

<sup>7</sup> Being Black in Dayton.

WHEREAS, the faculty recognizes the importance of creating space within our community for Black people to express themselves; and

WHEREAS, the faculty recognizes its essential role as a community of educators to fight ignorance and intolerance, to nurture inclusivity, to examine and rectify whatever systemic racism may be embedded in our own policies and practices, and to celebrate the diversity of our society; and

WHEREAS, the faculty recognizes the need to make lasting change not only within the legal community but also the Law School through faculty teaching and governance that is anti-racist;

**NOW, THEREFORE, BE IT RESOLVED FIRST** that the faculty acknowledges its responsibility to condemn anti-Blackness and racism (and does so condemn them) and to secure and sustain an antiracist environment in accord both with the broader respect we seek to inspire in our students for the ideal of equal justice under the law and with the University of Dayton's own newly stated commitment to becoming an anti-racist university; and

**CONSISTENT WITH THE RESOLUTION MADE IN THE PREVIOUS PARAGRAPH, BE IT FURTHER RESOLVED**, that a task force or sub-committee of faculty members committed to seeking input from all who may be impacted and concerned with racism against Black and non-Black people of color be immediately convened in order to conduct a top to bottom policy review with the goal of making recommendations to the faculty and the administration aimed at concretely implementing the principles stated herein toward becoming an anti-racist law school, with the basic mandate being to seek justice and build a community that is diverse and inclusive and that prioritizes equity; and

**BE IT FURTHER RESOLVED**, that the faculty commits to engaging in ongoing education regarding anti-racist teaching principles and pedagogy as well as to incorporating the same into its work, in the manner and means that we, its individual members, deem most suited to our individual teaching styles, as we: construct our courses, syllabi, and classroom environments; endeavor to identify and provide students with information and context regarding the historical and ongoing embeddedness of race, racialization, and racism critical to understanding the cases and doctrines we cover; and improve upon the ways in which we acknowledge and discuss these issues with students inside and out of class; and

**BE IT FURTHER RESOLVED**, that because of the historical exclusion of Black and non-Black students of color from the legal profession and the negative impacts the traditional structure of legal education and the traditional legal curriculum have often had on such individuals, the faculty acknowledges that it is crucial for the University of Dayton School of Law to retain the most marginalized students after they matriculate, to provide an outstanding education and other kinds of support needed for students to excel in their education and as members of the legal profession, and to endeavor to ensure that our academic policies do not have a disparate impact on Black and non-Black students of color at any point from admission to graduation; and, therefore, the faculty commits to the ongoing acknowledgment, documentation, consideration, and incorporation, as appropriate, of the concerns and feedback of such students with regard to our policies and practices, career planning services, teaching, and academic opportunities and programming; and

**BE IT FINALLY RESOLVED**, that this resolution be preserved in the records and minutes of the University of Dayton School of Law Faculty and prominently displayed on the University of Dayton School of Law's website.

Adopted this 21<sup>st</sup> day of August, 2020, by a majority vote.