MINUTES OF THE FACULTY SENATORS COUNCIL MEETING OF FEBRUARY 14, 2013

The New York University Faculty Senators Council (FSC) met at noon on Thursday, February 14, 2013 in Room 905/907 in the Kimmel Center for University Life.

In attendance were Senators Adelman, Alter, Anton, Billman, Cappell, Carpenter, Cowin, Gale, Harrington, Hutchins, Jacobs, Jelinek, Jones, Karl, Ling, Magder, McIlwain, Mincer, Monaco, Raiken, Sternhell, Stokes, Sundaram, Tannenbaum, Thurston, Uleman, Van Devanter, and Zwanziger, Active Alternates Azmitia, Chan, Rubin, and Tuzhilin, and Alternate Senators Pearce and Reiss. FSC Advisors Al-Askari and Moskowitz attended as guests.

APPROVAL OF THE MINUTES OF THE MEETING HELD JANUARY 31, 2013

Upon a motion duly made and seconded, the minutes of the January 31, 2013 meeting were approved unanimously.

OLD BUSINESS

School of Continuing and Professional Studies (SCPS) Representation: Senator Jacobs chaired this discussion

The following motion was first proposed in December and then postponed at the January meeting regarding SCPS Representation:

Carl Lebowitz will serve as an observer without voting privileges for the remainder of the year.

Chairperson Magder stated he wished to speak to the motion, as did Vice Chair Monaco and Secretary Jones. Senator Jacobs volunteered to chair this portion of the meeting, which was approved by vote of the Council.

Magder stated the Governance Committee submitted a document, which runs counter to this motion. See attached Document A. Magder also referenced the document from Bonnie Brier that outlines the administration’s position on this issue. See attached Document B. Jones stated this motion, which she presented in December, clarifies Lebowitz’s voting rights. The Executive Committee was asked to look into his voting eligibility and consulted the administration. It was made clear that retired faculty members cannot serve as active, voting senators and senators must be elected by their schools.

The Governance Committee stated their recommendation to permit Lebowitz to vote until the question of representation at SCPS was resolved. The NYU Bylaws state that every school is entitled to representation. While the Bylaws are also clear that Lebowitz is not eligible to serve as an active senator, the Committee recommends an exception be made and noted exceptions to the Bylaws have been made
in the past. They stated SCPS should have representation and being an observer is not full representation.

Magder spoke in favor of the motion to seat Carl Lebowitz as an observer without voting rights for the remainder of the year and presented his memo. See attached Document C.

At the conclusion of the discussion, the following motion was approved by vote of 19 senators in favor and 8 senators opposed, with 3 abstentions:

*IT IS RESOLVED: That Carl Lebowitz will serve as an observer without voting privileges for the remainder of the year.*

**ELECTION: CHAIRPERSON, 2013-2014**

See attached Candidate Statements, Documents D and E.

Chairperson Magder asked for any nominations from the floor.

The election of FSC Chairperson for 2013-2014 took place by secret ballot from the following slate of candidates presented by the Nominating Committee:

a. Raghu Sundaram (Stern)
b. Jim Uleman (FAS)
c. Other: _____________________

Senators Van Devanter and Karl from the Nominating Committee supervised the counting of the 34 ballots and Karl reported the results of the election: Raghu Sundaram from the Stern School will serve as FSC Chair for academic year 2013-2014.

**REPORT FROM THE CHAIRPERSON: TED MAGDER**

Executive Committee (EC) Meeting with Provost McLaughlin and Meeting with President Sexton

Magder reported the EC met with Provost McLaughlin and with President Sexton. The discussion with the Provost focused on Sexton’s recent memo regarding faculty oversight on committees related to the Global Network University (GNU). The FSC will have representation on the broad GNU committee.

The meeting with Sexton included a discussion of the Liberal Studies Program (LSP) review. The Dean of the Faculty of Arts and Science (FAS) is leading a thorough review of the relationship between Liberal Studies and FAS. The review of the LSP Dean is also included in this review.

The topic of the presidential transition was also discussed at the meeting with Sexton. The EC expressed concern regarding the limited role of the faculty in the selection and review process. Sexton stated he understands this history and has communicated this concern to the Board of Trustees (BOT) and his goal is to ensure the BOT involve faculty in an advisory role. It was noted that faculty were involved in this process in the past, but that tradition has not been followed in recent years.
FSC COMMITTEE REPORTS

Executive Committee: Chairperson Magder

Proposed amendment to NYU Bylaw 63(c) regarding elections

The Executive Committee presented the following motion (See attached Document E):

The Faculty Senators Council proposes the following amendment to NYU Bylaw 63 (c):
All elections for members of the Faculty Senators Council shall be held prior to June 1, except in extenuating circumstances. The name of each representative to the Senate should be transmitted to the Secretary of the Senate within five days.

This proposal relates to the discussion in the fall regarding the May 1 election deadline. The EC suggests switching the deadline to June 1 to allow more time for schools to complete their elections and changing the language from “shall be” to “should be” to allow for cases where the results take longer to send.

The Chair of the Governance Committee noted this proposed amendment was not passed along to the Governance Committee, which has the charge to monitor elections in schools.

Senators discussed potential extenuating circumstances, commenting that filling a slot on August 1 without reason would not be considered an extenuating circumstance. Unanticipated vacancies, however, can be filled as needed.

The consequences of violating election rules was discussed, and how the Executive Committee and Governance Committee would be involved in monitoring elections, meeting deadlines, and approving special circumstances.

A subsidiary motion was moved and seconded to postpone the motion and send to the Governance Committee for review and to report at the next meeting. The motion carried with one opposed.

Tenure Modifications/Personnel and Affirmative Action: Committee Chair Monaco

Recommendation on Revisions of Appointment, Promotion and Tenure for Dentistry and Nursing

The joint committee unanimously recommended approval of the proposal to allow assistant professors on non-tenure tracks who are not promoted at the end of ten years to remain employed.

A Senator commented this may provide less motivation for these assistant professors to be promoted.

The following recommendation was approved with 2 abstentions:

The Council recommends approval of the proposal to allow assistant professors on non-tenure tracks who are not promoted at the end of ten years to remain employed.

Recommendations on the Policy on Electronic Communications and Social Media

The Committee stated the draft of this policy requires extensive revision and needs more collaborative work than the usual submission of a recommendation. They presented their major concerns and
recommendations, including recommending including experts in social media policy and law from both in and outside NYU in the review process and considering social media policies from other universities as templates. See attached Document F.

It was suggested that the Student Senators Council (SSC) and Administrative Management Council (AMC) be involved in the review process. It was questioned whether this document would override current schools’ policies, for example the School of Medicine’s policy.

The recommendation was approved by vote of the Council, with the following addition:

The FSC also recommends the creation of a deliberative taskforce that involves other members of the community, including students and administrators, to address the concerns outlined below and any other concerns raised. We would expect the FSC would also have an opportunity to review subsequent drafts of this policy.

Finance and Policy Planning: Committee Chair Monaco

*Revised recommendation of the Finance and Policy Planning Committee for salary increases for 2013-2014*

The Committee presented the revised recommendation. See attached Document G. In this version, revised from the December recommendation, the Committee used the average of the inflation rates for the last three years instead of the last five years. This changes the final recommendation from an increase of 4.35% in the faculty salary pool to a 5.25% increase. It was noted that recommendations on faculty benefits were not included.

Senator Uleman stated he was informed the Board of Trustees approved a 3% raise for faculty and a 2.5% raise for administrators. The Chairs expect this to be clarified at the Senate Financial Affairs meeting.

The Senators discussed how this pool is distributed by the School Deans. It was suggested that information on this distribution, and the differences among schools, be shared. It was also suggested that the problem of salary compression be addressed.

The recommendation presented was approved by vote of the Council.

Housing: Committee Chair Magder

*Recommendation on Community use of space at 4 WS Village*

The Housing Committee met with Alicia Hurley, Vice President for Government Affairs & Community Engagement, to discuss the community use of the space at 4 Washington Square Village. The Committee presented the following recommendation:

We recommend that the University continue to pursue conversations with the community to determine priority community needs. FSC has identified daycare for children, elder care, and urgent care as possible uses. We would appreciate the opportunity for further consultations before a final proposal is submitted to Councilwoman Margaret Chin’s office for approval.

The Committee stated the Office of Government Affairs and Civic Engagement needs more information on community views and is seeking counsel from the FSC on how to gather feedback, including from the faculty and the FSC. Magder will present this recommendation to Hurley.
Report from FSC Representative on University Space Priorities Working Group: Active Alternate Chan

Active Alternate Chan stated the Working Group is examining the demands for space, how NYU will pay for space, and if it is decided to build, how construction will affect quality of life for everyone in the community.

The Group is gathering faculty input and Chan suggested Senators attend a special meeting with members of the Working Group to offer their input.

A Senator asked if the Working Group has taken into account all of the input, including surveys of faculty, and if this information is available on the website. It was also asked if the Working Group could recommend no new construction. Chan referred to the January 2013 Update on the University Space Priorities Working Group, which clarified all possible options. See attached Document H. This did include the possibility of no new construction on the southern or northern blocks.

ADJOURNMENT

The meeting adjourned at 2:00 PM.
TO: Faculty Senate Council

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: Temporary Solution to SCPS-FSC Representation and Resolution

FSC passed the following Resolution at our first meeting of 2012-13, September 13, 2012:

"Background: In keeping with the practice that each school be represented by at least one Senator, and in view of the fact that the only eligible faculty member did not respond to an invitation sent April 26, 2012 to serve as a Senator, the Faculty Senators Council (FSC) passed the resolution below at its first meeting of the year. The FSC also asked the Executive Committee to determine whether a retired faculty member would be eligible to serve as a voting member of FSC.

"Resolution: IT IS RESOLVED: That the Faculty Senators Council extend an invitation to the most recent School of Professional and Continuing Studies (SCPS) senator, Carl Lebowitz, to serve on the Council for a one year term."

Events that followed include:

1. In order to help the Executive Committee decide whether Professor Lebowitz would serve as a voting member on the FSC, the above Resolution was forwarded to Ms. Brier (Senior Vice President) and Ms. Morrow (Associate Provost) on Sept. 25, 2012.

2. A meeting was requested between Ms. Brier and members of the Executive Committee and the Governance Committee to discuss Professor Lebowitz’s eligibility to vote. During the course of the Fall 2012 semester, meetings were scheduled and postponed repeatedly by Ms. Brier, until finally one actually took place on Dec. 5, 2012. By then, 3 out of 4 Fall 2012 FSC meetings had taken place without an SCPS representative exercising a vote on behalf of the school. At that meeting, attended by Ms. Brier (and a staff member to take notes) from the administration on the one hand, and by Professors
Magdar and Monaco of the FSC Executive Committee, and Professors Harrington, Jelinek, and Uleman of the FSC Governance Committee on the other, the two sides came to an impasse (after Professor Magdar had to leave). A consensus on how to interpret the University Bylaws was not reach, leaving the problem of SPCS representation unresolved.

3. On Jan. 22, 2013, the Executive and Governance Committees members received a memo dated Jan. 15, 2013, from Ms. Brier. It provides her interpretation of the situation, along with selections from the University Bylaws and the FSC’s Rules of Procedure that she believes support it.

FSC’s [EC and GC reps] Interpretation of the Situation:

1. Our position was that our Sept. 13 resolution gave Carl the right to vote in FSC meetings for the current academic year (even though he has not voted because of uncertainties surrounding this). The was based on:
   • NYU Bylaw 63(c), Elections and Appointments to the FSC, providing that “each school will be entitled to at least one faculty Senator,” and
   • NYU Bylaw 63(c), Elections and Appointments to the FSC, providing that “Final determination of eligibility for membership rests with the extant Faculty Senators Council.”

2. Our position recognized that the SCPS should have representation on the FSC, even though there are no eligible (i.e., full-time tenured and tenure-track) faculty in the SCPS willing to serve. Professor Lebowitz served on the FSC until his recent retirement, and is willing to continue serving if a temporary exception is made under Bylaw 63(c) in order to provide SCPS with some representation.
   • Ms. Brier’s position is that the FSC has no authority to appoint its members because Bylaws 63(b) and 63(c) “require a Senator to be elected by the voting Faculty of the School that the Senator represents.” She also cites sections of FSC’s Rules of Procedure that make the same point. In addition, she cites bylaw 65(b) governing the Student Senators Council, where only deans (but not the SSC) may appoint Senators whenever no student Senator is elected. Furthermore, she cites University Bylaw 87(a) and (b) stating that professors emeriti are ineligible to serve as members of the FSC.
   • Ms. Brier’s position overlooks the fact that there is only one faculty member in the SCPS who is eligible either to vote in an FSC election or to serve as a Senator, and he has not responded to FSC communications. It also overlooks the requirement (FSC’s Rules of Procedure 3a) that there must be “three names for each Senatorial position” in any election of Senators. Therefore holding the SCPS senatorial position open until a regular election is held would keep the position vacant indefinitely.

3. Under the current, unusual (and hopefully temporary) circumstances in the SCPS, the University Bylaws and the FSC’s Rules of Procedure each contain contradictions when
applied to the SCPS. The SCPS is entitled to representation on the FSC, yet there is no available applicable procedure to select a representative. The proposal of only allowing Carl to "observe" without voting, which is Ms. Brier’s solution to the present situation, raises the following problems:

- Observer status can only be granted by the Councils; and
- Given the peculiar and particular circumstances now existing in the SCPS, observer status does not fulfill the entitlement granted to each school in NYU Bylaw 63(c).

Recommended Resolution on SCPS-FSC Representation

WHEREAS the NYU Bylaw 63 (c) provides that “Final determination of eligibility for membership rests with the extant Faculty Senators Council,”

RESOLVED that the Faculty Senators Council invite the most recent School of Professional and Continuing Studies (SCPS) senator, Professor Emeritus Carl Lebowitz, to serve as a voting member of the Council until another method for representing the SCPS is adopted.
Memorandum

Date: January 15, 2013

To: Faculty Senators Council Executive and Governance Committees

From: Bonnie Brier, General Counsel

CC: David McLaughlin, Provost

Re: FSC Resolution regarding Senate Representation from SCPS, Approved September 15, 2012

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.
From: Ted Magder, Chair FSC
To: FSC: February 14, 2012, meeting of FSC

Re: Governance Committee Memo: Temporary Solution to SCPS-FSC Representation and Resolution, February 11, 2013 and the motion to seat Carl Lebowitz as an “observer” for the remainder of the 2012-2013 academic year.

For the second time this year, I find myself in the uncomfortable position of having my position, and presumably the position of EC, misrepresented by the Governance Committee.

Reluctantly, I am submitting this written statement in an effort to clarify my opinion.

The Feb 11 Governance Committee memo’s uses the sub-heading “FSC’s [EC and GC reps] Interpretation of the situation” to frame its discussion of the bylaws and its temporary solution to SCPS-FSC representation.

For the record, no draft of the memo was circulated to all members of the EC for review or comment before the final version was distributed to all members of Senate. It does not reflect my interpretation of the bylaws, or my recommendation on a temporary solution. I am almost entirely at odds with its content.

I am in favor of the motion to have Carl Lebowitz serve as an observer without voting privileges for the remainder of the year. My recommendation is the exact opposite of the GC’s recommendations, which is to allow the FSC to appoint Carl Lebowitz, a retired faculty member, as the SCPS senator for an indeterminate length of time.

Arguably, even granting observer status to a retired faculty member appointed by the FSC is a flawed proposal, but to do any more than this – to give voting rights to a retired faculty member, unelected by his school – would push FSC way beyond any plain reading of the bylaws and would run afoul of our traditions and customs. It would also diminish our reputation as a responsible and reasonable representative of faculty interests.

The GC memo is right on one thing: schools are entitled to at least one senator each.

But the bylaws do not give the FSC the right or the capacity to exercise that entitlement on behalf of a school. The bylaws are explicit: only the three senator-at-large positions are appointed by the FSC. Schools elect their own senators.

In September, FSC took the extraordinary step of appointing a senator on behalf of SCPS, with the expectation that the Executive Committee would review that decision with the Secretary of the Senate to determine specifically whether full voting rights could be extended to a retired faculty member, unelected by his school. No is the answer we have received from the University’s General Counsel, for reasons stated clearly at the meeting held with members of the EC and GC in December and summarized in the General Counsel’s memo to this body. It is a fair and plain reading of the bylaws, wholly consistent with the past practice of the FSC.

The rationale for the Governance Committee’s recommendation that we seat a retired and unelected faculty member to represent a school hangs on one sentence in the bylaws, which reads “final determination of eligibility for membership rests with the extant FSC.”
The GC has read that phrase out of context. It comes at the end of a section on determining the eligibility to serve as senators for faculty who hold administrative positions, like vice-provost or dean, and faculty who hold appointments in more than one school.

But even if we grant for a moment the GC’s interpretation that FSC – and FSC alone – determines eligibility in all instances, the right to determine eligibility is not the right to appoint. If, as a body, we now believe that in certain instances retired faculty should be full voting members of Senate, then we should inform SCPS that it can fill its entitlement to one senator with a retired faculty. Given the reasoning of the GC’s memo, that should be its conclusion. We do not have the power to appoint senators on behalf of any school. The entitlement to a senator belongs to the school.

The election of senators by schools is a fundamental principle. We honored that principle in the fall when, by an overwhelming majority, the FSC voted against the GC’s recommendation and welcomed the senator from the Law School who was elected after May 1. In that case we filled a vacancy, which is permitted by our own rules and rules and by Roberts Rules of Order.

If holding elections is the first principle, the second principle should be that eligible faculty should be active members of our community. Retired faculty have never been eligible to run for school election. At the last FSC meeting, mention was made of two possible exceptions: retired faculty who served as senators. The reference was to two School of Medicine senators who retired – or made their retirement public knowledge – midway through the year and served out their term. No one who was already retired has ever been elected to senate with full voting privileges.

I value and respect the FSC’s tradition of welcoming retired faculty at FSC meetings. They provide us with wise counsel. But voting senators, full senators if you will, must be active in their respective school and elected by their schools. The bylaws say exactly that.

Please affirm the motion to make Carl Lebowitz an observer at FSC meetings for the remainder of this academic year. It’s the reasonable, temporary measure we should take. It falls with our rules and within the bylaws. At the December meeting, the administration signaled its willingness to recognize Carl Lebowitz as a “special guest” of University Senate for the remainder of the year.

The question of what to do for next year should be a topic for discussion at a future meeting of FSC.

Respectfully,

Ted Magder
Dear Colleagues,

Over the last year, we have achieved much as a body, including, importantly, getting the principles of shared governance accepted at the University level and included in the Faculty Handbook. But many challenges remain and new ones will no doubt come along.

At a “macro” level, the nature of the university is undergoing a transformation, partly created by developments from within, partly in response to forces from without. On the one hand, institutions of higher learning are increasingly relying on non-tenure-track (NTT) faculty for teaching responsibilities; at NYU overall, NTT faculty now slightly outnumber TT faculty. On the other, advances in technology and the rise of massive open online courses (MOOCs) with the active participation of some of the largest and most prominent universities are challenging conventional ideas of what is taught in the classroom and how it is taught. The issues raised by these developments have required and will continue to require considered and thoughtful responses from us.

Closer to home, NYU will likely face a presidential transition in the coming years, and it is important that the FSC play a meaningful role in that process. Meanwhile, we need to convert words into action, and see that the principles of shared governance are implemented in practice. President Sexton has said that he wishes to “deepen and broaden” the involvement of faculty in university decision-making. That places upon the Administration the responsibility to involve us meaningfully in decision processes. It also places upon us the onus of participating actively and constructively in the various university committees on which we now serve and in which we will have the opportunity to participate.

We are indeed at an interesting juncture.

What kind of Chair would I look to be?

First, I will strive to maintain collegiality in the FSC and to arrive at consensus decisions. We are all spirited, passionate, and sometimes—let’s admit it—opinionated people. But we are also reasonable people who can respect differences of opinion, and, as our own history shows, we work best when we do so.
Second, rules and protocol are important, and I will look to ensure they are followed in all aspects of FSC processes and communications, including in the Council’s internal elections and deliberations. Transgressions should not be readily countenanced, and we should all look to minimize these. But I think a “rules-above-all-else” attitude is counterproductive and I am not suggesting that we adopt such a stance.

Third, I will not compromise on principles, but I do not believe in needless confrontation. I believe we should keep talking to the Administration, even—or especially—when we have sharp points of disagreement with them. If elected, I look forward to the responsibility of representing the views of the FSC to University’s senior administration.

Fourth, I will look to create better mechanisms to consult faculty across the university on emerging issues, including by engaging more with institutions of “local” governance—the elected representatives who constitute the faculty councils of each school.

If you have any follow-up questions, I would be delighted to address them. Please feel free to send me email to rsundara@stern.nyu.edu or, if you would prefer to talk, to call me at +1.917.974.3580.

Sincerely,

Raghu Sundaram

About me I did my undergraduate degree and my MBA in India (1982 and 1984, respectively), and received my PhD in Economics from Cornell University in 1988. I was a member of the Department of Economics at the University of Rochester from 1988 to 1995, receiving tenure in 1994. In 1995, I resigned my tenure, switched fields, and began a new untenured career in Finance at Stern, receiving my second tenure in 2000.

From 2002-07, I ran the PhD program in Finance at Stern. While at NYU, I have served on 20 PhD committees (6 as Chair) in Finance, Mathematics, Statistics, and Accounting, and have also supervised 8 other (Master’s and undergraduate) theses. I have authored two textbooks, one on optimization theory and one on financial derivatives, and several dozen research articles in finance and economics. My website http://pages.stern.nyu.edu/~rsundara contains a detailed listing of my professional work.

On the personal front, my immediate family consists of my daughter (a 16-year old high-school student in her junior year) and myself. But our ties to NYU extend well beyond just me: over the last several years, close family members have graduated from the Law School and the Stern School, and a nephew is now a student at the Steinhardt School.
February 1, 2013

Dear FSC colleagues,

Why am I willing to serve, if I were elected chair of the Faculty Senators Council? “Shared governance” sums it up. It seems to me that the FSC is at a critical juncture in its development at NYU. Before I became a senator (in the fall of 2011), you passed a resolution on shared governance that described five principles designed to give it meaning, and remedy its neglect in the past. I’ve long felt these principles received only lip service at NYU. I remember serving as an alternate to FSC years ago, and hearing repeated complaints about years of administration foot dragging in making basic economic information available on which to base salary recommendations. I’ve served on committees in FAS in which there were brief discussions about the right thing to do, and much longer discussions about what might be, on the other hand, acceptable to the dean. So I lost interest in “faculty governance.” It seemed like empty window-dressing with little effect or substance. Many faculty continue to have this view, in spite of all the good work that FSC and its committees have managed to do on behalf of the faculty over the years.

But things are changing. The FSC has passed a Resolution on Shared Governance three times (5/5/11, 5/3/12, and 11/20/12), in the course of getting it recognized by the administration and included in the Faculty Handbook. The first time, it was ignored. The second time, we were asked to remove it from our website (and we declined, with reasons: nyu.edu/content/dam/nyu/facultySenatorsCouncil/documents/SharedGov102912.pdf). But the third time was the charm. Members of the FSC Governance Committee sat down with members of the administration and worked out language acceptable to both. These revised principles were endorsed again by us and approved by the Board of Trustees, for inclusion in the Faculty Handbook. We are justly proud of this accomplishment. And as one member of the FSC Governance Committee, I’ve felt particularly pleased to have a hand this.

There are other fronts where we all should be proud of FSC achievements. Again before I joined the FSC, the Provost made an email channel available to all Senators, so we can communicate directly with all faculty in our schools (through Email Direct and our deans’ offices). As chair of the FAS-FSC Caucus for the past year and a half, I’ve used this channel to inform FAS faculty of concerns that came to senators’ attention, and to call regular meetings of FAS faculty (without administrators) to share information and discuss these concerns. Since last spring, we’ve held two “open forums” each semester. Turn out for the first one was modest – about the size of the faculty turnouts for the regular Full Faculty Meetings (FFMs) chaired by the FAS dean. I didn’t know whether faculty would be interested in yet another meeting, in addition to their already full-time teaching and scholarship schedules. And if faculty had stopped coming, I would have abandoned this experiment in shared governance and tried something else. But so many faculty found these forums useful that attendance grew until it was three to four times the size of the FFMs.

At the most recent open forum in November, the 70 faculty in attendance passed a resolution to hold a meeting and vote on whether (and when) to conduct “a vote of no confidence in President Sexton’s leadership.” This initial vote was well publicized in advance by prior discussions and
postings through Email Direct. At the resulting meeting this past December, the 280+ full-time tenured and tenure-track faculty in attendance voted 56% in favor of holding such a vote in March, 2013, by electronic secret ballot. I don’t know which way this vote will go, and am quite familiar with arguments on both sides of this issue. The most important thing to me is that the FAS faculty have shown their interest in being more involved in the governance of the university -- by their attendance at meetings, their thoughtful discussion of a wide range of topics, and their votes. Faculty who had been apathetic, resigned, or fearful of speaking up have found their voices, on both sides of this no-confidence issue as well as on other issues involving a lot more nuance and subtlety.

It is equally important to me that the 40-member elected Faculty Council at the School of Medicine recently made its views known on this no-confidence issue, voting 76% to endorse President Sexton’s leadership. I’m grateful to our colleagues at the School of Medicine for inviting me to address them before that vote, to describe the process by which FAS faculty arrived at their decision.

This increased involvement of faculty at the school level is vital to shaping the quality of our work environments, and to our ability to act as representatives of the faculty. As you know, last winter (1/26/12) we voted to recommend that the full-time non-tenure track faculty (NTTF) seek representation in university governance through their own organization, rather than through the FSC. So this fall, when a motion was offered at the first FFM of FAS, to extend voting privileges to NTTF, several senators spoke out against it and it was defeated. Our reasoning was the same – that including NTTF would dilute the impact of TTF decisions; that TTF are uniquely responsible for the shape of their disciplines, and should therefore oversee the curriculum; and that NTTF are more vulnerable to administration pressure.

In short, the progress we have made by getting shared governance into the Faculty Handbook is an important beginning for developing new ways of working on the FSC and with our partners in the faculty, administration, Board of Trustees, as well as with NYU students and alumni. This is why I got so heavily involved in putting together the FSC Faculty Survey on the NYU 2031 Plan (spring of 2012) and in analyzing the data. Shared governance, to me, means exactly that -- that policy decisions are worked out in meetings of elected faculty (who know and represent the range of faculty’s views) and administrators, until they find some common ground.

Representative faculty and administrators must develop a tradition of deliberating and negotiating as equals, with final authority residing (of course) with the Board of Trustees. This is why I believe FSC must play a central role in university policy making. We faculty have the primary responsibility for shaping and passing on the intellectual heritage that universities represent, and for defending the academic freedom on which this depends. Critically, we are less vulnerable to administration pressures than NTTF (or for that matter, than members of the Administrative Management Council who don’t have tenure, or members of the Dean’s Council, whose positions and salaries depend on the administration). We have seen the beginnings of such a tradition in the recent negotiations on shared governance. And we are surely seeing the results of a failure of shared governance in recent events around the vote of no confidence in FAS. As many have noted, such a vote is “a blunt instrument,” and real shared governance is far preferable. Everything else follows from this.
Since some of you do not know me (believe me -- I study person perception and impression formation), let me end with a little about who I am. I got my undergraduate education at Caltech and Michigan, and my PhD at Harvard. Fundamentally, I’m a scientist interested in social behavior. I’ve pioneered the study of “spontaneous trait inferences” (unconscious and unintended inferences about other people) over the past 30 years. I use the methods of cognitive psychology (response times, memory errors) to measure these, and the methods of experimental social psychology to affect them. My students, colleagues and I have convinced the field that these things exist and are interesting. (See Uleman, Rim, Saribay & Kressel, 2012, at www.psych.nyu.edu/uleman). I’m a Fellow of the Association for Psychological Science, the American Psychological Association, the Society for Experimental Social Psychology, and the Society for the Psychological Study of Social Issues (www.uleman.socialpsychology.org), and a recipient of research grants from the NSF and NIHM. I directed the doctoral program in social psychology at NYU for 22 years, during which time it rose from relative obscurity to a place among the top half dozen programs in the world. I have the usual number of peer-reviewed journal articles, chapters, and edited books. Former student-coauthors have gone on to the faculty positions at Bogaziçi (Istanbul), Delaware, Illinois (Chicago), Lehigh, NYU (Stern), Princeton, and Syracuse. Beyond this, I’m a husband, father (of 3) and grandfather (of 2). I have no ambitions for higher office, but hope to help make more of NYU into the congenial supportive workplace that the psychology department has been for me most of my 42 years at NYU.

I welcome your support and will work hard to remain worthy of it.

Yours,

Jim Uleman
Proposed Resolution Regarding Amendment to NYU Bylaw 63(c)

Presented by the Executive Committee for consideration at the Faculty Senators Council Meeting, 2/14/13

Background:

In the Bylaws of New York University (Amended and Restated: Effective September 1, 2011), NYU Bylaw 63 (c) Elections and Appointments states:

*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.*

In the Rules of Procedure of the Faculty Senators Council of New York University (as Amended through May 3, 2012), Rule 1. Representation (d) Time of Elections states:

*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.*

Resolution:

IT IS RESOLVED, that The Faculty Senators Council proposes the following amendment to NYU Bylaw 63 (c):

All elections for members of the Faculty Senators Council **shall** be held prior to **June 1, except in extenuating circumstances.** The name of each representative to the Senate **should** be transmitted to the Secretary of the Senate within five days.
To: Faculty Senators Council  
From: Tenure Modifications Committee and PAAC  
Date: February 10, 2013  
Re: Draft of Electronic Communications and Social Media Policy

The Tenure Modification Committee and PAAC have reviewed the draft of the Electronic Communications and Social Media Policy and found it problematic in numerous respects. Rather than review it line by line, we will indicate our main areas of concern below. We recommend that additional experts in social media policy and law from both within and outside the University be consulted; for example, someone such as Helen Nissenbaum might be appropriate. We further recommend that social media policies from other universities be considered as possible templates. Harvard has a well-developed one, as does Washington State University.

The main concerns articulated by the joint committee are:

1. The draft contains no statement about academic freedom or about the free speech and other legal rights of NYU employees and students, with citations to the pertinent documents or legal precedent, as other university’s policies have done. Nor does it clarify that employees have a right to express policies different from or critical of their employer, as the NLRB has stipulated.

2. The motivation for and concerns behind the drafting of this policy are unclear. Why is it being proposed now? Of what benefits and risks of electronic communications does the university feel it needs to make people aware?

3. The scope of the proposed policy is very broad and ill-defined, and exactly who and what falls under its purview is not clearly specified. Many definitions are murky and seem arbitrary. For example, what constitutes an NYU network or group? What is a mass e-mailing? Why does the University community include volunteers and what legal authority does the University have over them? What constitutes an NYU blog?

4. It is unclear whether NYU is claiming the right to monitor only emails sent from an NYU computer using an NYU email account, or anything sent from an NYU email address from any computer, or any email from whatever address sent from an NYU computer.

5. The section on Enforcement does not indicate which bodies will decide whether an electronic communications policy has been violated, whether those bodies are to be elected or ad hoc, and (especially) what appeals procedures are available to employees and students in the case of an alleged violation of the policy.

6. Does this policy set a precedent for non-electronic communications, and is there a parallel university policy for non-electronic communications? For example, must
the Office of Public Affairs be notified only if a person is contacted by the media about an Institutional Social Media Account, as section III d suggests, or for any instance in which NYU’s name is used as an identifier, as section II c implies.
MEMORANDUM

TO: Members of the Senate Financial Affairs Committee

FROM: The Faculty Senators Council

RE: Recommendation to the administration on matters pertaining to faculty compensation and faculty benefits for the academic year 2013-2014.

DATE: December 11, 2012

While the Faculty Senators Council is cognizant of the financial pressures on the University and the uncertainty created by the rapid expansion of the Global Network University as well as the added demands that may result from the recent disaster at the NYU Langone Medical Center, we nevertheless note that the merit pool for faculty salary increases has failed to keep pace with the increased cost of living in the New York metropolitan area over the last decade. The average compounded rate of increase in faculty salaries averaged 2.55% yearly over the last ten years, while over the same period inflation averaged 2.77%. By comparison, NYU tuition increases averaged 4.96%. See Table 1.

Additionally, benefits continue to decline in value. There has been a significant shift of the burden of health care costs onto the employees as well as substantial increases in the rent on faculty housing. Tuition remission benefits have been decreased and younger faculty will receive less in retiree health care benefits.

Taken together, the failure of faculty salaries to keep up with inflation combined with the decrease in value of benefits have the potential to adversely affect faculty morale, retention and recruitment.

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1 This may seem like a small difference, but compounding it over a decade has created a significant deficiency in the current real income of faculty compared to 2002.
To offset the decline in real income for continuing faculty, the Faculty Senators Council recommends an increase of 5.3% in this year’s faculty salary pool, of which all faculty will receive a minimum corresponding to the amount of the NYC cost-of-living index.

### TABLE 1

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<th>ACADEMIC YEAR</th>
<th>NEW YORK CONSUMER PRICE INDEX</th>
<th>NYU CONTINUING FACULTY SALARY INDEX</th>
<th>FACULTY MERIT SALARY INCREASE (%)</th>
<th>NYU TUITION INDEX</th>
<th>NYU TUITION INCREASE (%)</th>
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2 We use the New York-Northern New Jersey-Long Island NY-NJ-CT-PA Consumer Price Index (CUUSA101SA0) as reported by the US Bureau of Labor Statistics. As the USBLS notes, “The New York-Northern New Jersey-Long Island, NY-NJ-CT-PA consolidated area comprises the five boroughs of New York City, Nassau, Suffolk, Westchester, Rockland, Putnam, Dutchess, and Orange Counties in New York State; Bergen, Essex, Hudson, Hunterdon, Mercer, Monmouth, Middlesex, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties in New Jersey; Fairfield County and parts of Litchfield, New Haven, and Middlesex Counties in Connecticut; and Pike County in Pennsylvania.” The CPI is calculated September to August to correspond to NYU budget years.

† The predicted inflation rate for 2013-14 is the average of the inflation rates for the last 3 years.
Dear Fellow Members of the University Community,

I write on behalf of the University Space Priorities Working Group with a brief overview of our work to date.

Established in September 2012, the Working Group is composed of 20 faculty representatives appointed by the schools and the Faculty Senators Council, as well as two representatives each from the Student Senators Council, the Administrative Management Council, and University administration.

We came together to examine NYU’s projected space needs and to give advice on how they can best be met. Our work stems from New York City Council’s approval last July of NYU’s application for new construction on the “superblocks,” the NYU-owned land bounded by Houston to the south, Mercer to the east, La Guardia Place to the west, and 3rd Street to the north, with Bleecker bisecting the area into a “southern” and “northern” block. The core NYU plan envisions the construction of new classroom space, student dorms, faculty housing, office space, labs, and performance spaces. If built to maximum density, the plan would add a total of 1.92 million square feet to the Washington Square campus. As a point of comparison, Bobst library is roughly 450,000 square feet.

The immediate focus of our attention is the southern superblock, specifically the current site of Coles gym and the Morton Williams supermarket. NYU has no plans for construction on the northern block until 2022 at the earliest. Of the two sites on the southern block, the Coles gym site represents nearly 50% of the total approved density. As part of City Council’s approval, the School Construction Authority (SCA) has until the end of 2014 to exercise an option to partner with NYU on construction at the Morton Williams site: SCA would build and operate a public school above-grade, and NYU would take possession of the below-grade space. Finally, if no construction takes place on either block within 10 years of the City’s approval, the plan expires in its entirety.

The approval from New York City is a "zoning envelope," in other words, an outer limit of permissible development. The University must now decide how to make use of it. The plan permits NYU to build on land that it already owns, but does not require it to do so. The University could decide that it would be best to build only a part of what the City Council permitted, or not to build at all. Space needs might also be met by purchasing or leasing new real estate, instead of, or in combination with, construction on the superblocks.

The mission of the Working Group is to provide the University with definitive guidance on space, including: principles and priorities that should inform its development and use; strategies to improve the efficiency and usage of existing space; advice on the improvement of open space; recommendations for the amelioration of the impact of any construction on residents on the Washington Square campus; and specific advice on the construction or acquisition of new space within or near the core Washington Square neighborhood to feasibly and responsibly meet the University’s needs for space. To exercise our charge, we have been exploring the full range of options available to the University for the development of new space and the renovation of existing space, including the possibility of no new construction on the southern or northern blocks.

Over the last four months we have cast a broad net to gather the information we need in order to make well-considered and responsible recommendations. We have reviewed existing documents, having requested and received new material on all facets of space as a University resource and strategic need. We have looked at how the University determines its space needs and establishes its strategic priorities. We have begun to examine classroom use, including utilization rates and current and projected needs,
and plan to explore options for increasing the efficient use of classroom space. The Working Group has also reviewed an array of documents regarding current and projected academic space needs, ranging from the 2002 "Transition Team Academic Space Committee Final Report," to the Provost's November 2012 presentation, "Academic Space & Academic Momentum," with supporting documentation on new and incremental academic needs in the core through 2020. We have also reviewed details regarding current University space usage in the core, construction and renovation over the past decade, new real estate opportunities in both the core and other parts of the city, as well as possibilities for the expansion of academic space within the core through additional renovation and administrative office relocation.

We spent the bulk of two meetings reviewing the University's financial planning documents in order to understand the implications of different kinds of new construction or real estate acquisition for the University's debt and future financial health. A subcommittee on finance will continue this review.

We have more to do before we begin to formulate recommendations, including an examination of faculty housing, a thorough assessment of student space -- such as study space, dormitories, as well as space for extra-curricular activities -- a review of Coles gym and other NYU athletic and recreational spaces near the square, and an assessment of the quality of life implications of possible construction in the core and options for minimizing its impact.

From the outset, we have been committed to openness and transparency in our proceedings. All documents provided by the University administration, along with our meeting agendas and summaries, are publicly available on the Working Group’s website. New documents are posted on our website as soon as possible, and you can register to receive notification of updates. The Working Group encourages all members of the community to submit written comments at any time.

As we move toward the deliberative phase of our work, we shall seek every opportunity for conversation and consultation with all members of the University community. As part of that effort, we invite you to contact members of the Working Group via our website to arrange a meeting.

We welcome your thoughts on all aspects of our work, and look forward to a sustained and productive dialogue as we advance toward fulfillment of our charge.

On behalf of the members of the Working Group,

Ted Magder, Chair

Barbara Albrecht
Robert Berne
John Billings
Corey Blay
Sewin Chan
Mary Cowman
Mariam Ehrari
David Engel
Allyson Green
Wen-Jui Han
James Jacobs
Angela Kamer
Perri Klass
Martin Kurth
Laurence Maslon
Panos Mavromatis
J. Anthony Movshon
Anthony Saunders
Rosemary Scanlon
Andrew Schotter
Jalal Shatah
Matt Stanley
David Vintinner
Larry White
Diane Yu