MINUTES OF THE FACULTY SENATORS COUNCIL MEETING OF NOVEMBER 15, 2012

The New York University Faculty Senators Council (FSC) met at noon on Thursday, November 15, 2012 in Room 905/907 in the Kimmel Center for University Life.

In attendance were Senators Alter, Amkpa, Anton, Cappell, Carpenter, Gale, Harrington, Hutchins, Jacobs, Jelinek, Jones, Karl, Lebowitz, Ling, Magder, Mincer, Monaco, Nelson, Nolan, Raiken, Sternhell, Sundaram, Thurston, Uleman, and Van Devanter, Active Alternates Azmitia, Dehejia, Tannenbaum, and Tuzhilin, and Alternate Senators Costello, Kinnally, Ludvigson, Pearce, Reiss, Simon, and Thompson. FSC Advisor Al-Askari attended as guest.

APPROVAL OF THE MINUTES OF THE MEETING HELD OCTOBER 25, 2012

Upon a motion duly made and seconded, the minutes of the October 25, 2012 meeting were approved as corrected.

REPORT FROM THE CHAIRPERSON: TED MAGDER

Chairperson Magder noted two items not in accordance with Robert’s Rules of Order from the last FSC meeting on October 25: 1) A question of privilege is not debatable; and 2) If an amendment to a motion is proposed and seconded, the body switches to the amended motion for debate and vote and then returns to the original motion. The amendment does not have to be accepted as “friendly,” by the mover of the original motion.

Motion from EC majority regarding Law School Election

Motion presented by the Executive Committee majority for a vote by ballot:

Faculty Senators Council confirms the election of Jim Jacobs as senator for the Law School for a three-year term beginning September 2012.

On a point of order, the Governance Committee Chair requested that the Governance Committee motion be first on the agenda. See attached Document A. Since the EC motion was delivered to the FSC coordinator before the motion from the Governance Committee, the Chair did not accept the point of order.

For all related documents, see attached Document B.

Magder called for a secret ballot in voting on the Law School election motion and asked that only voting members participate in the discussion. Upon a motion duly made and seconded, the Council voted on Chairperson Magder chairing this section of the meeting and it was not approved by a vote of 11 senators in favor and 12 senators opposed. Global Network University (GNU) Committee Chair Awam Amkpa chaired this section of the meeting.
As background to the motion, Magder reported that the EC was notified on September 12 that the Law School had held an election to fill a vacant senate seat. On the advice of the EC, the FSC chair corresponded with the Law School Dean and the Law School Senators confirming that the typical procedures for the Law School election were followed. This was reported to the other members of the EC before the FSC meeting on September 13. Both law school senators attended the FSC meeting on September 13. Subsequently, the Governance Committee, acting on its own initiative, established an Internal Affairs sub-committee to investigate the circumstances of the law school election culminating in a recommendation to the EC that Jim Jacobs not be permitted to sit as a senator for 2012-3.

The majority of the EC concluded that the GC did not have the authority to conduct an investigation into the Law School election without authorization from the EC or the FSC as a whole. The disagreement in how to respond to the Internal Affairs Subcommittee inquiry is recorded in the EC majority and minority reports (see appendix).

In response to questions about the legitimacy of the Law School’s electoral procedures, Magder presented a copy of the minutes of the Law School meeting of September 12 when the election took place. Magder received this document on October 13. Amkpa read the following from the minutes of the School of Law faculty meeting on September 12, 2012: “There was then a vote to elect two Law school faculty members to the University Senate. Ricky stated that the nominations for Senate are James Jacobs and William Nelson. A motion was made and seconded to approve the nominations. The nominations were approved unanimously.”

Governance Committee (GC) Chair Harrington stated that the Committee was asked by several FSC Senators to look into the Law School election, and that in her opinion it was within the GC’s charge to do so. Senator Harrington expressed her objection to the fact that despite repeated requests for information from individual members of the EC, Diane Yu, and the Dean of the Law School for all correspondence and related information regarding the Law School election, the minutes of the meeting at which the election took place were not shared with the GC until today’s FSC meeting.

Debate turned to the specific objection in the GC resolution, namely, that the FSC cannot recognize the election of a senator completed after May 1. Some senators suggested that elections held after May 1 could only be validated under extraordinary circumstances. Other senators viewed the May 1st completion date as a means to create order in the annual electoral process, but not a definitive deadline. It was pointed out that historically members of the FSC have frequently been elected after May 1 and have served as senators. It was also noted that at least 3 current senators were elected after May 1.

At the conclusion of the discussion, the following amendment to the motion proposed by the EC majority was moved and seconded.

Primary Amendment to Main Motion: Violation of Bylaws

By approving this motion, the FSC is fully aware that it is approving its violation of New York University bylaws 63(c) and 63(f).

During debate on this amendment to the main motion, a second amendment was moved and seconded.

Secondary Amendment to Main Motion: “Suspension of Rules”
Since the main motion under consideration, if amended, would require the FSC to disregard the University bylaws, the FSC must “suspend its own rules” before voting on the main motion.

Voting Summary

1. Secondary Amendment to Main Motion, Suspension of Rules: 23 in favor, 7 opposed, 1 abstention.

A motion to “suspend the rules” requires a 2/3 majority. The motion carried.

2. Primary Amendment to Main Motion, “Violation of Bylaws”: 26 senators in favor and 2 senators opposed, with 2 abstentions

   By approving this motion, the FSC is fully aware that it is approving its violation of New York University bylaws 63(c) and 63(f).

3. Main Motion: 25 in favor, 6 opposed, 1 abstention (by ballot)

   Faculty Senators Council confirms the election of Jim Jacobs as senator for the Law School for a three-year term beginning September 2012.

Secretary Jones stated that in the interests of time the EC majority would postpone consideration of the second motion brought to the FSC for today’s meeting concerning committee requests for information from the administration.

FSC COMMITTEE REPORTS

Governance Committee: Senator Harrington

Starting last year, the Committee has been looking into how elections of FSC senators are done at the schools. The Committee will also review the nomination process for EC positions. In addition a sub-committee has been formed to look at procedures to select Deans and the President.

University Space Priorities Working Group (Given his role as Chair of the USPWG, FSC Chair recused and absented himself from this discussion)

See attached Document C. Active Alternate Dehejia and Senator Angela Kamer serve as the FSC representatives on this Committee. View the website. A charge of the Committee is to determine priorities for new construction in the southern super block and advise on actions to ameliorate effects of construction. The other main task is to encourage and solicit feedback and Dehejia encouraged Senators to seek feedback from their school’s constituents, which can be done through meetings, town halls, direct email, etc. He also encouraged Senators to read the presentations on the website. The Committee was informed the timeline is as follows: no construction on northern superblock for at least ten years and construction on southern superblocks will not begin for at least two years and until the committee has completed their work. He noted that on one of the two sites, the school board has the right to ask for space to be used as a school.

A Senator asked if the Committee has addressed the financial implications and re-building efforts introduced by Hurricane Sandy. The committee is discussing the finances of the project, but has not yet addressed the recent issues regarding Sandy.
Questions regarding the space needs were raised: how have space needs been constructed, who is making these claims and on what basis? A Senator commented the tuition-driven nature of NYU and the over acceptance of undergraduate enrollments may be creating space needs.

A Senator asked if the representatives felt the Space Committee can expand on their charge. Deheja replied that it is a broad charge and can encompass many issues. It was suggested to bring issues to the FSC so the Council can make formal resolutions to offer the administration and the Committee.

OLD BUSINESS (FSC Chair re-joined the meeting)

Governance: Faculty Handbook Amendments

Moved to next meeting as the first order of business.

NEW BUSINESS

Pari Shirazi and Tisch Asia: Awam Ampka

The procedure of firing the President of Tisch Asia raised concerns and led to a faculty petition seeking clarification, sent to the Provost. The matter is now in court. The issue raises concerns about the rights and grievance procedures of non-tenure track faculty (NTTF). Tisch has not finalized the document regarding these procedures. The Executive Committee will contact the Provost’s Office about the Tisch NTTF document.

See attached Document D. This is the communication from Dean Mary Schmidt Campbell to the Tisch Asia community informing students, faculty, and staff that Tisch Asia will not recruit any more classes, and that the campus will be closed over the next couple of years.

Chairperson Magder mentioned the Provost’s office was in the process of establishing a working group on the appointment, reappointment, and grievance procedures for NTTF on which the FSC will have representation.

Liberal Studies Program (LSP): Jim Uleman

Senator Uleman reported on an appeal from a faculty member in LSP for review and possibly intervention by the FSC regarding concerns about the relationship between the dean and the faculty in that program. This issue will be referred to the Personnel and Affirmative Action Committee (PAAC) for a preliminary investigation and they will report back to the FSC in the near future.

ADJOURNMENT

The meeting adjourned at 2:25 PM.
November 12, 2012

TO: FSC

FROM: FSC - Governance Committee

Pamela Cowin pamela.cowin@nyumc.org
Christine Harrington christine.harrington@nyu.edu (chair)
Warren Jelinek jelinw01@nyumc.org
Carl Lebowitz carl.lebowitz@nyu.edu
Charlton McIlwain charlton.mcilwain@nyu.edu
Eric Simon eric.simon@nyu.edu
Jim Uleman jim.uleman@nyu.edu
Daniel Zwanziger daniel.zwanziger@nyu.edu

RE: Resolution on September 13, 2012 Seating of School of Law Faculty Senator

Background

As you know, the FSC- Governance Committee has the following duties and responsibilities as provided for by the FSC Rules of Procedures under:

   VI. Committees of the Faculty Senators Council,
      1. Standing Committees,
          (h) Governance: monitors University-wide governance and the governance process in the several schools; considers the impact of policies that affect faculty governance; conducts regular periodic reviews of the NYU Faculty Handbook.

On September 13, 2012, the Governance Committee (GC) was asked to look into the election procedures concerning the facts and circumstances surrounding the seating of one of two School of Law faculty members (James Jacobs) 4.5 months after the May 1st election deadline.

Whereas the FSC Executive Committee was notified on September 12, 2012 by Diane Yu that: “The Law School faculty elected James Jacobs and Bill Nelson as the Faculty Senators from the School of Law today.”

Whereas email exchanges between the School of Law Vice Dean Randy Hertz and the GC subcommittee seeking information on the particulars of the Law School procedure (e.g., date of the election, number of candidates for each position, etc.) provided no additional information on this matter, nor answers to the specific questions posed.

1 September 12, 2012, 11:07 PM: email from NYU - Chief of Staff and Deputy to the President (Diane Yu) to FSC Executive Committee (Ted, Karyn, Marie and Mary Ann)
Whereas email exchanges among FSC-EC members and email exchanges between FSC Chair and School of Law Dean, offer no additional information on the procedure or timing of the School of Law’s FSC election process; and

Whereas the GC has received no new information to date, nor a response to its October 23, 2012 memo to the FSC-Executive Committee on this matter;

IT IS RESOLVED that the School of Law’s second senatorial seat, which has been vacant since 2004-2005, shall remain vacant until a representative is elected in accordance with the FSC Rules of Procedure I. 4. (e):

A faculty failing to elect a representative to fill a vacancy shall be without such representative until one is elected in accordance with these rules.

and in accordance with University Bylaws 63(b) and (c). See below.

Note: This FSC Resolution complies with the following provisions in NYU’s Bylaws and FSC’s Rules of Procedures, which govern FSC elections in the several schools:

1. NYU Bylaws 63 (b)

The Faculty Senators Council shall adopt for its governance rules of procedure not inconsistent with the University charter and bylaws.

2. NYU Bylaws 63 (c)

All elections for members of the Faculty Senators Council will be held prior to May 1, and the name of each representative to the Senate will be transmitted to the secretary of the Senate within five days.

3. FSC Rules of Procedure, as amended through May 5, 2011, which state the May 1st deadline three times:

I. Composition
   1. Representation.

   (d) Time of Elections. All elections for members of the Faculty Senators Council shall [be] held prior to May 1, and the name of each representative to the Senate shall be transmitted to the Secretary of the Senate within five days.

2 September 12, 2012, 11:59 AM: email from Law School (Penelope-Ann Fernandes) to FSC (Karyn Ridder); September 12, 2012 4:29:06 PM: email from FSC Chair to Karyn Ridder; and September 13, 2012 5:43:39 AM: email from FSC Chair to Diane Yu and Ricky Revesz.
2. **Term of Office.** Each representative shall serve for a term of three years, from September 1 of the first year until August 31 of the third year, inclusive. The membership of the Faculty Senators Council shall be divided into three groups . . . The term of office of one class shall expire August 31 each year, and the names of the new representatives shall be presented and their offices confirmed at the first meeting of each academic year.

3. **Nomination and Election of Faculty Senators.**

   (a) Unless an alternate method is adopted as provided in subsection (b), the nomination and election of representatives shall be conducted in the following manner: Each School’s faculty shall appoint a nominating committee to present three names for each Senatorial position to the voting professorial members of their faculty by mail at least one week before an election. The notice calling the meeting at which an election is to take place shall specify that the election is among the purposes of the meeting. At such a meeting, nominations may be made from the floor. The meeting shall be held on or before May 1 of the final year of the three-year term of the representative(s) then in office.

   (b) Nominations may be made by any other method, and elections may be held in any other manner approved by the voting professorial members of the faculty of each school, provided that there is reasonable opportunity for the presentation of several nominees for each Senatorial position and provided that reasonable notice of the nominations and the election is given to the members of the faculty.

   (c) The elections for Senators shall be completed by May 1, as noted in 1(d), above.

4. **Alternates and Vacancies.**

   (a) Each faculty shall elect an alternate representative for each Senator who shall serve if the elected representative is unable to attend a meeting of the Faculty Senators Council. If it is known that a representative shall be unable to serve for three consecutive months during one academic year, the nominating committee authorized to present names for election shall decide whether the alternate shall serve as a replacement for the period of such absence, or for the remainder of the unexpired term, or only until the vacancy can be filled at the next regular election of members.

   (e) A faculty failing to elect a representative to fill a vacancy shall be without such representative until one is elected in accordance with these rules.
Documents in Reference to EC Majority Motions

FSC Meeting, November 15, 2012

Item 1. EC Majority Memo to GC, November 13

Item 2. Minority Report to GC, November 8

Item 3. GC Memo, “Recent Election of Faculty Senator (Law School): Was It Valid or Not? October 22

Item 4. Email Correspondence, GC Internal Affairs to Diane Yu, October 1

Item 5. “Documented Facts: School of Law’s Selection Process,” assembled by GC Internal Affairs, October 22

Item 6. Email Correspondence, GC Internal Affairs to Randy Hertz, Vice-Dean School of Law, October 1-7
Item 1

November 13, 2012

To: Faculty Senators Council, Governance Committee
Christine Harrington (Chair), Pamela Cowin, Warren Jelinek, Carl Lebowitz, Charlton McIlwain
Eric Simon, Jim Uleman, Daniel Zwanziger

From: Ted Magder, FSC Chair, and Mary Ann Jones, FSC Secretary, constituting the majority of the FSC Executive Committee

Re: Response to the Governance Committee's Memo, “Recent Election of Faculty Senator (Law School): Was It Valid or Not?” (dated October 22, 2012)

Purpose

This memo is the response of two members of the FSC Executive Committee (EC), who constitute the majority of that group, to the FSC Governance Committee’s (GC) memo of October 22, 2012 to the EC regarding this year’s election of faculty senators from the Law School.

The GC memo, which appears in the appendix to this document in its entirety, reports the findings of the GC’s recently created Internal Affairs Subcommittee about the “facts and circumstances surrounding the seating of one of two School of Law faculty members (James Jacobs) at the September 13, 2012 FSC Meeting” and the GC’s unanimous conclusion that “Professor Jacobs should not represent the School of Law on the FSC this year, 2012-13” because his election was “[n]ot ‘held prior to May 1’ as required by NYU Bylaw 63(c) and not ‘completed by May 1,’ as required by FSC Rules of Procedure I.3.”

Our response includes our reaction to the GC’s recommendation and two motions we are placing on the agenda of this week’s FSC meeting, November 15, 2012, in response to the Governance Committee’s recommendation and other actions of the Committee.

Motion to be proposed: The EC majority recommends that the FSC reject the GC’s recommendation to deny Jim Jacobs a seat on the FSC as senator from the School of Law.

Reason for Our Opposition to the GC Recommendation

Our opposition to the GC recommendation is based on the principle that full representation of each school eligible for representation on the FSC is a paramount concern and should be subject to the fewest possible barriers. To put it plainly, representation is to be preferred to vacancies.

This basic principle has guided the appointments to the FSC over the entire available recorded history of this body. If a seat on the FSC had been denied on all occasions when a senator’s election had not been completed by May 1 or whose name had not been “transmitted to the secretary of the Senate within five days” (Bylaw 63(c)), many of us would never have had the opportunity to serve on the FSC, and there would have been many years in which some schools had no representation on the FSC and the full complement of seats on the University Senate allotted to the FSC would not have been filled.
In view of the GC’s rationale for the removal of Professor Jacobs from the FSC, the EC majority is puzzled that the GC has not recommended a review of the election dates (and the dates of transmission to the secretary of the Senate) for all senators currently holding office. Does the GC propose that only the School of Law be held to the May 1 deadline for electing a senator because that is the only violation of this rule of which they are aware? We find such selective enforcement of the May 1 deadline unsupportable.

We, therefore, reject the basis on which the Governance Committee would deny Professor Jacobs a seat on the FSC for academic year 2012-3. We also note, with some irony, that members of the FSC -- including members of the GC -- have decried the Law School’s lack of participation on the FSC over the past several years. Consequently, we hope that the FSC will join us in welcoming both senators from the Law School and acknowledging their attendance at and active participation in the first two FSC meetings of the year.

A Related Matter: Conduct of the Governance Committee

We also wish to take this opportunity to express our dismay at the Governance Committee’s decision to establish a subcommittee -- the Internal Affairs Subcommittee -- to undertake an investigation of the Law School election under the aegis of the FSC and to do so without notifying or consulting the Executive Committee or the entire FSC about such an unprecedented action. From the very start, the surprise investigation adopted a tone of interrogation and took the extraordinary steps of a) asking for internal email correspondence from the Dean of the Law School and the Deputy President of the University, and members of the FSC Executive Committee about the Law School election, and b) asking the Coordinator of the FSC to compile and transmit to them all correspondence between the Law School and the FSC about faculty senator elections at the Law School over the past many years. (The email request from Christine Harrington, Chair of the Governance Committee and the Internal Affairs Subcommittee, to Diane Yu, Chief of Staff and Deputy to the President, dated October 1, 2012, is attached to this document as an example of the requests.) All of these requests were made by the Governance Committee or the Internal Affairs Subcommittee without benefit of discussion with, or notification of, the Executive Committee or the full Faculty Senators Council.

We believe these actions overstep the committee’s authority and represent an alarming precedent that cannot be allowed to stand unchallenged.

Motion to be proposed: We are therefore asking that the FSC direct individual senators and FSC committees to refrain from requesting correspondence from school or university administrators under the aegis of the FSC without the express permission and review of the FSC Executive Committee or the full Faculty Senators Council.
Item 2

Minority Opinion

To: Members of the Governance Committee of the Faculty Senators Council

From: Marie Monaco, member of the Executive Committee of the Faculty Senators Council

Re: Response to the October 23, 2012 memo from the Governance Committee concerning the election of James Jacobs as a Senator from the School of Law

Date: November 8, 2012

Dear Governance Committee:
After careful consideration of your recommendation that Senator-elect James Jacobs not be seated on the Faculty Senators Council for the current year, I agree with you for the following reasons:

1. The May 1 rule regarding the timing of the elections for senators is unambiguous as stated in both the University bylaws as well as in the Rules and Procedures of the Faculty Senators Council. While a mitigating circumstance might merit an exception being made, in this case the School of Law had ample opportunity to comply with the bylaw (several years) and failed to do so. In addition, no such mitigating circumstance has been proffered.

2. Since the May 1 rule is, in fact, a bylaw of the University, neither the Executive Committee nor the Faculty Senators Council has the authority to overrule it. One has to assume that the bylaw was set in place for a reason, perhaps, in part, to discourage decisions by schools to seek representation only when it suits their interests, rather than to make a broad commitment to the process of shared governance.

3. According to the Rules and Procedures of the Faculty Senators Council, it is the purview of the Governance Committee to oversee issues of school governance, and I interpret this to include the election of school senators. The Executive Committee is not accorded that duty; therefore, it is my opinion that the recommendation of the Governance Committee in this matter is controlling.

Thank-you for your careful analysis of this issue.

Sincerely,
Marie Monaco Vice-chair and member of the Executive Committee Faculty Senators Council
Item 3

TO: FSC-Executive Committee
    Ted Magder ted.magder@nyu.edu (Chair)
    Marie Monaco mem6@nyumc.org (Vice-Chair)
    Mary Ann Jones maryann.jones@nyu.edu (Secretary)

FROM: FSC - Governance Committee

    Pamela Cowin pamela.cowin@nyumc.org
    Christine Harrington christine.harrington@nyu.edu (chair)
    Warren Jelinek jelinw01@nyumc.org
    Carl Lebowitz carl.lebowitz@nyu.edu
    Charlton McIlwain charlton.mcilwain@nyu.edu
    Eric Simon eric.simon@nyu.edu
    Jim Uleman jim.uleman@nyu.edu
    Daniel Zwanziger daniel.zwanziger@nyu.edu

RE: Recent Election of Faculty Senator (Law School): Was It Valid or Not?

Today’s FSC-Governance Committee reviewed and discussed the findings of its subcommittee on Faculty Senators Council election procedures concerning the facts and circumstances surrounding the seating of one of two School of Law faculty members (James Jacobs) at the September 13, 2012 FSC Meeting.

We unanimously concluded that the School of Law’s election of James Jacobs on September 12th, one day prior to FSC’s first meeting, was:

- Not “held prior to May 1” as required by NYU Bylaw 63(c) and not “completed by May 1,” as required by FSC Rules of Procedure I. 3; and therefore
- Professor Jacobs should not represent the School of Law on the FSC this year, 2012-13. “A faculty failing to elect a representative to fill a vacancy shall be without such representative until one is elected in accordance with these rules” (see FSC Rules of Procedure I. 4. (e)).

Background

As you know, the GC has the following duties and responsibilities as provided for by FSC Rules of Procedures under:

VI. Committees of the Faculty Senators Council,
    1. Standing Committees,
       (h) Governance: monitors University-wide governance and the governance process in the several schools; considers the impact of
policies that affect faculty governance; conducts regular periodic reviews of the NYU Faculty Handbook.

The following provisions in NYU’s Bylaws and FSC’s Rules of Procedures govern FSC elections:

1. **NYU Bylaws 63 (b)**

   The Faculty Senators Council shall adopt for its governance rules of procedure not inconsistent with the University charter and bylaws.

2. **NYU Bylaws 63 (c)**

   All elections for members of the Faculty Senators Council will be held prior to May 1, and the name of each representative to the Senate will be transmitted to the secretary of the Senate within five days.

3. **FSC Rules of Procedure, as amended through May 5, 2011**, which state the May 1st deadline three times:

   I. **Composition**

   1. **Representation.**

      (d) **Time of Elections.** All elections for members of the Faculty Senators Council shall [be] held prior to May 1, and the name of each representative to the Senate shall be transmitted to the Secretary of the Senate within five days.

   2. **Term of Office.** Each representative shall serve for a term of three years, from September 1 of the first year until August 31 of the third year, inclusive. The membership of the Faculty Senators Council shall be divided into three groups . . . The term of office of one class shall expire August 31 each year, and the names of the new representatives shall be presented and their offices confirmed at the first meeting of each academic year.

   3. **Nomination and Election of Faculty Senators.**

      (a) Unless an alternate method is adopted as provided in subsection (b), the nomination and election of representatives shall be conducted in the following manner: Each School’s faculty shall appoint a nominating committee to present three names for each Senatorial position to the voting professorial members of their faculty by mail at least one week before an election. The notice calling the meeting at which an election is to take place shall specify that the election is among the purposes of the meeting. At such a meeting, nominations may be made from the floor.
The meeting shall be held on or before May 1 of the final year of the
three-year term of the representative(s) then in office.
(b) Nominations may be made by any other method, and elections may be
held in any other manner approved by the voting professorial members of
the faculty of each school, provided that there is reasonable opportunity
for the presentation of several nominees for each Senatorial position and
provided that reasonable notice of the nominations and the election is
given to the members of the faculty.
(c) The elections for Senators shall be completed by May 1, as noted in
1(d), above.

4. Alternates and Vacancies.
(a) Each faculty shall elect an alternate representative for each Senator
who shall serve if the elected representative is unable to attend a meeting
of the Faculty Senators Council. If it is known that a representative shall
be unable to serve for three consecutive months during one academic year,
the nominating committee authorized to present names for election shall
decide whether the alternate shall serve as a replacement for the period of
such absence, or for the remainder of the unexpired term, or only until the
vacancy can be filled at the next regular election of members.
(e) A faculty failing to elect a representative to fill a vacancy shall be
without such representative until one is elected in accordance with these
rules.

Fact-Finding

1. On September 26, 2012, GC subcommittee learned that FSC Executive
Committee was notified September 12, 2012, 11:07 PM, via email from Diane
Yu, NYU - Chief of Staff and Deputy to the President: “The Law School faculty
elected James Jacobs and Bill Nelson as the Faculty Senators from the School of
Law today.” (See #1 on “Documented Facts” attached)

2. Email exchanges between the School of Law Vice Dean Randy Hertz and the
FSC-GC Subcommittee provided no additional information on this matter, nor
answers to the specific questions posed. (See attached file “Law Vice Dean
Exchange GC_IA.pdf”)

3. Email exchanges among FSC-EC and between FSC Chair and School of Law
Dean, provided to GC by FSC Vice Chair, offer no additional information on the
procedure or timing of the School of Law’s FSC selection process. (See # 2 on
“Documented Facts” attached)

4. The FSC-GC remains open to receiving information requested from any of those
who were contacted. The subcommittee has received no new information since
October 10, 2012. Assistance in collecting missing data is appreciated.
Dear Diana Yu,

We are emailing to let you know that the FSC-Governance Committee has been asked by a number of Senators to look into the facts and circumstances surrounding the Law School selection of 2 representatives nearly 4.5 months after which time FSC Rules and Procedures require school elections for Senators be completed-- May 1st.

We would greatly appreciate your response to the following questions:

1. Who initiated discussion(s) or email(s) with you regarding the recent selection of Law School Senators?
2. When? And what was discussed?
3. Did you consult with the Executive Committee when you learned of this effort? If so, when?
4. Did you consult with any FSC committees when you learned of this effort? If so, when?

Your timely response is appreciate, and we invite you to provide additional information you feel is relevant to this matter.

Thank you for your cooperation.

Sincerely,

Christine Harrington, Warren Jelinek and Charlton McIlwain
FSC- Governance Sub-Committee on Internal Affairs
Documented Facts
School of Law’s FSC Selection Process

Assembled by FSC-GC Subcommittee

1. September 12, 2012, 11:07 PM: email from NYU - Chief of Staff and Deputy to the President (Diane Yu) to FSC Executive Committee (Ted, Karyn, Marie and Mary Ann) stating:

   Dear All:

   Ricky Revesz, the Dean of the Law School, requested that in my capacity as the governance liaison to the Senate, I advise you that the Law School faculty elected James Jacobs and Bill Nelson as the Faculty Senators from the School of Law today. Please make them welcome - they plan to attend the FSC’s meeting tomorrow. I understand that the election of the 2 alternates will take place at a later date.

   Thank you for your kind cooperation and courtesy.

   All the best,
   Diane

2. Email exchanges among FSC-EC and between FSC Chair and School of Law Dean

   • September 12, 2012, 11:59 AM: email from Law School (Penelope-Ann Fernandes) to FSC (Karyn Ridder) stating that,

     I can now confirm that BOTH James “Jim” Jacobs and William “Bill” Nelson will serve as Senators from the Law School. Neither is an alternate. If Ricky chooses alternates, I will let you know!

     GC learned of this on September 26, 2012

   • September 12, 2012 4:24:54 PM EDT
     From: Karyn Ridder <karyn.ridder@nyu.edu>
     Subject: Law School
     Date: September 12, 2012 4:24:54 PM EDT
     To: Marie Monaco <mem6@nyumc.org>, Mary Ann Jones <maryann.jones@nyu.edu>, Ted Magder <ted.magder@nyu.edu>
     Reply-To: <karyn.ridder@nyu.edu>
Hi all,

So I heard from the Law School today—they have appointed 2 senators: James Jacobs and William Nelson. It sounds like they are interested in being more involved. Are there committees we would like to assign them?

Mary Ann suggested we meet after the FSC meeting/photo briefly to discuss the New Faculty Reception next week. If that works for you, let's plan on discussing.

Thanks,

- **September 12, 2012 4:26 PM**
  - **From:** Monaco Marie [mailto:monaco678@gmail.com]  **Sent:**  
    - **Wednesday, September 12, 2012 4:26 PM**  
    - **To:** karyn.ridder@nyu.edu  
    - **Cc:** Marie Monaco; Mary Ann Jones; Ted Magder  
    - **Subject:** Re: Law School

  Karyn,

  What do you mean "appointed?" They need to be elected.

  Marie

- **September 12, 2012 4:27:27 PM**
  - **Subject:** RE: Law School
  - **Date:** September 12, 2012 4:27:27 PM EDT
  
    - **To:** Monaco Marie <monaco678@gmail.com>
    - **Cc:** Marie Monaco <mem6@nyumc.org>, Mary Ann Jones <maryann.jones@nyu.edu>, Ted Magder <ted.magder@nyu.edu>
    - **Reply-To:** karyn.ridder@nyu.edu

    I believe an election took place.

- **September 12, 2012 4:28:56 PM**
  - **From:** Karyn Ridder <karyn.ridder@nyu.edu>
  - **Subject:** RE: Law School
  - **Date:** September 12, 2012 4:28:56 PM EDT
  
    - **To:** Monaco Marie <monaco678@gmail.com>
    - **Cc:** Marie Monaco <mem6@nyumc.org>, Mary Ann Jones <maryann.jones@nyu.edu>, Ted Magder <ted.magder@nyu.edu>
    - **Reply-To:** karyn.ridder@nyu.edu

    Actually, they didn't specifically say an election took place. Ted, did you speak to the Law school dean about this?
September 12, 2012 4:29:06 PM

From: Ted Magder <ted.magder@nyu.edu>

Subject: Re: Law School
Date: September 12, 2012 4:29:06 PM EDT
To: <karyn.ridder@nyu.edu>
Cc: Marie Monaco <mem6@nymc.org>, Mary Ann Jones <maryann.jones@nyu.edu>
Reply-To: <ted.magder@nyu.edu>

Karyn

Can you tell us a bit more about how they were chosen. Specifically, do we know that there was an election? Roughly when was it held? And did Bilman (sp?) step down. Do they have alternates.

Ok... that's enough questions for now.

ted

September 12, 2012 4:29:06 PM

From: Ted Magder <ted.magder@nyu.edu>

Subject: Re: Law School
Date: September 12, 2012 4:30:07 PM EDT
To: <karyn.ridder@nyu.edu>
Cc: Marie Monaco <mem6@nymc.org>, Mary Ann Jones <maryann.jones@nyu.edu>
Reply-To: <ted.magder@nyu.edu>

All

I'll write to the law School Dean for clarification -- after class, I gotta go teach til 7:35.

ted

GC learned of this on October 7, 2012 Marie Monaco
• September 12, 2012, 11:07 PM: email from NYU - Chief of Staff and Deputy to the President (Diane Yu) to FSC Executive Committee (Ted, Karyn, Marie and Mary Ann) stating:

Dear All:

Ricky Revesz, the Dean of the Law School, requested that in my capacity as the governance liaison to the Senate, I advise you that the Law School faculty elected James Jacobs and Bill Nelson as the Faculty Senators from the School of Law today. Please make them welcome - they plan to attend the FSC’s meeting tomorrow. I understand that the election of the 2 alternates will take place at a later date.

Thank you for your kind cooperation and courtesy.

All the best,
Diane

GC learned of this on September 26, 2012

• September 13, 2012 5:43:39 AM

From: Ted Magder <ted.magder@nyu.edu>

Subject: Re: Law School Senators
Date: September 13, 2012 5:43:39 AM EDT
To: <diane.yu@nyu.edu>, Richard L Revesz <rlr2@nyu.edu>
Cc: Marie E Monaco <mem6@nymc.org>, Mary Ann Jones <maryann.jones@nyu.edu>, Karyn Mitchell Ridder <karyn.ridder@nyu.edu>

Reply-To: <ted.magder@nyu.edu>

Dear Diane and Ricky,

I'm looking forward to having active Senators from the Law School on FSC this year.

I'd like to confirm that the candidates were selected by election. If so, the third and fourth place candidates would become the alternates.

Given recent conversations in FSC, it behooves me to point out that Senate elections normally take place in the spring, with a notification deadline of May 1 for the coming academic year.

Also, the Law School did have a sitting Senator, Brookes Billman, with one more year to run on his term. Has he stepped down?
regards,

ted

GC learned of this on October 7, 2012 from Marie Monaco

• Sep 13, 2012 at 6:30 AM,

On Thu, Sep 13, 2012 at 6:30 AM, Marie Monaco <monaco678@gmail.com> wrote: □□□□

Dear Ted and Mary Ann-

I find it troubling that Diane, a member of the central administration is involved in this process. Her job as liaison to the Governance committee is for informational and consultation purposes, not to get involved in the senator elections from the schools. Again, this is deja vu for me, as this is very similar to what has happened at the SoM. The Dean and chairs became directly involved in deciding who the departmental reps and senate candidates would be. I am glad, Ted, that you requested confirmation of the validity of the election, but I think we need to worry about Diane’s role in this.

Marie

• September 13, 2012 7:17:13 AM

From: Ted Magder <ted.magder@nyu.edu>

Subject: Re: Law School Senators
Date: September 13, 2012 7:17:13 AM EDT
To: Marie Monaco <monaco678@gmail.com>, Mary Ann Jones <maryann.jones@nyu.edu>
Reply-To: ted.magder@nyu.edu

Hi

The important first question is this: Did the Law faculty hold an election, by which I mean open call for nominees and then voting if necessary.

The results of elections are to be communicated to the Secretary of the Senate, who I think is Bonnie Brier. So, while irregular to get an email from Diane, I don’t want to assume malfeasance.

Even if Diane urged the faculty, via the Dean, to hold an election, I don’t regard that as inappropriate.
Of course people in positions of authority can try to exercise undue influence in all sorts of ways. We work from the premise that full-time tenure-track and tenured faculty can withstand that influence. Urging a faculty to hold an election is not undue influence, and there’s no evidence that she or Ricky decided on the candidates.

Ted

MISSING data

* September 13, 2012 7:50:32 AM

From: "Revesz, Richard" <Revesz@exchange.law.nyu.edu>

Subject: Re: Law School Senators
Date: September 13, 2012 7:50:32 AM EDT
To: "ted.magder@nyu.edu" <ted.magder@nyu.edu>, "Yu, Diane" <diane.yu@nyu.edu>, Richard Revesz <rlr2@nyu.edu>
Cc: Marie E Monaco <mem6@nyumc.org>, Mary Ann Jones <maryann.jones@nyu.edu>, Karyn Mitchell Ridder <karyn.ridder@nyu.edu>

Ted:

It was good to hear from you. We might have had a different record on the term. Please let me know what your records show about the terms of sitting Law School senators.

Warm regards,

Ricky

GC learned of this on October 7, 2012 from Marie Monaco
From: "Hertz, Randy" <HertzR@exchange.law.nyu.edu>
Subject: RE: Quick Question
Date: October 7, 2012 2:51:05 PM EDT
To: Harrington Christine <Christine.Harrington@nyu.edu>
Cc: Warren Jelinek <Warren.Jelinek@nyumc.org>, Charlton McIlwain <cdm1@nyu.edu>, "Revesz, Richard" <Revesz@exchange.law.nyu.edu>

Christine, It is my understanding that the issues about which you ask were addressed in Ricky Revesz’s communication with Ted Magder in his capacity as chair of the Faculty Senators Council. I am cc-ing Ricky on this message. Best, Randy

From: Harrington Christine [mailto:Christine.Harrington@nyu.edu]
Sent: Friday, October 05, 2012 12:31 PM
To: Hertz, Randy
Cc: Warren Jelinek; Charlton McIlwain; Harrington Christine
Subject: Re: Quick Question

Dear Randy,
We apologize for any misunderstanding about our request for additional information. Faculty Senators asked the Faculty Senate Council’s Governance Committee (FSC-GC) to look into the facts and circumstances surrounding the Law School election of 2 representatives nearly 4.5 months after the required deadline (See, NYU Bylaws and Faculty Senate Council [FSC] Rules & Procedures).
Acting in accordance with the duties and responsibilities delegated by FSC Rules and Procedures to the Governance Committee (GC) under:

VI. Committees of the Faculty Senators Council.
1. Standing Committees.
   (b) Governance: monitors University-wide governance and the governance process in the several schools; considers the impact of policies that affect faculty governance; conducts regular periodic reviews of the NYU Faculty Handbook.

the GC established a Subcommittee on Internal Affairs at its September 24th meeting. The Subcommittee is merely fulfilling its responsibility to look into this matter (i.e., engage in fact-finding) and report back to the GC. Our requests to you and others are on behalf of the Subcommittee.
Thank you for your reply to our first email. Our follow-up email (October 1st) asks your for additional help with locating information that is missing from our report.
Please know that the Subcommittee has not received information on the communications between Ricky and Ted, which you mentioned below. We did learn from Karyn Ridder (FSC Staff Person) that Brookes is not serving as a Law School Faculty Senator this Fall.
In the interest of providing the GC with a complete and accurate report, we ask if you could make available the following information:

1. When did the Law School hold its FSC election?
2. Could you send a copy of the Agenda that was sent to the full faculty in advance of the meeting?
3. Could you send a copy of the relevant portion of the minutes from that meeting?

Again, your participation in this process is greatly appreciated.
Sincerely,
Christine, Warren and Charlton

On Oct 4, 2012, at 8:27 AM, Hertz, Randy wrote:
Dear Christine: I don't understand why you are asking me for this additional information. I thought I had already given you all of the information you need. Has the Faculty Senate asked you to gather additional documentation beyond what I already told you? I understand from Ricky Revesz that he has been in direct contact with Ted Magder, the chair of the Faculty Senators' Council, about Brookes' term as Senator. With that communication between Ricky and Ted, and the information I've already given you, I think that the Faculty Senate has complete information about the Law School's process. Best, Randy

From: Harrington Christine [mailto:Christine.Harrington@nyu.edu]
Sent: Monday, October 01, 2012 9:55 AM
To: Hertz, Randy; Fernandes, Penelope-Ann
Cc: Jelnik Warren; Chariton McIlwain; Harrington Christine
Subject: Re: Quick Question

Randy,

Following up on your reply with a few requests for information:

1. When did the Law School hold its FSC election?
2. Could you please send a copy of the Agenda sent in advance of the meeting to the full faculty?
3. Could you send a copy of the relevant portion of the minutes from that meeting?
4. Brooks Billman's term as Law School Senator expires in 2013. Did he resign or did he become disqualified from serving his final year?

As always, appreciate your assistance. Thanks.
Best,
Christine
Christine B. Harrington
Professor
New York University
Wutf Family Department of Politics
19 West 4th Street, Rm 207
New York, NY 10003
(212) 998-8509
(212) 995-4184 (fax)
Christine.Harrington@NYU.edu
www.nyu.edu/gssdept/politics/faculty/harrington

On Sep 21, 2012, at 3:20 PM, Hertz, Randy wrote:

Christine, Under the Law School's longstanding practice (which we have been following throughout the 27 years that I have been at the Law School), the way the Law School handles this is that the names of the candidates are presented to the full faculty on a faculty agenda, with advance notice to the whole faculty, and the election takes place on a motion at a faculty meeting followed by a faculty vote. The process is memorialized in the minutes of the faculty meeting. Best, Randy

From: Harrington Christine [mailto:Christine.Harrington@NYU.edu]
Sent: Monday, September 17, 2012 12:21 PM
To: hertz@NYU.edu
Subject: Quick Question

Hi Randy,

As chair of the Faculty Senate Council's Governance Committee I have been asked to locate a copy of the Law School's
nominations and elections procedure used to select its representatives and alternates to the Faculty Senate Council. I checked on-line and did not find it. Could you please forward a copy of this to me?

Many thanks,
Christine
Christine B. Harrington
Professor
New York University
Wifl Family Department of Politics
19 West 4th Street, Rm 207
New York, NY 10003
(212) 998-8509
(212) 995-4184 (fax)
Christine.Harrington@NYU.edu
www.nyu.edu/gesar/dept/politics/faculty/harrington
Date: 9 November 2012
From: Rajeev Dehejia and Angela Kamer
Re: Update on the Activities of the Space Working Group

The Space Working Group has had two meetings. At the first meeting President Sexton presented his charge to the committee: (1) To determine priorities for new construction in the southern super-block (sequencing of buildings, uses for the new space, etc.) and (2) To advise on actions that could ameliorate the negative impact of the construction. At the second meeting Provost McLaughlin presented an overview of the need for the additional space at NYU, followed by a presentation from Martin Dorph on space options for NYU outside the superblock.

The Space Committee will quickly circulate meeting agendas and summaries and all materials presented to it (except those deemed to be confidential) via its web site:

http://www.nyu.edu/about/university-initiatives/space-priorities/documents.html

We will use our presentations to the FSC to highlight key developments and deadlines, address questions, and receive feedback from the FSC. For us, the key takeaway from the first two meetings was that no construction will begin on the southern superblock for at least two years and on the northern superblock for at least 10 years (i.e., the key park and Sasaki Garden are safe for at least that long).

A key task for each of us over the next few months (the sooner, the better) is to reach out to our constituents for their input on the issues before the committee. While all input and feedback are welcomed, it would be very helpful to us if at least these two questions were addressed:

(1) Of the construction opportunities now zoned on the southern block (the Zipper Building on the site of the Coles Gym and the building on the site of the current Morton Williams) what should the priorities be? E.g., which building first? What should go into it? Two key facts are: the New York City School Board has until the end of 2014 to decide if it wants the Morton-Williams site for a new school. If they do then only the sub-ground space is available to NYU. If they don’t then 75% of the above ground space will also be available to NYU (and 25% of above-ground space will made available for community uses and NYU retains use of below ground space).

(2) Assuming that construction goes forward what could the university do to minimize the impact on faculty?

If in reaching out to your constituents you decide to present the current plan and parameters (which we would recommend, as there is much confusion), many materials are available on the Space Committee’s web site. Or, if you prefer, we can prepare a brief presentation, which you could use and circulate.

Please pass on to us the feedback you receive from your constituents. When you do so, we would ask you to let us know how you consulted with them (department meeting? townhall-style meeting? e-mail?) and how many people responded.
Memorandum to: Tisch Asia Community  
From: Mary Schmidt Campbell  
Re: The Future of Tisch Asia  
Date: November 8, 2012

As you now know, I arrived in Singapore this morning and met with members of the Singapore government and have asked for a series of face-to-face meetings with members of the Tisch Asia community to be scheduled on Friday. With so many students and faculty away from campus at this time pursuing film projects, I have also decided to write everyone, knowing that the Tisch Asia community has been waiting since last year to hear about the future of the campus.

Tisch Asia has been a model of artistic and academic excellence, but it has also faced significant financial challenges that have required increasingly unsustainable subsidies totaling millions of dollars per year. For that reason, in spite of our pride in all that has been accomplished and built at Tisch Asia, we have come to the conclusion that we will need to close our campus in Singapore sometime over the next couple of years but no earlier than Summer 2014.

Before describing the reasons for our decision and the framework for closing, let me first and foremost say that we are committed to ensuring that each and every student will be afforded the opportunity to fulfill the requirements to earn his or her NYU Tisch School of the Arts degree, that we are committed to honoring the contracts we have with our faculty and staff and helping all our employees with this transition.

As many of you know, the Tisch School of the Arts and the Singapore government partnered in 2007 to create Tisch Asia under Singapore’s Global School House Program. Tisch Asia was the only graduate arts program started under that initiative. Tisch Asia has been an unquestioned academic and artistic success, but it faced significant financial challenges and over time required larger and increasingly unsustainable annual subsidies from Tisch.

It was never contemplated that Tisch would need to subsidize Tisch Asia to the extent it has. Neither the leadership at Tisch, the leadership at NYU, nor the Economic Development Board of Singapore would have approved Tisch Asia going forward had it
been clear it would have come to the financial state at which it has now arrived, requiring such a large and ongoing level of subsidy. We project that the cumulative subsidy provided by Tisch to Tisch Asia will total over $30M SGD by August 31, 2013 and will continue to grow. Not only is this far more than the plan intended, it is far more than Tisch can afford. Moreover, Tisch Asia’s future prospects show even steeper financial challenges.

Because of its academic success and promise, representatives from NYU and the Singapore government worked hard and conscientiously over the past year to explore options that would sustain Tisch Asia without compromising the excellence of its program. Indeed, so widespread was the recognition of the value of Tisch’s conservatory training, even as we worked on various options to financial sustainability for the graduate program, we were also discussing an expansion of Tisch’s presence in Singapore through the creation of additional programs. Despite everyone’s best efforts, we have now concluded that it is not possible to maintain Tisch Asia without, in fact, increasing the annual subsidy beyond what is an already unsustainable level.

We have greatly enjoyed the opportunity to be part of and contribute to Singapore’s academic and artistic communities. As Alvin Tan, Assistant Managing Director of the Economic Development Board said, “EDB continues to value the NYU partnership and recognises the quality of Tisch School of the Arts as a leader in arts training and NYU as a leader in global education.

As such we were committed to work with NYU to explore options to ensure the sustainability of Tisch Asia’s operations, including the possibility of offering additional programs. EDB worked with various stakeholders to assess the costs and need for the proposed programs. Unfortunately none of these options were viable.

Notwithstanding the winding down of Tisch Asia’s operations, EDB remains open to future collaborations with NYU and Tisch. We are discussing continued collaboration with NYU, including the possibility of supporting Singaporean students to study at Tisch in New York through Media Industry Scholarships administered by the Media Development Authority of Singapore.”

We have decided the proper course is to suspend student recruitment and admissions to Tisch Asia immediately and develop plans for keeping the campus open at least through Summer 2014. This is the overall framework we will be following, but detailed planning will be developed with input from faculty and students as well as the Singapore government. During my visit, I welcome input from students, faculty and staff on next steps.

Having made this decision, we will be guided by three principles going forward:

- That our students will be able to complete their education and earn their degrees from Tisch. Most students currently enrolled will have an opportunity to finish their coursework in Singapore. Some may require access to resources afforded by the NY campus and other sites in the NYU global network. An academic team from New York
and Singapore will meet with each student individually to discuss a completion plan for them.

- That the contracts of all our faculty will be honored, giving them time to transition and search for new positions and professional opportunities. We recognize that many faculty have made Singapore their home and that we will need to assist them in making a transition.

- That the contracts of all our staff will be honored, and we will provide them with practical assistance to locate new positions.

This is sorrowful for all of us—Tisch Asia is a vibrant artistic and educational community, and we cannot help but be saddened by these developments. Our task now is to carry on with the same energy that has animated Tisch Asia since its first days, and ensure that the artistic and educational work that goes on in the coming months is of the same excellent quality that has marked Tisch Asia from the beginning.

We have additional challenges to face in the days ahead. I have full confidence, nonetheless, that with creativity and resilience we can meet those challenges in a way that honors each and every member of our community.