MINUTES OF THE FACULTY SENATORS COUNCIL MEETING OF JANUARY 31, 2013

The New York University Faculty Senators Council (FSC) met at noon on Thursday, January 31, 2013 in Room 405 in the Kimmel Center for University Life.

In attendance were Senators Alter, Anton, Billman, Cappell, Carpenter, Cowin, Gale, Harrington, Hutchins, Jacobs, Jelinek, Jones, Karl, Lebowitz, Ludomirsky, Magder, McIlwain, Mincer, Monaco, Nolan, Raiken, Sternhell, Stokes, Sundaram, Tannenbaum, Thurston, Uleman, and Van Devanter, Active Alternates Chan, Rubin, Tannenbaum, and Tuzhilin, and Alternate Senators Ebsworth, Hendin, Reiss, and Simon. FSC Advisors Moskowitz attended as a guest. EVP Berne and Terry Nolan attended as Special Guests.

APPROVAL OF THE MINUTES OF THE MEETING HELD DECEMBER 13, 2012

Upon a motion duly made and seconded, the minutes of the December 13, 2012 meeting were approved unanimously.

ANNOUNCEMENT OF THE SLATE OF CANDIDATES FOR FSC CHAIRPERSON 2013-14

Chairperson Magder reported the Nominating Committee met last week and has selected two candidates for the position of Chairperson, 2013-2014:

1. Raghu Sundaram (Stern)
2. Jim Uleman (FAS)

The candidates have been asked to send written comments, which will be circulated prior to the election at the February meeting. Magder noted that the Chair-elect becomes a member of the Nominating Committee for the selection of Vice Chair and Secretary. The slate is announced in April and the election takes place in May. Magder reminded Senators they may vote by absentee ballot.

REPORT FROM THE CHAIRPERSON: TED MAGDER

Update on University Committee Assignments

Magder reported Senator Charlton McIlwain from Steinhardt will serve on the committee to review the Policy on Academic Conflict of Interest and Conflict of Commitment and the associated disclosure process. Senator Sylvain Cappell from the Faculty of Arts and Science will serve on a NYU Poly transition committee, which will examine questions of governance and issues that concern faculty. The Executive Committee will ask if other senators are interested in serving on this Committee.
Upcoming meeting with Provost

The Executive Committee meets this afternoon with the Provost Office and plans to 1) discuss the letter from President Sexton and how his office is conceptualizing faculty representation on various steering committees regarding the global sites and 2) the upcoming five-year review of the Dean of Liberal Studies. In previous conversations, it was discussed that the FSC may be involved in this review. It was mentioned that Active Alternate Rajeev Dehejia of Wagner is serving on the search committee for the Dean of Wagner Graduate School of Public Service. Senators supported FSC involvement in the review and appointment of School Deans.

Community use of space at 4 Washington Square Village

Magder presented the memo from Alicia Hurley, Vice President for Government Affairs & Community Engagement, regarding the community use of space at 4 Washington Square Village and the letter from President Sexton regarding issues raised by the public at the June 29, 2012 hearing before the subcommittee on zoning and franchises. See attached Documents A and B.

Hurley is seeking opinions from the FSC on how the 6,000 square feet of community space in the ground floor of Washington Square Village 4 might be used. It was noted this facility will not be run by NYU, but by an outside non-profit.

Senators supported childcare and pre-school options. One Senator noted the pre-school in Silver Towers had 15 slots for incoming children and received 87 applications, of which 49 were from NYU affiliates. Other Senators suggested use for meetings space and urgent care.

Senators questioned whether Hurley’s office has solicited the interests and opinions of the community outside of NYU, and if so how they canvassed community and the results? It was suggested that this be brought to the Housing Committee for review.

Upon a motion duly made and seconded it was approved by vote of the Council that this issue be directed to the Housing Committee to review the available information on NYU’s assessment of community uses for the space in WSV 4, including a summary of its discussions or inquiries to date with community groups; and to make a recommendation on community use of the space in WSV 4 to FSC at the next meeting.

FSC COMMITTEE REPORTS

Tenure Modifications: Vice Chair Monaco

The proposal of the School of Medicine to extend the tenure clock for individuals impacted by Hurricane Sandy

Vice Chair Monaco reported the Tenure Modifications Committee met on January 23 to discuss the proposal of the School of Medicine to extend the tenure clock from 1 to 3 years for individuals negatively impacted by Hurricane Sandy. The members were in agreement that steps are necessary to ensure that those tenure-track faculty members who experienced significant losses will have sufficient time to demonstrate their qualifications for attaining tenure. In section 9, it was recommended that any grievance of the chair’s recommendation to the Dean be brought before the duly elected Grievance Committee of the School of Medicine, rather than an ad hoc committee appointed by the Dean. The committee felt that there was no reason to constitute a separate committee to perform a function charged to the existing
Grievance Committee. In addition, any perception of bias that might ensue as a result of the appointment of an ad hoc committee would be precluded. In section 10, the committee felt that the decision by the Dean should also be amenable to grievance at the level of the University Grievance Committee.

One Senator expressed disagreement with the process, stating when this discussion is initiated by a chair and the chair recommends extension, it has the potential to undermine the confidence of the junior faculty member regarding their standing.

It was stated that tenure-track faculty were not surveyed on this proposal, so the Committee is unable to take into account their concerns.

At the conclusion of the discussion, the motion to approve the review and recommendation was moved, seconded, and approved by vote of the Council, with one abstention. See attached Document C.

Administrative Issues/Governance: Carol Hutchins and Christine Harrington

Policy on Weapons, Simulated Weapons and Theatrical Use of Weapons

Senator Hutchins reported the Administrative Issues Committee reviewed the Weapons Policy and has no questions to be resolved regarding the policy document.

The document was then passed on to the Governance Committee for review because it involves changes to the Faculty Handbook. The Committee offered a question regarding one item in Section B, which currently reads:

NYU prohibits the possession of any Weapon and, except as set forth below in “D”, any Simulated Weapon, (i) in and/or around the NYU campus, including any and all NYU facilities (whether academic, residential, or other facilities), and this prohibition extends to all NYU property, whether owned, leased, or controlled by NYU, regardless of whether the bearer or possessor is licensed to carry that Weapon and (ii) at any NYU-sponsored activity, whether on-campus or off-campus.

Question: Does NYU have the right to regulate weapons on property it does not own, but which abuts or is adjacent to NYU property?

Magder added the difference between this policy and the former policy, is in the former weapons policy, faculty, students, and administrators could apply to the administration for a permit to carry a weapon. This option has been removed in the new policy.

At the conclusion of the discussion, the following motion was moved, seconded, and approved by vote of the Council:

The joint review and recommendation by the Administrative Issues and Governance Committees regarding the Weapons Policy, with the addition of the question [Does NYU have the right to regulate weapons on property it does not own, but which abuts or is adjacent to NYU property?], is approved.

See attached Document D.
Preventing Workplace Violence Group: Allen Mincer

Senator Mincer presented the topics discussed by this group.

He stated in regards to training, there is a team that is developing training on how to recognize, de-escalate and report aggressive behavior that could potentially lead to violence. This training would be recommended to faculty members. The target date for roll-out is April.

The second topic discussed was awareness. This includes letting the NYU community know what is being done in terms of installing informational signs, regarding what to do in case of emergency in classrooms. Also included is the appropriate role of faculty in emergency situations.

The third topic was facility improvements. A set of design guidelines was developed to help guide discussions at the start of renovation projects on ways we might consider increasing the security of spaces during design and construction.

Mincer stated there is a clear sensitivity to the fact that there is a balance between what can be done to improve safety on the one hand and between what would be considered a comfortable environment.

Senators discussed challenges of dealing with threats, threatening emails, and verbal threats. It was confirmed a representative from the Wellness Center is involved.

Mincer asked for suggestions on the best way to proceed. It was determined that the FSC representatives on this committee: Carol Hutchins and Allen Mincer, should report back to the FSC on the progress of the committee and bring issues they feel need feedback to the Council.

OLD BUSINESS

Motion from December meeting regarding SCPS Representation: Chairperson Magder

The motion: Carl Lebowitz will serve as an observer without voting privileges for the remainder of the year will be postponed to the January meeting when the Governance Committee will present its report.

Secretary Jones clarified when she made this motion the purpose was to clarify the intent of the FSC in assigning Lebowitz’s status on the Council.

The Governance Committee reported on the December meeting of members of the FSC Governance Committee and Executive Committee with Bonnie Brier and Lee Chamberlin to discuss SCPS representation. The FSC members sought to contextualize the circumstances of having no tenured or tenure-track faculty in SCPS and the need for representation of every school, which presents the possibility of a contradiction within the bylaws.

The University’s General Counsel was delivered a written summary of her view, stated at the December meeting, that under the University’s Bylaws a) FSC cannot appoint senators to represent schools; and b) retired faculty are not eligible to serve as senators. FSC’s appointment of a retired faculty member, Carl Lebowitz, is not consistent with University bylaws. Brier also indicates that the University would be willing to have Lebowitz serve as serve as a “special guest” on University Senate without voting rights until the end of the year. See attached Document E.

A Senator wondered why the Governance Committee was so concerned with the rule for the conduct of elections of May 1, but seemed unconcerned about appointing a retired faculty member to represent a school.
A subsidiary motion was moved by Senator Karl to postpone the motion to the February meeting, seconded by Senator Raiken, and approved with 1 opposed.

**SPECIAL GUEST: BOB BERNE**

**Pending decision from National Labor Relations Board (NLRB)**

Bob Berne, Executive Vice President for Health, and Terry Nolan, Deputy General Counsel and Director of Labor Relations, met with the FSC to discuss the pending decision from the NLRB regarding the eligibility of NYU graduate students to unionize.

Nolan reported the U.S. Court of appeals issued a ruling regarding the interpretation of the following provision:

> The President shall have the power to fill up all vacancies that may happen during the recess of the Senate.

The Court stated the Senate was not in the recess, but only between sessions not during a recess. If this ruling holds up this would call into question recess appointments.

The NLRB has said they will proceed with business as usual, even though their legal status is in doubt. This may be resolved in the next year or so before the Supreme Court. A potential outcome is a ruling that only the Senate can determine when it is recess and other branches of the government cannot make this determination.

Berne discussed the current position of NYU, which seems to be uniform consensus that if the NLRB were to issue a ruling to unionize Teaching Assistants (TAs) but not Research Assistants (RAs), the administration would be neutral during the vote and if the vote was in favor of unionizing TAs, they would then negotiate a contract with TAs.

The issue of RA unionization is not as clear and opinions are divided between three general opinions: 1) graduate students should be free to decide without arguments against RA unionization, 2) faculty/administration may make arguments against unionization of RAs but should abide by election results and negotiate a contract, and 3) administration should potentially challenge the vote in court if the vote supports unionization of RAs.

A Senator inquired if RAs are divided into different categories by their responsibilities? Berne stated the definition of the bargaining unit is specified by union. In the past the NLRB has divided the RAs. RAs in the sciences on external grants doing work related to their dissertation were excluded from the union. However, it was noted, RAs in Courant or Psychology were included.

A Senator commented on the administrative inefficiencies of not grouping TAs and RAs together.

A Senator asked if the NLRB regulations may be subject to challenge now? Berne clarified once the NLRB issues its ruling, the employer has the opportunity to challenge the NLRB in federal courts.

A Senator inquired how this decision will be made given the division in opinion? Berne stated the administration is in the process of distilling the advice, getting a sense of the opinions, and will go back to a few groups, caucus with the Deans, and then try and navigate through to make a decision.
A Senator asked if a decision is made to challenge the ruling, is it possible to still negotiate informally outside of union framework at the same time as challenging the ruling in court?

Berne stated, no, but the administration has gone back to the union with the initial offer, which may or may not get more traction.

A Senator commented this issue has been discussed in the Senate Academic Affairs Committee and it was clear the opinions and cultures vary across the different disciplines.

Berne and Nolan encouraged Senators to contact them with further comments.

**ADJOURNMENT**

The meeting adjourned at 2:00 PM.
All,

Please see this note from Alicia Hurley, for discussion at next week's FSC.

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Dear Ted,

As part of our agreement with the City Council, we will be converting approximately 6,000 square feet of space to community use at the ground floor of WSV 4. This was a commitment that was made and we stated it would take place within a year of the approvals.

We have made strides to relocate a few residential tenants (who will be relocated to upper floor apartments and are happy to be relocated) and office tenants who also are being taken care of. The remaining user in that section is Creative Steps daycare, which will remain. The balance of space is approximately 4,000 - 4,500 sq feet depending on the use and how we configure.

The question that we would like to pose to the FSC, is the following: as we seek out new users for the space, is there a recommendation by the FSC of priority uses. We would take this recommendation under advisement as we move forward to select the new users. The types of users would be additional daycare, elderly oriented organizations. It must be a non-profit. While we have most discretion of the decision, we would also need to get a final nod from the Councilwoman who made the request in the first place. The use can not serve the NYU community only, but it certainly can be available to our community.

Please let me know if you need any additional information. The letter from the President to the Councilwoman which outlines this commitment can be found at this link:


Thank you,

Alicia

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Ted Magder | NYU

Associate Professor, Media, Culture & Communication

Chair, Faculty Senators Council

Director, Council for Media & Culture
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John Sexton
President

July 16, 2012

The Hon. Margaret Chin
City Council Member – District 1
250 Broadway
New York, NY 10007

Re: Issues Raised by the Public at the June 29, 2012 Hearing
Before the Subcommittee on Zoning and Franchises

Dear Council Member Chin:

As you know, I provided testimony before the Subcommittee on Zoning and Franchises on June 29, 2012, and remained in the hearing room to listen firsthand to public comments and concerns raised at the hearing. I have also been briefed on the public comments provided after I left the hearing room. This letter is written to make you aware of steps NYU plans to take to address a number of these concerns, particularly those that are not directly germane to specific elements of the ULURP applications for the NYU Core project currently before the City Council.

Among the concerns raised at the public hearing were those pertaining to an existing shortage of open space in the area, excessive “nightlife” activity in close proximity to residential areas, and a perception that there will be an increasingly exclusive focus on NYU-related uses on the two superblocks. To address these concerns, the University plans to undertake a number of proactive measures, even prior to construction of the NYU Core Project on the superblocks. These plans are outlined below:

Open Space

One of the key issues raised by the community over many years is the shortage of open space in the area. To address this concern, the University plans to:

- make the Sasaki Garden accessible to the public by posting way-finding signs to increase public awareness of the existence of the Garden and posting signage allowing the public to enjoy the Garden during day-time hours (subject to reasonable rules to prevent annoyance of others using the Garden
or the residents of Washington Square Village) – these steps to make the Sasaki Garden available to the public will be implemented this year and remain in effect until the Sasaki Garden is closed in connection with the construction of the NYU Core Project on the north superblock after 2021;

- continue to allow members of the local community to apply for paid membership of the Coles Gym and the new gymnasium to be built in the basement of the Zipper Building;

- proceed expeditiously to build out the LaGuardia Temporary Play Area and Bleecker Street Seating on the south superblock, subject to obtaining all required government approvals, so that the public has early access to these new open space amenities;

- due to the community concern about the University’s commitment to maintain open spaces, in addition to posting a letter of credit with the Parks Department relating to the maintenance of the new public open spaces to be constructed on City property adjacent to the NYU property on the superblocks, create an NYU-owned and NYU-managed endowment that will generate an annual maintenance fund of $150,000 to ensure that NYU funding is available for the maintenance of the new public open spaces to be constructed on the superblocks; and

- be supportive of proposals made by the City or local community groups to improve the condition of the Mercer Playground adjoining the north superblock.

Excessive “Nightlife” in Residential Areas

Another issue raised by the community is the intrusion of clubs and other nightlife-related activities, with their attendant late night noise, in residential areas. In response, the University has decided that it will adopt a policy, subject to applicable law, that it will not lease to tenants on the superblocks to operate as a night club, or allow tenants to apply for or accept a cabaret license or apply for or accept a beer, wine or liquor license from the New York State Liquor Authority, apart from the use of space for a bona fide “restaurant,” as such term is defined in section 3 of the State’s Alcoholic Beverage Control Law.

Non-NYU Uses on the Superblocks

Finally, an issue raised by the public is whether the superblocks will be so tightly woven into the NYU campus as to effectively exclude the public. We believe, consistent with the findings of the City Planning Commission, that the new parks on the western and eastern areas of the north superblock and the design of the new publicly accessible open space on the north and south superblocks will welcome the public to use these amenities. It should also be noted that the ground floor of Washington Square Village is currently used for several non-NYU-related uses, including a day care center.
and an office of Manhattan Community Board 2. To address matters of public concern, the University plans to make available within the next year approximately 6,000 square feet of space in Washington Square Village Building 4 for a conforming community-oriented community facility use, subject to finding a local community-oriented non-profit organization to lease this space at a rent that will not exceed the rent specified in section 420-a[2] of the Real Property Tax Law. NYU will solicit public comment on its plans to market this space to ensure that information as to its availability is widely known in the community and to seek to recruit a tenant that will use the space in a manner that will benefit the public.

Founded in New York City in 1831, New York University prides itself on maintaining a tradition of being a “private university in the public service.” Our setting in Greenwich Village has been a key element in making NYU a leader in higher education, and NYU is committed to working with the community to try to address its concerns about NYU’s presence in the neighborhood.

Very truly yours,

John Sexton

cc: The Hon. Leroy Comrie
Chair, Committee on Land Use

The Hon. Mark Weprin
Chair, Subcommittee on Zoning and Franchises
To: David McLaughlin, Provost  
    Robert Berne, EVP for health Affairs  
From: The Faculty Senators Council  
Re: The proposal of the School of Medicine to extend the tenure clock for individuals impacted by Hurricane Sandy

The Tenure Modifications Committee met on January 23, 2013 to discuss the proposal of the School of Medicine to extend the tenure clock from 1 to 3 years for individuals negatively impacted by Hurricane Sandy. The members are in agreement that steps are necessary to ensure that those tenure-track faculty members who experienced significant losses will have sufficient time to demonstrate their qualifications for attaining tenure. The attached annotated version of the proposal describes two sections (9 and 10) where the committee felt that modifications were appropriate.

In section 9, it is recommended that any grievance of the chair’s recommendation to the Dean be brought before the duly elected Grievance Committee of the School of Medicine, rather than an ad hoc committee appointed by the Dean. The committee felt that there was no reason to constitute a separate committee to perform a function charged to the existing Grievance Committee. In addition, any perception of bias that might ensue as a result of the appointment of an ad hoc committee would be precluded.

In section 10, the committee felt that the decision by the Dean should also be amenable to grievance at the level of the University Grievance Committee.
MEMO:

To: Robert Berne Ph.D., Executive Vice President for Health
    David McLaughlin Ph.D., Provost
From: Robert I. Grossman MD, Dean and CEO
Re: School of Medicine Proposal for Extension of the Tenure Clock
Date: December 14, 2012

I am writing to ask your approval of a School of Medicine proposal to permit extension of the time for consideration for tenure (the “tenure clock”) for clinical and research faculty of the School of Medicine whose progress in completing requirements for tenure was significantly impacted by Superstorm Sandy. This proposal will permit a faculty who requests an extension of the tenure clock to receive an extension of the tenure clock for one, two or three years, in accordance with this policy and procedures. The proposal includes criteria for extension eligibility, and will require approval by the department chair and dean. Nothing in this policy shall require a faculty member to request an extension of the tenure clock. A faculty member who does not request extension of the tenure clock shall continue on the established tenure track and time for consideration for tenure.

Requests for extension of the tenure clock emanated from many faculty members, individually and at town hall meetings, during the recovery from Hurricane Sandy. Consultation with the Vice Dean for Research from Tulane University indicated that a similar extension of the probation period was offered to faculty following Hurricane Katrina. The essential elements of the proposal were discussed and approved unanimously by the School of Medicine Faculty Council in its meeting of December 3.

Thank you for your consideration of this request. Please let me know if you have any questions.

Cc: Annette Johnson
    Steven Abramson
    Nathaniel Landau
New York University School of Medicine
Proposal on Hurricane-Related Changes in Tenure Clock

This proposal is presented to permit extension of the time for consideration for tenure (the "tenure clock") for clinical and research faculty of the School of Medicine whose progress in completing requirements for tenure was significantly impacted by Superstorm Sandy.

1. A faculty member on the tenure track whose progress toward completion of requirements for tenure has been significantly impacted by Superstorm Sandy, and who requests an extension of the tenure clock, will be entitled to receive an extension of the tenure clock for one, two or three years, in accordance with this policy and procedures.

2. There are suggested criteria for extension eligibility, which reflect the severity of the hurricane-induced research impediment(s); none are absolute and should be viewed on a case-by-case basis. Among the criteria for eligibility would be:
   - Loss of animals
   - Loss of key reagents
   - Loss of data, including patient databases
   - Loss of key technology
   - Loss of access to important collaborators
   - Physical relocation of laboratories

3. Beginning immediately there will be a period of evaluation of the impact of disruptions caused by Superstorm Sandy on the progress of faculty who are on the tenure-track.

4. The Chair of each department will request each faculty member who is on the tenure track to describe the faculty member’s situation with respect to the impact of Superstorm Sandy on the faculty member’s progress toward completion of requirements for tenure.

5. Each faculty member on the tenure track will confer with the faculty member’s Mentoring Committee.

6. If a faculty member, after consultation with the Mentoring Committee, believes that the impact of Superstorm Sandy is substantial and makes it less likely that the faculty member will advance toward tenure under the established tenure timetable, the faculty member may request an extension of the tenure clock. The request for extension must be submitted no later than February 28, 2013 and must be made to the Chair in writing, and
accompanied by a recommendation of the faculty member’s Mentoring Committee.

7. Upon review of the faculty member’s request, the Chair will make a recommendation to the Departmental Promotions and Appointments Committee with respect to extension of the tenure clock.

8. The Departmental Promotions and Appointments Committee shall review the faculty member’s request, the recommendation of the Mentoring Committee and the Chair’s recommendation and make a recommendation to the Chair. The Chair will convey the recommendation to the faculty member and to the Dean.

9. A faculty member whose request for extension of the tenure clock is denied, or is granted for a shorter period than the faculty member requested, in the recommendation of the Departmental Promotions and Appointments Committee, may appeal to an ad hoc panel of tenured faculty, which shall be appointed by the Dean to advise him on individual appeals. The ad hoc panel will consist of one member each of the Faculty Council Benefits and Tenure and Academic Affairs Committees, and a full member of the Medical School Promotions Committee. This panel will interview the faculty member, Mentoring Committee and the Chair, on separate occasions and will render their recommendation to the Dean.

10. The Dean will review the recommendation of the Departmental Promotion and Appointments Committee, if there is no appeal, or the recommendation of the ad hoc panel, if there is an appeal. If the Dean concludes that the tenure clock should be extended, he will forward his recommendation, including the number of years of tenure clock extension, to the University, to be reviewed by the Executive Vice President for Health and the Provost. The decision of the Executive Vice President for health/Provost will be final.

11. Cases approved under this policy will not require individual NYU Board of Trustee exceptions; each faculty member will need to sign a letter acknowledging the exception. Each September, the School of Medicine will submit a list of faculty who are affected by the extension to the Executive Vice President for Health.

12. Nothing in this policy shall require a faculty member to request an extension of the tenure clock. A faculty member who does not request extension of the tenure clock shall continue on the established tenure track and time for consideration for tenure.
Title: Weapons, Simulated Weapons, and Theatrical Use of Weapons

Policy Effective Date: 

Supersedes: Policy on Theatrical Use of Simulated Firearms and Other Weapons; Weapons Policy and Simulated Firearms Policy

Issuing Authority: Executive Vice President for Operations

Related NYU Policies: None

Responsible Officers: Vice President for Global Security and Crisis Management

Purpose of this Policy

New York University (“NYU”) is committed to maintaining a safe and secure environment for the NYU Community and its guests. In support of this commitment this policy sets forth the rules and guidelines governing the possession and use of Weapons.

Scope of this Policy

This policy applies to all members of the University Community, as defined below. It also applies to any person on NYU property, in an NYU facility, or at an NYU-sponsored activity.

Policy Definitions

NYU includes the schools, colleges, institutes, and other administrative units of NYU, NYU’s Global Network University sites, and all University Affiliates, as each term is defined in NYU’s Policy on Policies.

Simulated Weapon means a facsimile of any category of Weapon, as defined below, that resembles the actual Weapon but is not capable of use as a weapon.

University Community includes the following persons associated with NYU: (a) the Board of Trustees (“Board”); (b) faculty, including visiting faculty; (c) researchers, including persons conducting research at or under the auspices of the University; (d) employees; (e) volunteers; (f) fellows, trainees, and post-doctoral appointees; (g) students; and (h) others who are performing activities or providing services at or under the auspices of the University, including consultants, vendors, and contractors.

Weapon includes an instrument used to inflict physical harm, that is intended to inflict harm, or that could reasonably cause fear of infliction of harm, and any item that may be deemed a weapon under applicable law, including but not limited to: a pistol, revolver, shotgun, rifle, firearm, stun gun, BB or pellet gun, taser, electric dart gun, and other instrument that launches a projectile by pressure
resulting from combustion of propellant material, including a weapon related to or using air, sound, flare, hunting, or springs; bombs, grenades, mines, explosives, or incendiary devices (which can include “ignition devices” and aerosols; and daggers, stilettos, swords, and knives (including switchblade and gravity knives); and including parts, components, spare parts, or ammunition relating to the above. A disarmed weapon is a Weapon unless it is a Simulated Weapon.

Policy

A. The possession of any Weapon or Simulated Weapon has the potential of creating a dangerous situation for the bearer and others and therefore is prohibited as set forth in this policy.

B. NYU prohibits the possession of any Weapon and, except as set forth below in “D”, any Simulated Weapon, (i) in and/or around the NYU campus, including any and all NYU facilities (whether academic, residential, or other facilities), and this prohibition extends to all NYU property, whether owned, leased, or controlled by NYU, regardless of whether the bearer or possessor is licensed to carry that Weapon and (ii) at any NYU-sponsored activity, whether on-campus or off-campus.

C. The prohibition on Weapons and Simulated Weapons does not apply to law enforcement personnel who are legally permitted to carry a Weapon on campus. A law enforcement officer bringing a Weapon onto NYU premises, including a Global Network University site, must carry valid identification that establishes the person’s law enforcement status.

D. The prohibition on Simulated Weapons does not apply to instances in which all of the following requirements are satisfied:

1. The bearer of the Simulated Weapon has written permission from a dean, associate dean, assistant dean, or department head to possess the Simulated Weapon and the bearer has a copy of that written permission on his or her person at all times while in possession of the Simulated Weapon.

2. Such possession or use of a Simulated Weapon is directly connected to an NYU or school, college, institute, or Global Network University site related event (e.g., play, film production).

3. The approved Simulated Weapon may be used only during the time and in the manner specified in the written approval.

4. Whenever an approved Simulated Weapon is transported from one location to another, including within the same building, it must be placed in a secure container in such a manner that it cannot be observed.

5. The individual to whom written permission has been granted to possess a Simulated Weapon must maintain custody of the Simulated Weapon at all times and may not transfer custody of the Simulated Weapon to any person not specified in the written permission. The individual to whom permission has been granted to possess a

Comment [R1]: Does NYU have the right to regulate weapons on property it does not own, but which abuts or is adjacent to NYU property?
Simulated Weapon may not drink alcoholic beverages or engage in any reckless behavior while in possession of the Simulated Weapon.

6. When not in use for the approved NYU or school related event, the Simulated Weapon must be stored securely in a location approved by the Vice President for Global Security and Crisis Management. Under no circumstances may a Simulated Weapon be stored in any NYU owned, leased, or controlled facilities other than an approved safety storage area.

7. If for any reason it is not possible for an individual in authorized possession of a Simulated Weapon to return the item to an approved safety storage area after authorized use, the Simulated Weapon should be brought for temporary safe storage to the Department of Public Safety (at 14 Washington Place in the case of Manhattan).

8. There is no exception to the prohibition of having a Simulated Weapon in an NYU residential facility at any time and for any purpose.

9. Under no circumstances may a student bring his or her own Simulated Weapon to campus. Students are limited to using Simulated Weapons supplied by their schools, colleges, institutes, or Global Network University site, or rented from a University-approved licensed third-party supplier of theatrical Simulated Weapons.
As you know, I met with representatives of the FSC Governance and Executive Committees in December to discuss the FSC Resolution regarding Senate Representation from SCPS, approved by the FSC on September 13, 2012. I am writing to summarize the views I expressed at that meeting regarding the ability of the FSC, under the University’s Bylaws and the FSC’s Rules of Procedure, (1) to appoint a Faculty Senator for the School of Continuing and Professional Studies and (2) to select an Emeritus Professor as a Faculty Senator. I had provided the FSC representatives with copies of selected provisions from the University’s Bylaws and the FSC’s Rules of Procedure prior to the meeting and attach them to this memorandum.

**Appointment of a Faculty Senator**

University Bylaw 63(b) and (c) require a Senator to be elected by the voting Faculty of the School that the Senator represents. Bylaw 63(b) provides:

> The Faculty Senators Council will consist of not more than thirty-six members as follows: thirty-three professorial representatives elected by the voting members of the several faculties of the University in the manner prescribed by the rules adopted by the Council for its own governance and consistent with these Bylaws; and not more than three additional professorial representatives appointed at large for three-year terms by the Executive Committee of the Senate with the advice and consent of the elected professorial members of the Faculty Senators Council.

Bylaw 63(c) provides in relevant part:
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. The thirty-three elected professorial representatives will be selected as follows: six from the School of Medicine; and twenty-seven apportioned among the schools by the method of equal proportions with the proviso that each school will be entitled to at least one elected faculty Senator. Each year, the University Secretary and General Counsel will provide to the Faculty Senators Council and the secretary to the faculty of each school the number of faculty members assigned to each school for the purpose of Senate elections and will at the same time indicate the number of Senators to which each school is entitled.

The fact that the FSC does not have the power to appoint any of the "thirty-three professorial representatives elected by the voting members of the several faculties of the University" is further supported by University Bylaw 65(b), which specifies an appointment process in the case of a Student Senator where a School or College fails to elect a Student Senator:

The Student Senators Council will consist of not more than twenty-three members. There will be fifteen regular student Senators, elected as follows: two from each of the Steinhardt School of Culture, Education, and Human Development and the Tisch School of the Arts; and one from each of the other schools and colleges of the University, except that for this purpose the School of Medicine and the Post-Graduate Medical School will be considered one school. There will be in addition not more than eight student Senators appointed at large by the Executive Committee of the Senate in accordance with the rules of procedure adopted by the Senate. The name of every student Senator will be transmitted to the Secretary of the Senate within five days after the election. Should no student Senator be elected from a school or college by the date of the annual meeting of the Senate, the dean of that school or college is authorized to appoint a Senator who will serve until replaced by a duly elected Senator.

The FSC's Rules of Procedure are similarly specific about the election of Faculty Senators. Rule I.1(a) provides:

The Faculty Senators Council shall consist of not more than thirty-six members. These shall be thirty-three professorial representatives, elected by the voting members of the several faculties of the University in the manner prescribed by the rules adopted by the Council for its own governance and consistent with
the bylaws of the University Senate, and not more than three additional professorial representatives appointed at large for three-year terms by the Executive Committee of the Senate with the advice and consent of the elected professorial members of the Faculty Senators Council.

FSC Rule I.3(a) and (b) then address the procedure for the nomination and election of Faculty Senators by a School Faculty:

(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.

FSC Rule I.4(a) also provides for the applicable School Faculty to “elect an alternate representative for each Senator….”

Finally, Rule I.4(e) makes it clear that where a School Faculty fails to elect a Faculty Senator, the position remains open until the School faculty does so: “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.”

Beyond the overwhelming evidence in the University Bylaws and FSC Rules that the “thirty-three elected professorial representatives” must be elected by the applicable School Faculty, there is nothing in the University Bylaws or FSC Rules that suggests the FSC can make such an appointment. Accordingly, it is my
strong opinion that the FSC does not have the power to appoint an SCPS Faculty member as a Faculty Senator when the SCPS fails to elect its Faculty Senator.

**Eligibility of an Emeritus Faculty Member to be a Faculty Senator**

Even if the FSC could appoint an SCPS Faculty member as a Faculty Senator when the SCPS fails to elect its Faculty Senator, in this particular case, the question also arises as to whether an Emeritus Faculty member is eligible to be a Faculty Senator. The FSC’s articulated position heretofore has been that to be eligible to be a Faculty Senator, the Faculty Member must be a voting member of the applicable School Faculty.

University Bylaw 78(a) defines the voting members of each Faculty, and, in the case of "professors, associate professors, and assistant professors," limits the vote to those who serve on a “full-time basis”:

> The voting members of each faculty will consist of the President and Chancellor, the Provost, the dean of the faculty, and the professors, associate professors, and assistant professors (or in the Division of the Libraries, the curators, associate curators, and assistant curators), who serve on a full-time basis. In addition, the Executive Vice President for Health will be an ex officio voting member of the faculty of the School of Medicine, of the Post-Graduate Medical School, and of the College of Dentistry; and each vice president or deputy provost or vice provost who has academic responsibilities will be an ex officio voting member of the faculty of each school in his or her purview.

An Emeritus Professor does not serve on a “full-time basis” and is no longer a “professor.” This latter point is further supported by Bylaw 78(b), which specifically states that Professors Emeriti are not permitted to vote for members of the Faculty Senators Council:

In addition, **professors emeriti**, adjunct and clinical and visiting professors of each grade and research professors without tenure of each grade, instructors, library associates, lecturers, senior language lecturers, language lecturers, master teachers, teachers, master artists, and artists-in-residence, **whether they teach on a full-time or part-time basis**, are entitled, subject to faculty regulations, to attend faculty meetings, but they will not have the right to vote at such meetings, except as provided below. Every year, each faculty through affirmative action of its voting members as specified in subsection (a) of this Section 78 may in its discretion, and according to its own qualifications, grant voting privileges to all or some of the individuals described above on matters affecting that faculty only, and **excepting** matters directly
or indirectly affecting the individual's candidacy for a degree or his or her status on the faculty of the University, and the election of members of the Faculty Senators Council or University commissions.

If Emeritus Professors are eligible to be Faculty Senators, then so too would "adjunct and clinical and visiting professors of each grade and research professors without tenure of each grade, instructors, library associates, lecturers, senior language lecturers, language lecturers, master teachers, teachers, master artists, and artists-in-residence" (although they would still need to be elected by the voting members of the Faculty as set forth in Bylaw 78(a) quoted above).

In my opinion, it is clear that an Emeritus Professor is not eligible to vote both because s/he does not serve on a full-time basis and because s/he is emeritus. Accepting the FSC’s position that to be eligible to be a Faculty Senator, the Faculty Member must be a voting member of the applicable School Faculty, it is not possible for an Emeritus Professor to be a Faculty Senator.

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I would like to say a few things in closing. First, I was grateful for the opportunity to discuss the the FSC Resolution regarding Senate Representation from SCPS with the FSC representatives, even if we largely "agreed to disagree agreeably" on the substance of the issues. Moreover, as I said in the meeting, I certainly appreciate that the FSC passed the resolution because of its concern that SCPS had no representation in the FSC and Senate. I hope it is appreciated that my interpretation of NYU’s Bylaws and the FSC’s Rules of Procedure is not personal in any way to the distinguished Emeritus Faculty member appointed by the FSC. Finally, I continue to believe as I stated at the meeting that unless and until SCPS elects a qualified Senator that a more appropriate course would be to have the Senate agree to have a non-voting "special guest" from SCPS who has the right to speak at Senate meetings in accordance with Senate Rule 8.d and 8.e.

I am, of course, available to discuss this matter further if desired.