MINUTES OF THE T-FACULTY SENATORS COUNCIL MEETING OF MAY 7, 2015

The New York University Tenured/Tenure Track Faculty Senators Council (T-FSC) met at noon on Thursday, May 7, 2015 in in the Global Center for Academic & Spiritual Life at 238 Thompson Street, 5th Floor Grand Hall.

In attendance were Senators Alter, Amkpa, Antoon, Backus, Chan, Diner, Disotell, Garabedian, Jacobs, Jelinek, Kamer, Kane, Klimke, Ling, Ludomirsky, Miller, Mincer, Pearce, Smith, Stokes, Sundaram, Thurston, Uleman, Van Devanter, and Zwanziger; Active Alternates Archer, Cappell, Ebsworth, Hawkins, Hurbis-Cherrier, and Pearce; Alternate Senators Reiss, and Tannenbaum. Former Members Moskowitz and Raiken attended as guests.

APPROVAL OF THE MINUTES OF THE MEETING HELD APRIL 16, 2015

Upon a motion duly made and seconded, the minutes of the April 16, 2015 meeting were approved unanimously.

ELECTION OF T-FSC VICE CHAIRPERSON AND SECRETARY 2015-2016

See attached Document A: Candidate Statements.

Chairperson Sundaram asked for any nominations from the floor. He stated the candidates submitted written statements ahead of the meeting.

The election of T-FSC Vice Chairperson and T-FSC Secretary for 2015-2016 took place by secret ballot from the following slate of candidates presented by the Nominating Committee:

Vice Chairperson:
 a. Awam Amkpa (Tisch School of the Arts)
 b. Maurizio Porfiri (Polytechnic School of Engineering)

Secretary:
 a. Arvind Rajagopal (Steinhardt School)
 b. Jim Uleman (Faculty of Arts and Science)

Senator Backus and Zwanziger from the Nominating Committee supervised the counting of the 35 ballots, including seven absentee ballots, and Backus reported the results of the election: Awam Amkpa from the Tisch School of the Arts will serve as T-FSC Vice Chairperson and Arvind Rajagopal from the Steinhardt School will serve as Secretary for academic year 2015-2016.
REPORT FROM THE CHAIRPERSON: RAGHU SUNDARAM

End of Year

Chairperson Sundaram expressed his gratitude to the Council, the two Executive Committees he worked with, including Awam Amkpa and Charlton McIllwain last year and Allen Mincer and Mitchell Kane this year, the Committee Co-Chairs, Committees, and Karyn Ridder. He offered his thanks and appreciation for their hard work and dedication these last two years.

Sundaram discussed the progress made by the Council and Committees on issues this year. Regarding the Finance Committee, he mentioned the Deans have agreed to share School finance-related information with faculty. He stated it is now the Senators’ responsibility to collect this information from their School Deans. Finance Committee Co-Chairs Smith and Backus have developed a template on collecting this information.

Sundaram stated the Faculty Benefits and Housing Committee has done tremendous work on both benefits and housing, and there is further work to be done next year in follow-up to what they have achieved this year.

The Educational Policies and Faculty/Student Relations Committee strived this year to get the Deans to share information at the school level and next year this Committee should work on gathering this information.

Sundaram stated work needs to be done next year by the Inclusion, Equity, and Diversity Committee to identify school-level issues, particularly how well NYU is supporting students after admission.

T-FSC COMMITTEE REPORTS

Subcommittee on Fossil Fuels: Committee Member Jim Uleman

See attached Document B: Memo on Divestment Resolutions.

Senator Uleman referred the Council to Document B. He stated the first resolution calls for a gradual divestment of all NYU’s investments in coal, which is about $24 million. The second resolution calls for a gradual divestment of all of NYU’s investments in all fossil fuels, which is about $139 million. These resolutions are different from the resolutions that were passed at the University Senate meeting recently, which originated with the Student Senators Council. He commented these resolutions are asking for divestment in a prudent, well-studied way. He noted coal is the bigger offender in terms of generating carbon dioxide emissions and the more urgent thing to do, but other fossil fuels are important to divest as well.

Discussion

During the discussion, Senators offered the following observations and comments:

A Senator remarked the first resolution is the more conservative one, yet the most effective, and would probably have the best chance of being taken seriously by the Trustees because of its focus.

A Senator commented regarding the resolutions passed at the University Senate meeting, that he felt there was insufficient demonstration of the usefulness of the resolution and insufficient discussion on whether it would be a wise choice of action for NYU.

It was clarified that the Council is discussing its own resolution, separate from the University Senate resolution.
Senators discussed the important political statement, rather than financial impact, of a large institution like NYU divesting.

A Senator asked for more information on alternative energy sources, such as nuclear energy or solar power. A Senator responded there are many alternatives, including solar and wind power, but they are expensive.

A Senator commented that 82% of America’s consumption of energy comes from fossil fuels, 20% comes from coal. He suggested if we want to do something about the consumption of fossil fuels, there are two solutions: consume less and produce more alternatives. He commented divesting from the energy companies while continuing to buy their products and keeping them as profitable is an inconsistent standpoint to take. This resolution does not ask NYU to not consume electricity or buy more green fuels, because those alternatives are uneconomical.

A Senator read a statement by an absent Senator, in support of the resolution:

1. NYU currently invests less than 5% of the 3.4 billion dollar endowment in fossil fuel companies.
2. Furthermore, there are several recent studies demonstrating that over the last 5 years fossil-free fuel investment portfolios have actually outperformed those containing fossil fuel companies.
3. There are also numerous ex-fossil fuel and low emission portfolios available from investment managers, so transferring NYU’s current holding to fossil fuel free investments should not be difficult. He references a Bloomberg article, describing the rising availability of such alternatives.
4. Finally, this would be a huge marketing win for NYU.

A Senator stated more than 3 million people die every year from air pollution, most of which is because of coal burning. He pointed out that the American Lung Association has called for a phasing out of the burning of coal, similar to the phase out of indoor smoking.

A Senator commented on the need to attack the consumption side of this problem, perhaps by increasing the taxes on coal. He remarked divesting from coal producing companies is not going to make coal less cheap and commented as long as we continue buying their product, it will have no impact.

A Senator questioned whether the focus should instead be on divestment from the companies that burn the coal and put the pollution in the air rather than the companies that extract coal from the ground.

Resolution

At the conclusion of the discussion, the following resolution was approved by vote of 15 senators in favor and 10 senators opposed, with 0 abstentions:

BE IT RESOLVED, the T-FSC urges the President and Board of Trustees of NYU to begin a gradual and financially prudent divestment, extending over a period of no more than five years, of its investments in both directly held and commingled accounts in companies that receive more than 10 percent of their revenue from coal sales. In addition, we urge the Trustees to create an Advisory Board on Environmentally and Socially Responsible Investing—consisting of students, faculty, and administrators—to advise it on the appropriateness of further fossil fuel and other divestment options as well as investment options in renewable energy sources.

The following resolution was rejected by vote of 10 senators in favor and 12 senators opposed, with 3 abstentions:

BE IT RESOLVED, the T-FSC urges the President and Board of Trustees of NYU to begin a gradual and financially prudent divestment, extending over a period of no more than five years, of its
investments in both directly held and commingled accounts in fossil-fuel corporations. In addition, we urge the Trustees to create an Advisory Board on Environmentally and Socially Responsible Investing—consisting of students, faculty, and administrators—to advise it on investment options in renewable energy sources and the appropriateness of future investment and divestment options.

**Governance: Co-Chairs Mitchell Kane & Jim Uleman**

*See attached Document G: Governance Committee report.*


**Global Network University (GNU): Co-Chair Awam Amkpa & Committee Member Martin Klimke**

**GNU Report**

*See attached Document C: GNU and Nardello Report.*

Senator Amkpa stated the Committee is focused on faculty governance and academic freedom issues, and how these are manifested in the various sites of operation, including the 11 academic sites and the two 2 portal campuses of NYU Abu Dhabi and Shanghai. He commented the Abu Dhabi and Shanghai campuses are perhaps the most complicated operations in terms of faculty integration, the sharing of the NYU ethos as NYU sets a curriculum in different parts of the world, and the idea of what a faculty means in those contexts outside New York.

The GNU Committee studied and discussed the Nardello report. They also asked Senator Klimke of Abu Dhabi and a Shanghai colleague to provide reports from their campus’ faculty governance structures.

Amkpa stated the T-FSC Committee also has representatives from the C-FSC and works with the Provost’s Faculty Committee on NYU’s Global Network.

Amkpa stated the issue of connectivity and its translation into the academic culture of the GNU continues to challenge our institution. The Committee supports the assertion by the Provost that: “The processes that govern searching, hiring, reviewing, and tenuring faculty at the portal campuses embody University – wide “core and essence” principles that ensure appropriate input by the leadership of NYU, the leadership in NYU Abu Dhabi, and the leadership in NYU Shanghai. These principles, which must be reflected in school-level processes, focus on points of “both/and” decision-making, that is, points at which both an approval by the portal campus and New York are required.”

The Committee continues to hope the connectivity promised by the GNU also warrants ensuring the basic rights and responsibilities of faculty at the portal and academic sites to further enhance this important goal. Collaborations and interactions among the sites guarantee our academic standards as well as enhance each section of the University.

A more overtly developed and strategically integrated University with distinctive and connected portals and academic sites will go a long way in stemming ‘silo’ mentalities across the University. Such mentalities, if allowed to proceed unchecked, will have a direct impact on shared governance and create obstacles to the movement of faculty, students, and ideas across portal sites.

The committee recently received a recommendation for deliberating on the idea of a “GNU faculty” designation from the GNU Advisory Committee. The Committee supports the idea, raised questions on governance issues, and has recommendations on the topic. The Committee has reservations about the limited scope of the proposed designation, and has developed a set of recommendations to complement the concept.
The Committee affirms the recommendation of the Advisory Committee on the GNU that a new faculty designation called “Global Network Faculty” be developed. Our position, however, varies from that of the Advisory Committee in that we propose that such a designation be awarded as an added value to the status of faculty hired at Abu Dhabi, Shanghai, and New York.

The designation should reflect the recipient’s scholarship and teaching profile, and serve to connect portals to each other as well as sites, thereby illustrating the circulation of people and ideas, and promoting collaborative curriculum development across the University.

The Committee strongly recommends that the designation “GNU Faculty” be granted post-tenure in cases of tenure track faculty. In cases of long-term contract faculty, it should indicate recognition of such faculty during re-appointment. The conferment of the status should be collaborative between schools and portals, and approved by Deans and Provosts. If deemed necessary, rankings through Associate to Full GNU Professorship should be considered to reflect a broad spectrum of faculty.

The review process and grievance procedures for GNU Faculty/Professorships should be similar to that of other faculty positions.

We recommend that GNU Faculty/Professors should have voting rights and governance responsibilities in the units they serve. They should, like other faculty, play roles in the academic lives of their collaborative units.

A critical mass of such faculty (GNU Faculty) will constitute a core group that would continue to endow and sustain the principles of connectivity, collaboration and exchanges across the University.

The GNU Faculty/Professorship should be distinguishable from the already recommended “Joint Faculty Hires” between portals.

The GNU Faculty/Professorship should not replace the principle of collaborations between departments and schools in hiring, retaining, and developing faculty within the GNU. Rather, it should enhance a broad spectrum of collaborations among NY, AD and SH.

Amkpa stated the labor issue is paramount to the Committee. He stated the GNU representative from NYUAD will give a brief report on how the faculty is responding to the subject of labor conditions as well as share a summary response to the recent Nardello Investigative Report.

Questions

A Senator asked about the recommendation regarding the Faculty Handbook: “The FSC-GNU committee recommends the following: a revision of the Faculty Handbook to recognize NYUAD and NYUSH as well as the academic sites as parts of NYU, and to accord them the same rights and responsibilities under a common Faculty Handbook.”

Amkpa stated the Committee felt it was important for the GNU to be articulated in the Faculty Handbook so that all the rights and responsibilities of faculty are clearly stated.

A Senator asked for clarification on the Global Network University Faculty title.

Amkpa stated one of the focuses of NYU Abu Dhabi and Shanghai is having a stable faculty and making it attractive enough to recruit faculty and retain faculty to deliver its curriculum. In the interim, they have something called affiliate faculty where faculty from New York help develop a curriculum. This title clearly identifies full-time members of a faculty at one campus as participants in the research and teaching activities at a second campus, and clarifies their roles and responsibilities.

A Senator asked about if the Provost of New York also serves as the Provost of the portal campuses.
Amkpa stated Provost David McLaughlin is the Chief Academic Officer of NYU and works in collaboration with the Provosts of NYU Abu Dhabi and Shanghai.

**Nardello Report**

See attached Document C: GNU and Nardello Report.

Senator Klimke stated he would first present on the Nardello report dated April 16, 2015 and its recommendations, the institutional response, and then discuss where we stand with regards to the compliance system and how people may get engaged in labor issues on campus and how they have become engaged over the last twelve months.

The key findings of the report include: 1) The de facto Exemption Policy, 2) Mott MacDonald Was Ineffective, 3) Mistreatment of Striking Workers, 4) Reimbursement Policies for Recruitment Fees, 5) Passport Retention Policies, 6) Pay-Related Issues, 7) Involuntary Overtime, and 8) Substandard Housing.

Klimke reminded the Council of the basic setup of the labor compliance infrastructure that was put into place. When the campus construction started at NYU Abu Dhabi (NYUAD) in 2009, NYU published a statement of labor values, which is a general document committing the University to certain principles with regards to labor. This was followed in February of 2010 by the so called “14 point document”. The “14 point document” is an attempt to operationalize this larger statement of labor values. It is in the appendix of the Nardello report. It is important because these two documents, as it turns out, were in contradiction. Nardello discovered the Exemption Policy was problematic. Klimke stated there was insufficient understanding by all the parties involved in the challenges of implementation and enforcing the standards for workers.

*The de facto Exemption Policy*

The problem with the exemption policy was that during the time of the construction phase, there was an understanding that emerged between these parties that contracts smaller than $1 million or contracts that were on the construction site for shorter than 31 days would be exempted from the labor guidelines as they were set up in the Statement of Labor Values and in the 14 Points. That had, as Nardello states, very practical reasons, because otherwise it means that anybody who was there for a short period of time, one or two days, would have to go through a full compliance process that would mean that housing, etc. would have to be examined to be in compliance with the existing labor values. So that was a practice that emerged between these parties in understanding that lead eventually to the fact that about 10,000 workers were exempt from the compliance standards that the University set-up.

*Effectiveness of Mott MacDonald’s Compliance Monitoring*

According to Nardello, the media and NGO reports were based on limited (public) information. Mott MacDonald ILS Team, EC Harris, AF Carillion, and AF Carillion’s non-exempt subcontractors all had monitoring responsibilities. In addition the de facto exemption policy removed numerous workers from monitoring. Monitoring identified and addressed numerous violations and thus made an effort to enforce compliance and rectify violations.

Several violations, especially involuntary overtime and pay-related issues, were not identified by the monitors. It is impossible to determine whether they were an aberration or indicative of more serious failures in the monitoring process. The report states: “Mott MacDonald, which was responsible for the independent verification of the compliance program, should have clarified the terms of the Labor Guidelines, but failed to do so.” The chart on Monitoring and Verification Organization Chart (Document C, Page 12) shows the complexity of the monitoring.
Mistreatment of Striking Workers

According to Nardello, the causes of the strike and dismissal of 200-250 workers was more complex. That the workers had a dissatisfaction with the wages at NYUAD project does not appear to be one of the causes of the strike. More than 75% of dismissed/deported had been working at the NYUAD project. Gulf claims and workers’ reports are contradictory. Mott MacDonald did not notice absence of workers due to the large and complex nature of the NYUAD project. Nardello considered this explanation “plausible”.

Reimbursement Policies for Recruitment Fees

85% of workers interviewed by Nardello paid fees. Only a few came to the UAE to work specifically for the NYUAD project. More than 25,000 potentially qualified for reimbursement. Monitors interpreted 14 Points and Supplementary Specifications as applying only to reimbursement fees that were paid specifically to work on the project and when workers could provide proof of payment. The Nardello report states: “interpreting a policy in a way that effectively disqualified all workers from being reimbursed supports the conclusion that addressing an issue as complex as recruitment fees on a per-project basis, although admirable, requires far greater consideration than was given here.” Basically again, it was a promise that the University could not uphold in its execution of the project.

Passport Retention Policies

Most workers did not hold their passports, which is a breach of compliance as per 14 Points: “Employees will retain all of their own personal documents”. The actions of the monitors were not guided by the 14 Points, but by contradictory rules in the non-public Supplementary Specifications, which argued: “The Employer shall not confiscate or restrict access to Employees’ passports or any other personal documents.” Nardello states the claims of monitors and workers are at odds with one another. Nardello states the allegations that employers held workers’ passports were corroborated, but also showed in many cases, this was done with the apparent consent of the worker. In addition, approximately 30% of workers interviewed by Nardello said that they had to provide their employer with their passport as a condition to work on the Main Campus Project, in violation of the Labor Guidelines.

Pay-Related Issues

There were allegations of late payment of wages and non-payment of back pay. Several subcontractors, such as Salah Interiors, were exempt from complying with Labor Guidelines. Al Reyami and Robodh’s violations were identified, addressed, and corrected by the monitors in 2011/2012.

Involuntary Overtime

Nardello reports instances of involuntary overtimes were not a widespread problem, particularly given that workers were eager to earn additional money. Monitors did not find any instances of involuntary overtime. The Nardello interviews showed 30 cases, 18 for Robodh. The sample suggests that forced overtime might have been a more significant problem than reflected in monitors’ reports.

Substandard Housing

The vast majorities of workers employed by the companies covered by Labor Guidelines lived in housing on Yas Island, meeting the higher standards. Monitors oversaw relocation of workers to Yas Island in cases of substandard housing. The small sample of 35 workers from companies exempt from compliance interviewed by Nardello described living conditions that, although not ideal, were better than those described in the media and NGO reports.
Report's Recommendations

Nardello states NYU and its government partners efforts were unprecedented in a region where mistreatment of migrant workers is commonplace. By adopting the Labor Guidelines, their attempt succeeded in improving the working conditions of thousands of workers. This effort would have been even more successful if it had not been undermined by the exemption policy and the monitors’ interpretation of the Labor Guidelines regarding passport retention and reimbursement of recruitment fees.

Recommendations:

- Abolish exemptions and cover all workers (i.e. via cash payments in challenging circumstances)
- Establish an escrow account under the control of the compliance monitor
- Simplify the compliance monitoring regime
- Establish/enforce strict penalties for compliance violations (publicly)
- Hire an independent compliance monitor
- Establish confidential reporting channel to monitors
- Notification/investigation system for labor disputes
- Substandard Housing
- Vast majorities of workers employed companies covered by Labor Guidelines lived in housing on Yas Island meeting the higher standards
- Monitors oversaw relocation of workers to Yas Island in cases of substandard housing
- Small sample of 35 workers from companies exempt from compliance interviewed by Nardello “described living conditions that, although not ideal, were better than those described in the media and NGO reports”

Institutional Response

The institutional response consists of payment for employees of exempt firms and payment for employees who were covered by the Labor Standards. There is an initiative on recruitment fees via the NYUAD Institute that will develop policies to address the shortcomings. There is the appointment of a new independent compliance monitor. Also, the Nardello Report Recommendations will be reviewed.

NYUAD Labor Compliance Program Structure

Klimke stated the Nardello report refers to the situation before the move to the new campus.

The Mott MacDonald compliance monitoring contract ended in March and the announcement of the independent monitor is forthcoming. At present, NYUAD has established a very robust system of campus internal monitoring. The slide in Document C, Page 28 provides the details. There is a Labor Compliance Working Group, which receives all complaints with regards to labor compliance violations on campus. In addition, many of the Nardello recommendations, except for establishing an anonymous independent monitoring reporting hotline notification system, have already been put in place.

There is the Faculty Advisory Committee on Labor & Social Responsibility and the Taskforce on Adult Education. They have both issued their reports and they will be discussed by the Faculty Council. People can get engaged in labor issues on campus in several ways, including providing feedback to or becoming a member of the Labor & Social Responsibility Committee, Task Force on Adult Education and/or Domestic Employment Initiative. People may participate in worker appreciation/advocacy events, participate in the lecture series “Labor, Migration and Human Rights”, and/or participate in the emerging research projects/initiatives.

Klimke commented when the Nardello report came out, there was a town hall of all faculty and staff in NYUAD. People expressed disappointment that the University potentially did not cover a third of the
workforce, frustration about the miscommunication, but also a sense of relief from having an exhaustive and broad based analysis of what went wrong that may be used to address these wrongs, provide compensation to those affected, and have a debate on the institution’s shortcomings to do better in the future. In short there was dissatisfaction but also a renewed commitment to extend and intensify efforts in the area of labor.

Discussion

A Senator expressed concern about the Supplementary Specifications document first mentioned on page six of the Nardello report and also again on page 24 of the report. It is stated in the footnotes that Tamkeen refused to allow the Supplementary Specifications document to be included as an exhibit in the report. The Senator stated it appears to be a major document and one of the three documents that form what the report calls the labor guidelines and pertains to taskforce retention, worker compensation, and wage and cost thresholds for contracts. He stated it seems to him from the Nardello report and the wording on page 6 and page 24, that it is quite possible that the NYU administration knew about the Supplementary Specifications document, which had provisions for these wage and cost thresholds. He wondered if the Council should ask for access to this document and asked Klimke for his comments on the Supplementary Specifications document.

Klimke stated they have asked for the Supplementary Specifications document to be made public and commented in reading the Nardello report there are particular issues in which the Supplementary Specifications would be helpful, not only to entangle or disentangle the evaluation of Nardello, but also in terms of how to best move forward.

A Senator offered his understanding of the Supplementary Specifications document. The Supplementary Specifications were actually appendices to executed contracts that Tankeen had with its then subcontractors or general contractors, and the general contracts are also not public. So if the Council received pushback on making the supplementary specifications public, he suspects it is due to a general unwillingness to make the overall contracts public.

It was suggested the GNU Committee follow-up on this and report back the Council.

A Senator commented on the concern regarding the extent these government agencies share the values and concerns of NYU and what this says about future issues.

Klimke responded the Nardello report should actually galvanize faculty involvement in the GNU. He commented people are very passionate about these issues and it has been interesting to see how those in Abu Dhabi and Shanghai share common views and concerns. He commented this is an opportunity to review the vision and future of the GNU.

A Senator commented on the GNU Committee’s recommendation: “The committee will continue to deepen the dialogue with the various faculty labor committees both in NYUAD and NYUSH and we would recommend the establishment of a similar committee in NYUNY. In addition to these local bodies, we would also propose a more integrated University-wide forum whose mandate goes beyond advisory roles and which would help predict, trouble shoot and forestall the variety of challenges across all of NYU’s portals and sites.” He suggested this should be introduced into the faculty governance system in NYU and focused globally.

Faculty Benefits & Housing: Co-Chairs Sewin Chan & David Stokes

Dependent Tuition Remission

Senator Chan reported the Committee approached Human Resources (HR) requesting a consideration of a new model regarding dependent tuition remission. She commented they were forthcoming with data,
ran all the simulations the Committee asked for, and repeatedly re-ran them with different sets of assumptions at the Committee’s request.

She also mentioned that Andrew Gordon has left the University and Allison Leary has asked David Stokes and her to be involved in the interview process for his replacement. She offered thanks to Chairperson Sundaram and the Executive Committee for their work toward shared governance.

Chan reported the current tuition remission budget is $21 million. Currently, the split between NYU tuition remission and portable tuition remission is 90% of NYU tuition to $5,000 portable tuition. This current year, around half of faculty children attend NYU.

The proposal would be to change the allocation of the budget, offering equal amounts for portable tuition and NYU tuition remission. Chan stated this is only a consideration for faculty members since the Administrative Management Council (AMC)’s tuition remission for employees to attend NYU is a high priority for this group.

Chan said she has received over 50 emails regarding this new proposal. The primary reason people overwhelmingly want the new model is that they value choice and flexibility and they want the best fit for their child. For example, NYU might not offer the child’s area of interest.

For those against, there is a concern that if you remove the 90% option for NYU, it may mean that unless a student gets a financial aid package elsewhere, the only other option is in-state tuition.

The Committee has asked HR whether they could explore using some fraction of the tuition remission budget to offer a financial aid package for faculty children based on the FAFSA form.

A Senator stated that he introduced the proposal to the faculty at the Silver School of Social Work, and the opposition to the proposal was overwhelming. Many stated this would limit their only option to a state University.

A Senator stated the Stern faculty response was incredibly positive and several faculty members believe this will assist retention efforts.

Another Senator stated Steinhardt faculty were split on the issue and both sides had strong opinions for/against. A Senator stated there was a similar response at the College of Dentistry.

Chan provided the current breakdown of those taking advantage of the NYU tuition remission benefits: 122 dependent faculty, 93 dependent administrators, 55 dependent clerical/technical staff, and 676 employees.

A Senator suggested changing the 43% to 50%. He stated faculty are receiving less than 20% of the current tuition benefits, so it would be only a small increase. It was suggested to pitch for a better number than 43% and have a more detailed discussion considering implementation and grandfathering.

Allison Leary proposed convening a cross-functional committee in the fall, including the AMC, C-FSC, and HR to consider tuition remission more broadly. It was suggested this issue should not be a joint effort with the AMC, since so many AMC members take advantage of NYU tuition remission.

A Senator asked about the tax implications if faculty and administrators received different benefits in terms of portable tuition and NYU tuition remission. Chan clarified that benefits can be delineated by occupation without incurring tax implications.

A Senator commented for many faculty members, if the NYU tuition benefits went from 90% to 43% it would just be impossible for them to have their children go to NYU. She asked to consider a sliding scale of percentages based on income.
A Senator commented that faculty tuition benefits have decreased over time, in terms of spousal benefits and what degrees apply. He stated the tenured/tenure track faculty have the distinct position of being responsible for research, for which the University has to compete in a different way than for all of its other employees, and he believes this gives us the distinctive responsibility of guarding the future of the University and its recruiting efforts. He commented that grandfathering will have a negative effect on recruitment if young faculty members do not have the same benefits as older faculty.

**Housing Survey**

Chairperson Sundaram reported the Committee designed a survey that will be sent to all tenured/tenure track faculty asking them for their views on housing. The Committee asks for a representative from each School to work with his/her Dean to send the survey to the school’s faculty members.

**Personnel Policies & Tenure Modifications: Co-Chairs Warren Jelinek & Wen Ling**

**Amended (at the April 16 T-FSC meeting) T-FSC review/recommendations of NYU Shanghai Promotion and Tenure Guidelines**

See attached Document D: Recommendations of the T-Faculty Senators Council in regard to: NYU Shanghai Promotion and Tenure Guidelines.

The recommendation was approved by vote of the Council.

**Joint C-FSC/T-FSC Review/Recommendations on Tisch Teacher Policy**

See attached Document E: Joint Recommendations of the Continuing Faculty Senators Council and the Tenure Faculty Senators Council In Regard to the Tisch School of the Arts Teacher Policy.

Senator Jelinek reported on the review of the Tisch School of the Arts Teacher Policy. Currently there is a two tiered system of teachers and associate teachers. This proposed policy will move everyone to teacher and there will be two types of contracts: a one year contract and a three year contract. Jelinek asked if anyone had objections to the recommendations presented by the Committee.

A Senator from the Tisch School of the Arts commented this is a wedge issue at Tisch. He stated its history was during the adjunct strike, it was a contingent situation, and now has become troubling for most of the long-term faculty at Tisch.

He commented this is undermining the quality of the Tisch education by hiring people who are not judged by the same standards as the tenured faculty or the arts professors.

Jelinek asked if he was suggesting the rank should be abolished altogether. He answered yes, and stated the School is aware of this sentiment. He commented it has been a consistent issue in the Tisch Faculty Council. It was agreed to create a three to five year process and when contracts came to an end, this group could apply for new jobs as arts professors or tenure track professors, using one common standard that ensures the integrity of the curriculum.

The Council agreed to table this recommendation and have the Senator discuss his disagreements regarding the policy with the Committee.

**ADJOURNMENT**

The meeting adjourned at 2:30 PM.
Dear Colleagues

A major achievement of the FSC during the last 5 years, has consisted in its dogged pursuit of negotiations to make shared governance a fundamental feature of New York University’s culture. Moving forward to embed this principle within the University’s perception of itself, as well as to advance the role that faculty plays in governance, is of utmost importance as a new administration assumes the leadership of the institution. New challenges face us as a community: how do we make the university broadly affordable for students? How do we re-envision the GNU to reflect a truly organic and strongly interconnected university? How do we develop a vibrant and engaged faculty body, as well imagine and harness resources that will encourage faculty scholarship and innovation? These issues pose opportunities as well as trials for an engaged and accountable FSC leadership in the coming years.

As a senator, I have always sought to engage the faculty, to listen to and convey its concerns, and to build a constructive consensus that allows the principles of shared governance to become a real strategy and responsibility for collective engagement with all levels of leadership in our institution.

Tisch School of the Arts had no school faculty governance structure when I was elected as their senator four years ago. I was the sole voice of the faculty at FSC as well as within the school and had to frequently adjudicate grievances, and to connect university wide governance with school perceptions of the university. Today, we have a school governance council that works collectively with T-FSC and C-FSC senators. The advocacy role of such a structure has alleviated an arguably fractious environment. There are no communication gaps between the FSC and the school faculty governing body. We now have a more transparent and consultative shared governance relationship with the new Dean of Tisch.

During my first 3 years as senator I was a member of the GNU, Finance, and Equal Opportunity/Affirmative Action committees. I also served as vice chair of the FSC, in which capacity, my duties and counsel embraced a constituency broader than that which I had originally been called upon to represent. The opportunity to serve the FSC and my school at that level was a great privilege and our constructive engagement with the university administration even on deeply controversial matters set the tone for shared governance. I have recently been re-elected for another 3 years as the senator for Tisch School of the Arts, and work closely with two alternates.

Like you, I am passionate about justice and inclusive representations of faculty interests. I acknowledge that differences of opinion on important matters will arise among members of the university community, but believe that respect for -- and engagement with -- such differences help develop consensus and strengthen our resolve as advocates for the faculty. As a previous vice chair of the FSC, and a member of the executive committee, I maintained, with uncompromising clarity, our right to faithfully represent the faculty to the university.
administration on all matters even/especially when such matters were deeply controversial. Such focus and determination are even more necessary as we approach the cusp of a transfer of power in the administration. I seek your support to join the executive committee as an adherent of principles of fairness, transparency and accountability. If elected, I intend to build on the ethos of clarity and to develop strategies of consultation across a diverse faculty body, as I did in the context of my service to Tisch, as well as other governance bodies at the university.

A word about my intellectual and professional interests. I am a cultural theorist, artist and curator of performing and visual arts, as well as a playwright, director and filmmaker. I have a PhD in Political Theatre from the University of Bristol in England, as well as 2 MAs in Theatre and Film respectively. I have an undergraduate drama degree from Obafemi Awolowo University in Ile-Ife, Nigeria where I was mentored by the Nigerian dramatist Wole Soyinka -- himself a cultural and political activist.

I came to NYU 15 years ago. I currently hold a joint appointment in the Drama department of Tisch School of the Arts and the department of Social and Cultural Analysis in the Faculty of Arts and Sciences where I teach in Africana studies. Before NYU I was tenured in Theatre and Film studies at Mount Holyoke College. At NYU, I directed the Africana studies program for 6 years and served for 4 years as a founding faculty advisor for NYU Accra. I have authored books on Postcolonial Theatre and Cultures, written several articles on culture and politics in performing arts, film and photography, and curated visual art projects all over the world. I direct PhD and MA students as well as teach in a variety of interdisciplinary and disciplinary undergraduate courses in both Tisch School of the Arts and College of Arts and Sciences.

I have lived at Washington Square Village for 15 years and brought up two sons in the community. My oldest son graduated from Tisch School of the Arts and works in Hollywood as an actor and my younger son is a senior at SUNY.

NYU is my home and the faculty my community. With your support, I would be honored to continue working for the faculty at all levels of engagement with the wider university community.

Sincerely

Awam Amkpa
Dear Colleagues,

In 2013, I was elected to serve in the Faculty Senators Council to represent the Polytechnic School of Engineering, after the merger between NYU and NYU-Poly. I was delighted that my colleagues in the School of Engineering had elected me for this important role, and I was thrilled to start this adventure.

My first two years of service have been academically rewarding and enriching, as they helped me grow as a member of this community, understand NYU’s complexity, and appreciate the very many opportunities for Polytechnic at NYU. I will be honored to take the Vice Chairperson position and I am committed to invest the necessary energy and time.

I have been a faculty member at Polytechnic since 2006 after graduating from Virginia Tech and Sapienza University of Rome. In 2011 I have received my tenure and promotion to Associate Professor in Mechanical Engineering, and in 2014 I have been promoted to Professor. I am the director of the Dynamical Systems Laboratory, where I conduct research on modeling and control of complex systems, spanning biological groups, public policies, robots, and smart materials.

Thank you,

Maurizio Porfiri
Dear Colleagues,

This is the end of my second year on the faculty senate, after several years at NYU when I was not only not a member, but had only the faintest idea what the faculty senate was, and what it did. I'm grateful that my Steinhardt colleagues voted for me to represent the school. I have learned a good deal being here, and of course it is a pleasure to become acquainted with colleagues in other schools. There would be little chance of doing so in the normal course of things, especially in such a large university as ours.

During my year on the senate, I have represented the faculty on the Coles Redevelopment Committee, as the only tenured/tenure-track faculty rep on that committee. I was able to provide input on that committee to request that subsidized swim classes be made available for children during the rebuilding on the Coles Site. This was not originally part of the thinking of the administration; their sense had been that faculty use of the swimming pool was not very significant. I'm glad to say that once the request was made, the administration was very attentive. Subsidized swimming classes will now be available for the children of faculty (and staff/admin) when the present Coles site is closed for redevelopment.

I have also represented the senate on the Global Network University committee appointed by the admin. I believe I am the only FSC rep on that committee, but am open to correction on this matter, since it is a large committee. This committee is advisory only, and as such any input has a hortatory status at best. However I have sought to argue for improving the role of faculty governance, and for clarifying the links between existing governance mechanisms at work across the many sites of the university.

Finally, I have reported back to my colleagues in Steinhardt about our deliberations and at times, findings that have appeared important. During my time on the Finance Subcommittee last year, I reported back to my colleagues on the information and insights I gathered on the comparative benefits of the available health insurance plans, as discussed in the subcommittee. (The discussion was informal, and not on the agenda.) My report clarified the choices available to faculty, and the information I provided could have helped my colleagues make a better informed choice.

I have one more year on the senate, and, regardless of the outcome of this election, I look forward to working with all of you during that time.

Arvind Rajagopal
May 2, 2015

Dear FSC colleagues,

The last time I ran for a position on the FSC Executive Committee (Feb., 2013), I put out a 2 ½ page statement on my views of the university, faculty governance, etc. By now, most of you can predict where I stand on most of these issues because of my activities on and chairing the FSC Governance Committee, and serving on the University Senate Financial Affairs Committee and SCOG (Senate Committee on Organization and Governance). I think the next few years will be interesting times for NYU, and I’d like to represent faculty interests.

My personal and professional life may be less well known. 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) and social neuroscience to measure these, and the methods of experimental social psychology to affect them. (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. I received the 2013 Thomas M. Ostrom Award from the International Social Cognition Network (ISCON) “in recognition of his outstanding contributions to social cognition.” I’ve had research grants from the NSF and NIMH. I directed the doctoral program in social psychology at NYU for 22 years, during which time it rose to be one of the top half-dozen programs in the world. Former student-coauthors have gone on to the faculty positions at Bogaziçi (Istanbul), Delaware, Illinois (Chicago), Lehigh, NYU (Stern), Princeton, and Syracuse. I’m also a husband, father (of 3) and grandfather (of 2). I hope to help make more of NYU into the congenial and supportive workplace that the Psychology Department has been for most of my 44 years at NYU.

Jim Uleman
MEMO

FROM: T-FSC Subcommittee on Fossil Fuels (Jeff Goodwin, chair; Allen Mincer; Maurizio Porfiri; Arvind Rajogopal [on leave]; George Thurston; and Jim Uleman)

TO: T-FSC

DATE: May 4, 2015

The University Senate passed a set of resolutions proposed by the Student Senators Council by a vote of 65-10 (with 7 abstentions) at its meeting of April 30, 2015. The resolutions call for an immediate cessation of new investments by the University in fossil-fuel corporations.

In light of this development, the T-FSC Subcommittee on Fossil Fuels would like to propose the following two resolutions for discussion and a vote at the T-FSC meeting of May 7. Should one of these resolutions be passed, it would be sent to the University Senate for discussion and a vote in the fall:

1. **BE IT RESOLVED**, the T-FSC urges the President and Board of Trustees of NYU to begin a gradual and financially prudent divestment, extending over a period of no more than five years, of its investments in both directly held and commingled accounts in companies that receive more than 10 percent of their revenue from coal sales. In addition, we urge the Trustees to create an Advisory Board on Environmentally and Socially Responsible Investing—consisting of students, faculty, and administrators—to advise it on the appropriateness of further fossil fuel and other divestment options as well as investment options in renewable energy sources.

2. **BE IT RESOLVED**, the T-FSC urges the President and Board of Trustees of NYU to begin a gradual and financially prudent divestment, extending over a period of no more than five years, of its investments in both directly held and commingled accounts in fossil-fuel corporations.* In addition, we urge the Trustees to create an Advisory Board on Environmentally and Socially Responsible Investing—consisting of students, faculty, and administrators—to advise it on investment options in renewable energy sources and the appropriateness of future investment and divestment options.

* A “fossil-fuel corporation” is here defined as any of the 200 publicly traded companies with the largest coal, oil, and natural gas reserves as reported by the Carbon Tracker Initiative.

*Note:* The first resolution calls for a gradual divestment of all of NYU’s investments in coal, about $24 million (0.7 percent of NYU’s endowment). The second resolution calls for a gradual divestment of all of NYU’s investments in all fossil fuels, about $139 million (4.0 percent of the endowment).
THE FSC-GNU REPORT: OBSERVATIONS AND RECOMMENDATIONS

The FSC-GNU Committee (now jointly convened with the NTC-FC) has over the last year met to deliberate on the role of faculty in various aspects of the GNU and the global network’s goals of enhancing the capacity and quality of knowledge production and dissemination within NYU. The committee has also focused on the development and management of coherent curricula structures that buttress faculty governance. As indicated in our preliminary report to the FSC on December 11th 2014, our committee has established two important relationships—one with the appointed advisory committee on the GNU, and the other with faculty governance structures at NYUAD and NYUSH. These consultative relationships continue to foster better communication and offer broad means for pursuing a coherent campaign of faculty advocacy.

The idea of the Global Network University takes NYU into an uncharted territory within which we have confronted, or contended with differences in the worlds of scholarship, teaching and research, and will continue to do so. While we fully recognize the GNU’s promise for promoting our university’s academic mission, a key faculty concern and matter of vigilance centers upon the question of academic freedom: how is such freedom advanced, rather than hampered by the university’s broader spheres of operation? Faculty are committed to freedom of inquiry and expression as well as to shared governance in our institution across the multiple locations where its vision of excellence and exchange in the realms of knowledge production and dissemination has unfolded. Our innovations and institutional enhancements should, in our committee’s opinion, remain true to these principles.

In this report we will highlight some observations, make some recommendations and propose a motion we hope the FSC will further develop.

OBSERVATIONS

- We observe and commend the detailed work and recommendations by the GNU Advisory Committee.

- The issue of connectivity and its translation into the academic culture of the GNU continue to challenge our institution. We support the assertion by the Provost that:

“The processes that govern searching, hiring, reviewing, and tenuring faculty at the portal campuses embody University – wide “core and essence” principles that ensure appropriate input by the leadership of NYU, the leadership in NYU Abu Dhabi, and the leadership in NYU Shanghai. These principles, which must be reflected in school-level processes, focus on points of “both/and” decision-making, that is, points at which both an approval by the portal campus and New York are required.”

We continue to hope the connectivity promised by the GNU also warrants ensuring the basic rights and responsibilities of faculty at the Portal and academic sites to further
enhance this important goal. Collaborations and interactions among the sites guarantee our academic standards as well as enhance each section of the university.

A more overtly developed and strategically integrated university with distinctive and connected portals and academic sites will go a long way in stemming ‘silos’ mentalities across the university. Such mentalities, if allowed to proceed unchecked, will have a direct impact on shared governance and create obstacles to the movement of faculty, student and ideas across portal sites.

- Our committee recently received a recommendation for deliberating on the idea of a ‘GNU faculty’ designation from the GNU Advisory Committee. We support the idea, raised questions on governance issues, and have recommendations on the topic. We have reservations about the limited scope of the proposed designation, and have developed a set of recommendations to complement the concept. We will state these shortly.

- Fair Labor Conditions

While we observe the complex and unusual contexts within which NYU has to function in different parts of the world, we continue to be concerned that fair labor conditions are not fully met in all places in which NYU has operations. The recently released Nardello report on the labor conditions during the construction of the Saadiyat campus of NYUAD, while highlighting clear and groundbreaking achievements for 65-70% of the workforce in terms of labor practices and benefits, also illustrated several troubling shortcomings with regard to an unduly complex compliance regime that led to the de facto exemption of a third of workers from the compliance regime, miscommunication and lack of clarity among the key parties, as well as failures to deliver on promises in the area of recruitment fees and passport retention policies.

The committee welcomes the NYU’s institutional response and the plan to compensate workers that were either exempt or not covered by the labor standards and strongly supports a timely implementation of Nardello’s recommendation.

The committee also applauds the comprehensive and multi-faceted efforts by NYUAD faculty, staff and students that have, in cooperation with its administration, led to the creation of a robust labor committee and compliance infrastructure over the past year to build a truly inclusive community after the move to the new campus and the end of the construction phase.

The committee will continue to deepen the dialogue with the various faculty labor committees both in NYUAD and NYUSH and we would recommend the establishment of a similar committee in NYUNY. In addition to these local bodies, we would also propose a more integrated university-wide forum whose mandate goes beyond advisory roles and which would help predict, troubleshoot and forestall the variety of challenges across all of NYU’s portals and sites.
The GNU Representative from NYUAD will give a brief report on how the faculty is responding to the subject of labor conditions as well as share a summary response to the recent Nardello Investigative Report.

We refer you to NYUSH website information on the same remit and processes being put in place about labor issues. ([http://shanghai.nyu.edu/about](http://shanghai.nyu.edu/about))

LABOR AS AN OBJECT OF SCHOLARLY INQUIRY / OPPORTUNITY

We observe NYU’s construction projects will be long term and call for ‘labor’ to be a well supported object of scholarly inquiry across the GNU.

The Sites committees

- Course Approval and Hiring Processes for the Academic Sites

We applaud the impressive procedures for engaging departments and schools in the Square with the academic sites. We however note fundamental shortfalls in the procedures outlined.

Firstly, the procedures are somewhat ahistorical and they do not sufficiently articulate the genealogies of each site and their possible relationships with current iterations of global education even when suggesting better strategies for ensuring wider departmental participation. NYU Paris and NYU Madrid are cases in point. Departmental and programmatic oversights are indeed most important but they should engage more firmly with the histories and residual developments of the sites.

The provision of greater opportunities for the circulation of students among New York, NYUAD and NYUSH in the sites has not been fully addressed within the ‘connectivity principle’ of the GNU.

- Our committee sought information on labor laws relevant to faculty hiring at the academic sites so that we can develop a common understanding of the basic rights of such faculty consistent with NYU's traditions and make appropriate recommendations to the FSC’s Governance committee.

RECOMMENDATIONS

The FSC-GNU committee recommends the following:

- A revision of the Faculty Handbook to recognize NYUAD and NYUSH as well as the academic sites as parts of NYU, and to accord them the same rights and responsibilities under a common Faculty Handbook.
• We affirm the recommendation of the Advisory Committee on the GNU that a new faculty designation called ‘Global Network Faculty’ be developed. Our position, however varies from that of the advisory committee in that we propose that such a designation be awarded as an added value to the status of faculty hired at Abu Dhabi, Shanghai and New York.

The designation should reflect the recipient’s scholarship and teaching profile, and serve to connect portals to each other as well as sites, thereby illustrating the circulation of people and ideas, and promoting collaborative curriculum development across the university.

We strongly recommend that the designation ‘GNU Faculty’ be granted post-tenure in cases of tenure track faculty. In cases of long-term contract faculty, it should indicate recognition of such faculty during re-appointment. The conferment of the status should be collaborative between schools, portals and approved by Deans and Provosts. If deemed necessary, rankings through Associate to Full GNU Professorship should be considered to reflect a broad spectrum of faculty.

The review process and grievance procedures for GNU Faculty/Professorships should be similar to that of other faculty positions.

We recommend that GNU Faculty/Professors should have voting rights and governance responsibilities in the units they serve. They should, like other faculty, play roles in the academic lives of their collaborative units.

A critical mass of such faculty (GNU Faculty) will constitute a core group that would continue to endow and sustain the principles of connectivity, collaboration and exchanges across the university.

The GNU Faculty/Professorship should be distinguishable from the already recommended ‘Joint Faculty Hires’ between portals.

The GNU Faculty/Professorship should not replace the principle of collaborations between departments and schools in hiring, retaining and developing faculty within the GNU. Rather, it should enhance a broad spectrum of collaborations among NY, AD and SH.

The Faculty Handbook should include the status of GNU Faculty/Professorships under a category describing the GNU and its faculty governance structures and review processes.

• Our committee deliberated on the need for a Vice Provost for GNU Academics as an extension of the Advisory Committee’s recommendation for a ‘GNU Dean’. Such a person should work with a faculty advisory committee. We
believe GNU curriculum, faculty movements, hiring and review processes and grievance procedures should be the focus of such a position.

- We strongly recommend a review of GNU administrative personnel with clear designations and mandates that reflect an organic university administration.

- We recommend a significant information hub that includes information on processes and procedures for faculty research, travel and collaborations across the GNU.

- Academic Freedom: The FSC-GNU committees have consulted with all elected representatives at NYUAD (FCSC as well as Senators) who have collectively confirmed that until now there has been no infringement of their academic freedom as they discharge their duties and continue to engage in diverse forms of research. We hope this continues and hold strongly to the assertion of the president and provost that NYU is fully committed to the principles of academic freedom foundational to our educational mission.

- We join the Advisory Committee on the GNU is recommending an “Inter-Portal Faculty Forum” to provide a context for sharing information and developing strategies for faculty governance between the Portals.

The recent Nardello investigative report should be an opportunity for a commitment to radically overhaul the GNU vision and to forestall the emergence of a fragmented university.

We conclude our statement by re-stating the importance of the recent FSC resolution on academic freedom and freedom of movement within NYU.
Key Findings & Recommendations

Nardello Report on Construction Labor on Saadiyat Island

T-FSC Meeting / May 7, 2015
Structure

1) The Nardello Report
   a) What are the key findings of the report?
   b) What are the report's recommendations?

2) What is the institutional response?

3) Where do we stand with regard to our compliance / monitoring system now?

4) How can people get engaged in labor issues on campus?
1a. What are the key findings of the report?

1. The *de facto* Exemption Policy
2. Mott MacDonald Was Ineffective
3. Mistreatment of Striking Workers
4. Reimbursement Policies for Recruitment Fees
5. Passport Retention Policies
6. Pay-Related Issues
7. Involuntary Overtime
8. Substandard Housing
1a. What are the key findings of the report?

1. **The de facto Exemption Policy**
   - “while the goals of the Labor Guidelines were admirable, there was insufficient understanding by all Key Parties of the challenges in implementation and enforcing the standards for workers” (12)
   - pool of exempt workers between 30-35% of the total 30,000 workers
   - contracts smaller than 1 mio. USD or shorter than 31 days
   - much smaller percentage than the total man-hours worked on project
   - 65-70% employed by non-exempt contractors benefited from guidelines
1a. What are the key findings of the report?

2. Effectiveness of Mott MacDonald’s Compliance Monitoring
   - Media / NGO reports based on limited (public) information
   - Mott MacDonald ILS Team, EC Harris, AF Carillion, and AF Carillion’s non-exempt subcontractors all had monitoring responsibilities
   - The de facto exemption policy removed numerous workers from monitoring
   - Monitoring identified and addressed numerous violations, thus made an effort to enforce compliance and rectify violations
1a. What are the key findings of the report?

2. Effectiveness of Mott MacDonald’s Compliance Monitoring (cont’)

- several violations not identified by the monitors (involuntary overtime, pay-related issues)

- impossible to determine whether they were “an aberration or indicative of more serious failures in the monitoring process”

- “Mott MacDonald, which was responsible for the independent verification of the compliance program, should have clarified the terms of the Labor Guidelines, but failed to do so.” (16)
1a. What are the key findings of the report?

2. Effectiveness of Mott MacDonald’s Compliance Monitoring (cont')

Figure 2: Monitoring and Verification Organisation Chart
1a. What are the key findings of the report?

3. Mistreatment of Striking Workers
   - causes of the strike / dismissal of 200-250 workers more complex
   - worker dissatisfaction with wages at NYUAD project does not appear to be one of the causes of the strike
   - more than 75% of dismissed/deported had been working at NYUAD project
   - BK Gulf claims and workers' reports contradictory (reasons for dismissal)
   - Mott MacDonald did not notice absence of workers due to the large and complex nature of the NYUAD project (explanation “plausible”)

T-FSC Meeting 5/7/15, Document C, Page 13
1a. What are the key findings of the report?

4. Reimbursement Policies for Recruitment Fees

- 85% workers interviewed by Nardello paid fees (only few to work specifically for NYUAD project), i.e. more than 25,000 potentially qualified for reimbursement

- Monitors interpreted 14 Points and Supplementary Specifications as applying to only to reimbursement fees that were paid specifically to work on the project / when workers could provide proof of payment
1a. What are the key findings of the report?

4. Reimbursement Policies for Recruitment Fees (cont’)
   - “Interpreting a policy in a way that effectively disqualified all workers from being reimbursed supports the conclusion that addressing an issue as complex as recruitment fees on a per-project basis, although admirable, requires far greater consideration than was given here.” (19)
1a. What are the key findings of the report?

5. Passport Retention Policies

- Most workers did not hold their passports (= breach of compliance per 14 points, “Employees will retain all of their own personal documents”)

- Actions of the monitors guided not by the 14 points, but contradictory rule in the nonpublic Supplementary Specifications, “The Employer shall not confiscate or restrict access to Employees’ passports or any other personal documents”

- Claims of monitors and workers at odds re relinquishing control of passports
1a. What are the key findings of the report?

5. Passport Retention Policies

- “Allegations that employers held workers’ passports were corroborated, but also showed in many cases, this was done with the apparent consent of the workers” (20)

- “Approximately 30% of workers [interviewed by Nardello] said that they had to provide their employer with their passport as a condition to work on the Main Campus Project, in violation of the Labor Guidelines” (20)
1a. What are the key findings of the report?

6. Pay-Related Issues

- Allegations of late payment of wages / non-payment of back pay
- Salah Interiors exempt from complying with Labor Guidelines
- Al Reyami / Robodh’s violations identified, addressed, and corrected by the monitors in 2011/2012
1a. What are the key findings of the report?

7. **Involuntary Overtime**

- “Instances of involuntary overtimes, it was not a widespread problem, particularly given that workers were eager to earn additional money” (21)
- Monitors did not find any instances of involuntary overtime
- Nardello interviews showed 30 cases, 18 for Robodh (which was closely monitored)
- Small sample suggests that forced overtime more significant problem than reflected in monitors’ reports
1a. What are the key findings of the report?

**8. Substandard Housing**

- Vast majorities of workers employed companies covered by Labor Guidelines lived in housing on Yas Island meeting the higher standards

- Monitors oversaw relocation of workers to Yas Island in cases of substandard housing

- Small sample of 35 workers from companies exempt from compliance interviewed by Nardello “described living conditions that, although not ideal, were better than those described in the media and NGO reports” (22)
1b. What are the report's recommendations?

- NYU and its government partners efforts “unprecedented in a region where mistreatment of migrant workers is commonplace” (60)
- “By adopting the Labor Guidelines, their attempt succeeded in improving the working conditions of thousands of workers”
- “This effort would have been even more successful if it had not been undermined by the exemption policy and the monitors’ interpretation of the Labor Guidelines regarding passport retention and reimbursement of recruitment fees” (58)
1b. What are the report's recommendations?

- Abolish exemptions and cover all workers (i.e. via cash payments in challenging circumstances)
- Establish an escrow account under the control of the compliance monitor
- Simplify the compliance monitoring regime
- Establish/enforce strict penalties for compliance violations (publicly)
- Hire an independent compliance monitor
- Establish confidential reporting channel to monitors
- Notification / investigation system for labor disputes
1b. What are the report's recommendations?

- Employ contractors who are taking measures to mitigate abuses in the recruitment process (requirement to take appropriate steps)
- Install fireproof / easily accessible lockboxes for passports and/or appoint the compliance monitor to hold the passports on behalf of the workers
- Increase in worker interviews, audits for payroll as well as onsite attendance records
- Housing inspections
2. What is the institutional response?

- Payment for Employees of Exempt Firms
- Payment for Employees Who Were Covered by the Labor Standards
- Initiative on Recruitment Fees via the NYUAD Institute
- Nardello Report Recommendations
- Appointment of a New Independent Compliance Monitor
3. Where do we stand with regard to our compliance / monitoring system now?
2010 to Q2 2014

- **Independent Monitor**: Mott MacDonald
- **Compliance Monitors**: NYUAD
- **Self Monitoring**: ADNH, G4S, Fast, Magrudys, Berkley, MAF Dalkia, AFC

Q3 2014 - Current

- **Independent Auditor**: TBD
- **Compliance Monitors**: Labor Compliance Working Group
- **Self Monitoring**: Securitas, Bright Beginnings, Magrudy’s, SERCO, ADNH, ATS, AFC

*Contracts listed are indicative only*
Faculty Advisory Committee on Labour and Social Responsibility

- Jointly monitor all Suppliers
- Carry out regular internal compliance monitoring
- Report to UASLG (and NAC (as requested))

Task Force on Adult Education

University Affairs Senior Leadership Group (UASLG)

Labour Compliance Working Group (LCWG)

3rd Party Compliance Independent Monitor / Auditor

- Perform quarterly external audits
- Provide advisory services
- Prepare annual (public) labour compliance report

NYUAD Audit Committee (NAC)

NYUAD Compliance Team

Tamkeen Compliance Team
4. How can people get engaged in labor issues on campus?

- Provide Feedback to or Become a Member of the Labor & Social Responsibility Committee
- Task Force on Adult Education
- Domestic Employment Initiative

- Participate in Worker Appreciation / ADvocacy Events
- Participate in the Lecture Series “Labor, Migration and Human Rights”
- Participate in the Emerging Research Projects / Initiatives
Recommendations of the Tenure Faculty Senators Council in regard to:
NYU SHANGHAI PROMOTION AND TENURE GUIDELINES

Background

Dr. Joanna Waley-Cohen, Provost, NYU Shanghai, having consulted with NYU Shanghai governing faculty and after an iterative review with the Offices of the Provost and General Counsel, has developed the NYU Shanghai Promotion and Tenure Guidelines (the Guidelines).

The Guidelines are designed to support high academic standards in awarding promotion and tenure and aim to provide a comprehensive and fair review of the candidates.

The successful implementation of the Guidelines depends on the leadership of the Vice Chancellor and Provost of NYU Shanghai and the Provost of NYU.

During the initial period of operation, NYU Shanghai will not have a sufficient number of tenured faculty to complete the review process without the participation of qualified tenured faculty at other NYU degree-granting campuses. The Guidelines recognize that in the initial years, NYU Shanghai will therefore require procedures for promotion and tenure that are transitional to permanent procedures. When NYU Shanghai gains sufficient permanent faculty strength across many or most of its programs, the Guidelines will be revised.

The Guidelines outline the promotion and tenure process and describe the roles of the Faculty Review Committee (FRC), the relevant Dean at NYU Shanghai (the NYU Shanghai Dean), the relevant academic department or unit at NYU NY, the NYU Shanghai Promotion and Tenure Committee (P&TC), and the Provost of NYU Shanghai; and the Vice Chancellor of NYU Shanghai and the Provost of NYU, who together make the final decision of promotion and tenure.

Tenure Faculty Senators Council approval of the NYU SHANGHAI PROMOTION AND TENURE GUIDELINES

The Tenure Faculty Senators Council approves of the NYU SHANGHAI PROMOTION AND TENURE GUIDELINES with the stipulation that the recommendations indicated below are addressed.
Recommendations

Substantive issues:

1. Section 1. Introduction (page 2)
   Second Paragraph
   Second and Third Sentences:
   These Guidelines recognize that in these initial years, NYU Shanghai will therefore require procedures for promotion and tenure that are transitional to permanent procedures. When NYU Shanghai gains sufficient permanent faculty strength across many or most of its programs, the Guidelines will be revisited.

   Consider amending to indicate that the Guidelines will be revisited in five years (2019-2020) or when NYU Shanghai gains sufficient permanent faculty strength across many or most of its programs, which ever comes first.

   Consider defining sufficient permanent faculty strength, as an indication of the criteria deemed necessary to mark the completion of the initial period of NYU Shanghai’s operations referred to in Section 3.8, first paragraph and Section 5.1 Appointment.

2. Section 3.2. Faculty Review Committee (FRC) (page 3)
   First Paragraph
   First Sentence:
   The FRC is appointed by the NYU Shanghai Dean in consultation with the candidate’s relevant academic unit at NYU NY and is composed of 3-5 distinguished senior tenured faculty members.

   To eliminate the possibility of one reviewer having excessive influence at successive levels of evaluation, consider amending to:
   The FRC is appointed by the NYU Shanghai Dean in consultation with the candidate’s relevant academic unit at NYU NY and is composed of 3-5 distinguished senior tenured faculty members who are not members of the NYU Shanghai P&T and who will not participate in the subsequent assessment of the candidate by the candidate’s academic unit at NYU NY.

   Consider stipulating that the FRC be comprised of an odd number of members to avoid tie votes.

3. Section 3.2. Faculty Review Committee (FRC) (page 3)
   First Paragraph
   Second Sentence:
   These members will be drawn from the NYU Shanghai permanent faculty in the candidate’s field (if any), the NYU Shanghai permanent faculty in related fields (if any), and, as needed, faculty in the candidate’s field at other NYU degree-granting campuses, and faculty from other universities.

   Consider removing and faculty from other universities, as “at least five letters, and typically no more than eight from outside evaluators”, will be solicited for each candidate
undergoing review for promotion, as indicated in Section 3.4. Having faculty from other universities as members of the FRC in addition to having evaluations by at least five letters from outside evaluators seems to constitute excessive external influence.

4. Section 3.3. Preparation of the Docket
Materials Collected by NYU Shanghai Dean
Item 4 (page 4):

Letters of evaluation from at least five evaluators

Consider rewording for consistency and specificity as:

Letters of evaluation from at least five outside evaluators

5. Section 3.4 Evaluator Guidelines (page 5)
Third paragraph
Second Sentence

Consider striking:

The candidate must state in writing the reasons for this belief, to be included in the Report.

increasing the required number of letters from outside evaluators to seven, as five such letters seems to be a relatively small number of letters from outside evaluators by comparison with the number required by some other Schools of the University.

6. Section 3.4 Evaluator Guidelines
Letter of Solicitation (page 6)
Second Paragraph
Second Sentence:

If unpublished work or creative work in progress is to be part of the Docket, the FRC must ask all evaluators to comment on its quality.

Consider amending to request confidentiality of unpublished or creative work in progress:

If unpublished work or creative work in progress is to be part of the Docket, the FRC must ask all evaluators to comment on its quality and request that the content of the unpublished or creative work in progress be kept confidential.

7. Section 3.5 Faculty Review Committee Report
Second paragraph (page 6-7)

Responsibility includes the obligation to give careful attention to the materials in the Docket and to share the results of that deliberation with eligible NYU Shanghai faculty and other eligible NYU colleagues.

Consider amending, as the FRC should NOT share the deliberation with eligible NYU
Shanghai faculty and other eligible NYU colleagues. The deliberation should be strictly confidential:

> Responsibility includes the obligation to give careful attention to the materials in the Docket and to share the FRC’s results report, but not the details of its discussions, of that deliberation with eligible NYU Shanghai faculty and other eligible NYU colleagues.

Details such as who said what about or to whom must be kept confidential.

87. Section 3.5 Faculty Review Committee Report
Third full paragraph (page 7)
Second Sentence:
Votes of absent members must be recorded and reported separately to distinguish them from votes made with the benefit of the open discussion of the case.

As votes of absent members are to be earmarked as such, consider specifying how such votes are to be considered in subsequent stages of the review.

98. Section 3.5 Faculty Review Committee Report
Reasonable Doubt (page 7)
As indicated in 2 above, consider stipulating that the FRC be comprised of an odd number of members so that voting will always result in a majority and a minority vote, never in a tie vote.

109. Section 3.7 NYU Shanghai Dean (page 9)
Third Paragraph
Fourth Sentence:
The NYU Shanghai Dean’s recommendation must include a description for non-specialists of the candidate’s work’s relevance to his or her discipline or field, and explain why it is important to NYU Shanghai that this field be represented in its faculty.

Does this mean that a candidate who was hired, at least in part, because of the relevance of his or her work to his or her discipline or field could receive a negative Dean’s recommendation because of changing programmatic priorities that could diminish the importance for his is her field to be represented in the NYU Shanghai faculty? If so, consider stating so explicitly so it is clear that promotion rests, at least in part, on the continued perception that it is important for the candidate’s field or discipline to be represented in the NYU Shanghai faculty.

110. Section 3.8 Promotion & Tenure Committee (P&TC) (page10)
First Paragraph
First Sentence:
The Provost of NYU Shanghai will appoint a P&TC, which will be a standing committee consisting of at least five full professors, a majority of whom will be drawn from the faculties of NYU Shanghai and NYU, and may include full professors from other universities during the initial period of NYU Shanghai’s operations.
There is concern regarding excessive external influence in the promotion process, in this instance from potential external members of the P&TC. The P&TC should be comprised exclusively of NYU faculty.

Consider stipulating that the P&TC be comprised of an odd number of members so that voting will always result in a majority and a minority vote, never in a tie vote.

The Provost of NYU Shanghai may appoint two additional members to the P&TC at his or her own discretion.

It should be stated whether or not the two additional members of the P&TC who may be appointed by the Provost of NYU Shanghai are required to be full professors, which, as stated in the first sentence of this paragraph, is a requirement for the other members of the P&TC.

Consider specifying that any additional members appointed to the P&TC by the Provost of NYU Shanghai should be NYU faculty members, not faculty members from other universities.

The P&TC may solicit additional information including external letters from experts in the candidate's field.

Consider stipulating that additional external letters will not be solicited from the one or two scholars the candidate believes would not – for professional or personal reasons – provide a balanced evaluation, as provided in Section 3.4:

The P&TC may solicit additional information including external letters from experts in the candidate's field, but not from the one or two scholars the candidate believes would not – for professional or personal reasons – provide a balanced evaluation.

Votes of absent members must be recorded and reported separately to distinguish them from votes made with the benefit of the open discussion of the case.

As votes of absent members are to be earmarked as such, consider specifying how such votes are to be considered in subsequent stages of the review.
Second Sentence:
The Provost of NYU Shanghai may solicit additional information and/or external reviews, and/or seek a consultation with the FRC.

Consider defining the reason(s) for which the Provost of NYU Shanghai may solicit additional information and/or external reviews and/or seek a consultation with the FRC.

Consider stipulating that additional external letters will not be solicited from the one or two scholars the candidate believes would not – for professional or personal reasons – provide a balanced evaluation, as provided in Section 3.4:

The Provost of NYU Shanghai may solicit additional information and/or external reviews, but not from the one or two scholars the candidate believes would not – for professional or personal reasons – provide a balanced evaluation, and/or seek a consultation with the FRC.

Consider stipulating that the Provost of NYU Shanghai may seek a consultation with P&TC as well as the FRC.

<table>
<thead>
<tr>
<th>165. Section 4.2 Tenured External Appointments (Lateral Hires) (page12)</th>
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<tr>
<td>First Paragraph</td>
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<td>Second and Third Sentences:</td>
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For appointments with tenure, the vote and authority reside with eligible professors on the FRC. Only faculty of equivalent or higher rank will be eligible to vote.

Consider specifying that only faculty of equivalent or higher rank will be members of the FRC so that all members of the FRC will be eligible to vote, thereby eliminating the necessity for the third sentence and ensuring maximum experience for members of the FRC.

<table>
<thead>
<tr>
<th>176. Section 4.2 Tenured External Appointments (Lateral Hires) (page12)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Paragraph</td>
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The Docket may include a description of the candidate’s teaching and an indication of how the candidate will meet the teaching needs of the department. If evaluations are not available, alternative assessment of teaching ability may be provided by the Chair of the FRC.

Consider amending to indicate that there must be an evaluation of teaching effectiveness, as an indication of how the candidate will meet the teaching needs of the department is an issue of substantial importance.

<table>
<thead>
<tr>
<th>187. Section 5.1 Tenure Clock Appointment (page13)</th>
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<tr>
<td>Second Sentence:</td>
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However, during the initial period of operations of NYU Shanghai, tenure-track assistant professors starting on a new tenure-track line with NYU Shanghai, either in Shanghai or New York, will be appointed as assistant professor faculty fellows for their first year,
which will not count towards their tenure clock.

What is the reason for the first year of a tenure-track assistant professor's appointment not counting towards his or her tenure clock during the initial period of operations of NYU Shanghai? Consider indicating the rationale in the text. Also, consider defining the “initial period of operations” to provide an estimate as to when the first year of a tenure-track assistant professor's appointment will begin to count towards his or her tenure clock.

Minor editorial issues:

1. Section 3.2 Additional Materials (page 5)
   Second Sentence: Materials submitted by the FRC, the NYU Shanghai Dean, and/or Provost of NYU Shanghai should appear in a section of the Docket titled "Supplementary Materials." Examples might be the documents listed in item 11 of Section 3.3.1 above if not submitted by the candidate or such other materials as the NYU Shanghai Dean or FRC deem appropriate to add to the Docket.

   There is neither Section 3.3.1 nor item 11 above

2. Section 3.3. Preparation of the Docket
   Materials Provided by Candidate
   Teaching
   Item 6 (page 4):
   Student evaluations and instructor responses if applicable
   Consider rewording as:
   Teaching evaluation from students and/or colleagues

3. Section 3.7 NYU Shanghai Dean (page 9)
   Second Paragraph
   Second Sentence: This assessment by the NYU department is advisory, not dispositive. It is up to the chair of the relevant department or unit to determine how the assessment should be conducted, and that chair should communicate the assessment to the NYU Shanghai Dean in writing.

   Insert "NY". If NYU AD is included, state so.

   This assessment by the NYU NY department is advisory, not dispositive. It is up to the chair of the relevant department or unit to determine how the assessment should be conducted, and that chair should communicate the assessment to the NYU Shanghai Dean in writing.

4. Section 3.8 Promotion & Tenure Committee (P&TC) (page 10)
   First Paragraph
   First Sentence:
   The Provost of NYU Shanghai will appoint a P&TC, which will be a standing committee consisting of at least five full professors, a majority of whom will be drawn from the
faculties of NYU Shanghai and NYU, and may include full professors from other universities during the initial period of NYU Shanghai's operations.

Insert "NY". If NYU AD is included, state so.

The Provost of NYU Shanghai will appoint a P&TC, which will be a standing committee consisting of at least five full professors, a majority of whom will be drawn from the faculties of NYU Shanghai and NYU NY, and may include full professors from other universities during the initial period of NYU Shanghai's operations.

5. Section 3.11 Joint Appointments (page 11)
Fourth Sentence:
The Chair of the FRC and the Chair of the unit at New York or Abu Dhabi must forward his or her unit's recommendation to the responsible deans of NYU Shanghai and NYU NY or AD following mutual consultation.

Insert "NYU"
Change "AD" to "NYU Abu Dhabi"

The Chair of the FRC and the Chair of the unit at New York or NYU Abu Dhabi must forward his or her unit's recommendation to the responsible deans of NYU Shanghai and NYU NY or NYU Abu Dhabi following mutual consultation.

6. Section 3.11 Joint Appointments (page 11)
Fifth Sentence:
If the FRC and the relevant NYU NY or AD unit arrive at significantly different judgments on whether to grant tenure, the two deans ordinarily will invite the Chair of the FRC and the Chair of the unit at NYU NY or AD to discuss the case together.

Change "AD" to "NYU Abu Dhabi"

If the FRC and the relevant NYU NY or NYU Abu Dhabi unit arrive at significantly different judgments on whether to grant tenure, the two deans ordinarily will invite the Chair of the FRC and the Chair of the unit at NYU NY or NYU Abu Dhabi to discuss the case together.

7. Section 3.11 Joint Appointments (page 11)
Sixth Sentence:
The relevant deans of NYU Shanghai and NYU or AD will forward a joint decision to the Provost of NYU Shanghai, who will add her or his recommendation and forward the complete Docket to the Vice Chancellor of NYU Shanghai and the Provost of NYU.

Insert "NY"
Change "AD" to "NYU Abu Dhabi"

The relevant deans of NYU Shanghai and NYU NY or NYU Abu Dhabi will forward a joint
decision to the Provost of NYU Shanghai, who will add her or his recommendation and forward the complete Docket to the Vice Chancellor of NYU Shanghai and the Provost of NYU.

8. Appendix B (pages 116-17)

Letter A belongs under heading B and vice versa.

9. Section 5.1 Tenure Clock
Stopping the Tenure Clock
Fourth Paragraph (page 14)
First Sentence:
In other cases, a request for tenure clock stoppage normally require advance approval by the NYU Shanghai Dean, the Provost of NYU, the Vice Chancellor of NYU Shanghai, and the Board of Trustees of NYU.

Consider moving the Vice Chancellor of NYU Shanghai before the Provost of NYU.

Change require to requires.
Joint Recommendations Of The Continuing Faculty Senators Council
And
The Tenure Faculty Senators Council In Regard To:

TISCH SCHOOL OF THE ARTS
Teacher Policy

Background

The purpose of the Tisch School of the Arts (TSOA) Teacher Policy is to outline the policies and procedures governing the appointment, review and reappointment of full-time, non-tenure track contract faculty holding the rank of “Teacher.”

At the December 9, 2014 faculty meeting of the Tisch School of the Arts, the Faculty Welfare and Governance Committee, a standing committee of the school, presented to the faculty for a vote the Tisch School of the Arts (TSOA) Teacher Policy. The Teacher Policy was approved unanimously, with three abstentions.

The TSOA Teacher Policy applies to all (i) full-time, non-tenure track contract faculty appointed to the ranks of Associate Teacher and Teacher before the effective date of the Teacher Policy and (ii) full-time non-tenure track/contract faculty appointed to the rank of Teacher after the effective date of the Teacher Policy. Henceforth, the two-tiered appointment structure for Associate Teachers and Teachers will no longer apply. All TSOA Teachers will hereafter hold the rank of “Teacher.”

Recommendations

Substantive issues:

1. Section 1.6, first sentence:
   “TSOA Teachers have the following rights and responsibilities: academic freedom, teaching including, but not limited to classroom instruction, student advising, service on department, School and University Committees, additional academic roles and....”

Recommendation
Clarify that "service" is not solely defined by service in department, school and university committees, but is more fully enumerated in each Department Policy. (See Paragraph 2.2: Every department is required to establish performance standards for faculty members of all titles, and where applicable, ranks in its Department Policies.)

Reorder the sentence so that rights and responsibilities are listed in that order, including the clarification recommended for "service" above, e.g.: "TSOA Teachers have the following rights and responsibilities: academic freedom, eligibility to apply for School funds, and where eligible, for University administered funds, health care benefits, retirement benefits, teaching including, but not limited to classroom instruction, student advising, service on department, School and University Committees, additional academic roles and responsibilities that contribute to the department’s, School’s or University’s
missions, avoidance of conflicts of interest/commitment, and adherence to ethical standards.”

2. Section 2.2, second paragraph, second sentence:
“Service, broadly defined, encompasses committee participation at the department, School and University levels, administrative program oversight and management, and other responsibilities as designated by the Department Chair.”

**Recommendation**
As with Recommendation #2, clarify that what constitutes service is fully enumerated by Department Policies, not by the Department Chair.

3. Section 2.3, first sentence:
“Prior to the commencement of employment, every TSOA Teacher receives a letter of appointment (Appointment Contract).”

**Recommendation**
Change language to:
“Prior to the commencement of employment, every TSOA Teacher **shall receive** a letter of appointment (Appointment Contract).”

4. Section 2.5, third sentence:
“Departments that adopt a fixed one-year contract must provide a written justification based on programmatic and academic considerations.”

**Recommendation**
Clarify to whom this justification must be provided.

5. Section 2.5, final sentence:
“All TSOA Teachers in a three-year contract are subject to a probationary review at the end of the first year”

**Recommendation**
The language suggests that the Teacher is subject to a probationary review at the end of the first year of each three-year contract.

Clarify that a probationary review occurs only during the initial three-year contract as follows: "All TSOA Teachers on three-year contracts are subject to a probationary review at the end of the first year of their initial contract”

6. Section 2.6, first sentence:
“All TSOA Teachers are eligible to stop the contract clock for reasonable cause (e.g., illness, disability personal as primary caregiver for child, spouse, parent same-sex domestic partner disability, parental leave, other compelling personal reason or to pursue professional work) after their Third Year Review, which is defined in Section 4.5 below.”
Recommendation
Clarify the parenthetical as follows:

“All TSOA Teachers are eligible to stop the contract clock for reasonable cause (e.g., illness, disability, personal care as primary caregiver for child, spouse, parent or same-sex domestic partner disability, parental leave, other compelling personal reason or to pursue professional work) after their Third Year Review, which is defined in Section 4.5 below.”

7. Section 2.6, third sentence:
“For all approved personal leaves of one semester or more, the length of the TSOA Teacher’s contract is extended by a minimum of one semester.”

Recommendation
Clarify whether it is the case that if the approved leave is for more than one semester, the Teacher’s contract may be extended by more than one semester.

8. Section 3.3, Footnote 5:
Include Footnote 5 (“Every department is expected to include FTNTT/CF in the hiring process for full-time contract faculty, including TSOA Teachers.”) as the penultimate sentence of Section 3.3.

9. Section 4.2:
“A TSOA Teacher’s eligibility to be considered for reappointment does not guarantee reappointment. Even when the TSOA Teacher satisfies the performance standards set by his/her department, the decision to reappoint may be impacted by curricular/structural changes and improvements in academic programs that substantially alter the nature of the teaching assignment.”

Recommendation
Add language as a third and final sentence to this Section 4.2 similar to that in Section 4.7, second sentence, and Section 5.1, fourth sentence, allowing for consideration of whether the TSOA Teacher would be able to teach in the new revised curriculum.

10. Section 4.3, first sentence:
“Every TSOA Teacher receives a minimum of ninety (90) days notice of the annual review.”

Change language by adding the words prior to.
“Every TSOA Teacher receives a minimum of a ninety (90) day notice prior to the annual review.”

11. Section 4.5:

Recommendation
Add language similar to Section 5.4 clarifying what materials are required to be compiled and submitted by Teachers on continuous one-year appointments for the Third Year Review.

12. Section 4.6, second sentence:
“The Review Committee shall consist of: Arts Professors of all ranks, TTF and at least one TSOA
Recommendation
Clarify and simplify language describing the three-member review committee, for example: “The Review Committee shall consist of one Arts Professor of any rank, one Tenure/Tenure Track faculty member, and one Teacher.”

13. Section 4.6:

Recommendation
Add language similar to Section 5.4, paragraph 2, describing the process of the Review Committee

14. Section 4.7, first sentence:
“As with the case of TSOA Teachers in a one-year contract, the decision to reappoint after the Third Year Review may be impacted by curricular/structural changes and improvements in academic programs that substantially alter the nature of the teaching assignment.”

Recommendation
Clarify by the addition of language:
“As with the case of TSOA Teachers in a one-year contract, the decision to reappoint a Teacher on a one-year contract after the Third Year Review may be impacted by curricular/structural changes and improvements in academic programs that substantially alter the nature of the teaching assignment.”

15. Section 5.2, second sentence:
“The Review Committee shall consist of Arts Professors of all ranks, TTF and at least one TSOA Teacher.”

Recommendation
Clarify and simplify language describing the three-member review committee, for example: “The Review Committee shall consist of one Arts Professor of any rank, one Tenure/Tenure Track faculty member, and one Teacher.”

16. Section 6.3:

Recommendation
Clarify the process of grieving at the departmental level (e.g., to whom is the grievance submitted and what is the process of grieving at that level).

17. Section 6.7, second sentence:
“In the event that the dispute is not settled informally at a level below the TSOA Dean, the TSOA Teacher may appeal to the TSOA Dean to convene the school’s Grievance Committee, which shall—for grievances brought by TSOA Teachers—be expanded to include at least one senior full-time non-tenure track/contract faculty member.”
Recommendation

Consider expanding the school’s Grievance Committee for grievances brought by TSOA Teachers to include a TSOA Teacher, so as to include a viewpoint of a more closely related peer of the grievant.

Minor editorial issues:

1. Page 2, Footnote 2:
   Update the reference to the University Guidelines for Full-Time, Non-Tenure Track/Contract Faculty Appointments (University Guidelines). Change “from 2014” to “March 1, 2015”.

2. Section 2.4, last sentence:
   “This title has no necessary implications for salary, duties, and privileges.”

   Recommendation:
   Change language to:
   “This title has no necessary implications for salary, duties, or privileges.”

3. Section 2.6, line 4:
   delete extra space between “or to pursue”;
   delete extra space between “professional work)” and “after their”

4. Section 3.3, last sentence:
   change semicolon to a comma
   “In the case of smaller departments, full-time faculty from other departments may be included.”

5. Section 3.4, last line:
   add a comma after “TSOA Dean, who selects the top candidate and makes an offer.”

6. Section 4.4, second sentence:
   “In the event of a decision to not reappoint, the TSOA Teacher is notified of the intention to not reappoint by March 31st if the appointment is to be terminated on August 31st”

   Rephrase so as not to split the infinitive:
   “In the event of a decision not to reappoint, the TSOA Teacher is notified of the intention not to reappoint by March 31st if the appointment is to be terminated on August 31st.”

7. Section 4.5, first sentence:
   “In the first semester of the third year of continuous one-year appointments, the TSOA Teacher undergoes a formal review comparable to the review of TSOA Teachers with three-year contracts Third Year Review”
Add parentheses around "Third Year Review", i.e., (Third Year Review).

8. Section 5.4, first sentence:
   “The Committee’s assessment is guided by the performance standards established in the Department Policies, and consists of a thorough review of the TSOA Teacher’s Docket, which includes following:”

   Insert “the” before “following”

9. Section 5.4, last sentence:
   “In the event of a decision to not reappoint, the TSOA Teacher is notified of the intention to not reappoint no later than August 31 of the penultimate year and continues under contract for the third and final year”

   Rephrase so as not to split the infinitive
   “In the event of a decision not to reappoint, the TSOA Teacher is notified of the intention not to reappoint no later than August 31 of the penultimate year and continues under contract for the third and final year.”

10. Section 6.4, first sentence:
    “The Grievance Committee does not judge the professional merits of the case and considers the appeal based on the grounds specified above (Section 6.3).”

    Change parenthetical number to (Section 6.2)
AUDIT OF COMPLIANCE WITH LABOR STANDARDS RELATED TO CONSTRUCTION OF THE NYU SHANGHAI CAMPUS

PAUL HASTINGS, LLP
January 31, 2015
I. INTRODUCTION AND SCOPE OF REVIEW

This report, “Audit of Compliance with Labor Standards Related to Construction of the NYU Shanghai Campus” (the “Report”), describes the compliance audit undertaken by and resulting findings of Paul Hastings LLP (“Paul Hastings”) related to compliance with certain specified labor standards in connection with construction of the New York University (“NYU” or “the University”) campus in Shanghai, People’s Republic of China (“PRC”). These labor standards pertain to the protection of the rights of workers and were specified in the contractual documents related to the construction of the NYU campus in Shanghai and executed by the Shanghai Municipal Education Commission (“SMEC”), with its partners Pudong New Area, Shanghai, PRC (“Pudong”) and East China Normal University (“ECNU”), and NYU (collectively, the “Parties”). Paul Hastings has been engaged to assess whether these labor standards were properly implemented during the construction of the NYU Shanghai Campus and to make recommendations to ensure future compliance.

Section II of this Report provides background information regarding NYU’s global objectives in education, the NYU Shanghai Campus and the contractual agreements related to and key building contractors involved in construction of the NYU Shanghai Campus. Section III describes Paul Hastings’ methodology for the compliance audit, which forms the basis for the conclusions set forth in this Report. Section IV presents Paul Hastings’ observations and conclusions related to the implementation of the pre-agreed labor standards. Section V sets forth Paul Hastings’ recommendations related to best practices to ensure future compliance with labor standards as well as other potential risk areas for the NYU Shanghai Campus and other campuses and sites that form the NYU global network. Attachment 1 to this Report sets out the fourteen principles covered by the Statement of Labor Values and Paul Hastings’ analysis of compliance with each.

II. BACKGROUND

A. NYU Global Objectives in Education and the NYU Shanghai Campus

NYU’s global initiatives began several decades ago when NYU first established study abroad programs in Europe. Today, the University has more than ten study abroad sites. With over 40% of its undergraduates studying abroad, as the next step in its global approach to education, NYU established comprehensive, liberal arts, degree-granting university campuses outside of New York City. In 2010, NYU -- at the invitation of Abu Dhabi -- established a campus there that offers a four-year program of study culminating in an NYU degree. NYU now has established another degree-granting campus in Shanghai. Together, these locations -- along with 12 other Study Away sites -- constitute NYU’s global network.

NYU Shanghai was jointly established by NYU and ECNU. Its first class of students matriculated in 2013 and initially shared ECNU’s campus. Construction of NYU Shanghai’s campus started in July 2011 and was largely completed by the summer of 2014. NYU Shanghai’s students began using the new campus in the fall of 2014.

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1 These sites include Accra, Berlin, Buenos Aires, Florence, London, Madrid, Paris, Prague, Sydney, and Tel Aviv, as well as Washington, D.C., Abu Dhabi and Shanghai, which are both study abroad sites and degree-granting campuses.
B. Contractual Agreements Related to Construction of NYU Shanghai Campus

On April 29, 2010, the Parties signed a Memorandum of Agreement in which the Parties agreed to explore the possibility of establishing a new Chinese university that would be a degree-granting unit of NYU in Shanghai. In addition, NYU and ECNU executed an agreement establishing NYU Shanghai (the “Cooperation Agreement”), dated April 29, 2010 and amended on September 15, 2010. This agreement was approved by the Chinese Ministry of Education on January 17, 2011.

On March 28, 2011, the Parties executed the underlying agreement for the establishment of the NYU Shanghai Campus (the “Operating Agreement”). Appended as Exhibit D to the Operating Agreement is the Statement of Labor Values of NYU Shanghai. The stated purpose of the Statement of Labor Values of NYU Shanghai is “[t]o ensure the smooth progress of [NYU Shanghai’s] construction, maintenance and operation based on the shared values of the Parties and the relevant provisions of the existing laws of the People’s Republic of China.”2 To that end, the Statement of Labor Values sets forth standards related to fourteen issues, as follows: (1) wages and benefits; (2) social insurances; (3) working hours; (4) overtime compensation; (5) protecting women’s rights; (6) no employment of child labor; (7) no harassment or abuse; (8) no forced labor; (9) securing health and safety; (10) principle of nondiscrimination; (11) termination of employment; (12) resolution of work disputes; (13) compliance with laws; and (14) enforcement.

C. Key Building Contractors

Pursuant to its undertakings as set out in the Operating Agreement, Pudong appointed Shanghai Lujiazui (Group) Co., Ltd. (“LJZ”) to be the developer of the NYU Shanghai Campus. LJZ is wholly owned by Pudong, although we understand that LJZ has a publicly traded subsidiary listed on the Shanghai Stock Exchange.

Shanghai Construction No. 5 (Group) Co. Ltd. (“Construction #5”) was appointed to be the general contractor by LJZ. Construction #5 is a wholly-owned subsidiary of Shanghai Construction (Group) Co., Ltd. Construction #5 is an experienced contractor and has received a number of awards for its building projects. These awards include the Magnolia Award, which is the highest honor bestowed on Shanghai’s construction industry by the Shanghai Construction Trade Association. Recipients of this award must satisfy such requirements as confirmation that no significant safety violations occurred during construction of the award project. We understand that Construction #5 has been awarded the Magnolia Award for the NYU Shanghai Campus. Since 1989, Construction #5 has received this award over 70 times. On multiple occasions, Construction #5 also has received the Luban Award, the National Quality Award, the High Quality Structure Award, and the Municipal Gold Award.

III. METHODOLOGY

Paul Hastings conducted interviews of individuals representing 5 distinct categories of stakeholders: (1) NYU, including senior management, based both in New York and Shanghai, (2) project management, including representatives of LJZ and Construction #5, (3) AECOM, an

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2Exhibit D, Statement of Labor Values of NYU Shanghai, Operating Agreement.
infrastructure and support services firm that was hired by LJZ to provide technical and management support and periodic reports regarding the worksite safety, quality and progress of the construction, (4) construction workers who were employed to work on the NYU Shanghai Campus, including workers who were employed by a subcontractor to Construction #5 and (5) independent entities retained to provide services to NYU in connection with the construction project, including Jones Lang LaSalle Inc. (“JLL”) and Fangda Partners, counsel to NYU in Shanghai.3

In addition, Paul Hastings reviewed documents related to the relationship between the Parties and construction of the campus, including formation agreements; documents related to compliance with the Statement of Labor Values in connection with the construction of the NYU Abu Dhabi facility; NYU correspondence regarding its global network; certain reports prepared by JLL and AECOM related to construction; photographs attached to monthly reports regarding the construction and of the living quarters for those workers who lived in employer-provided housing while working on the NYU Shanghai Campus construction site; and publicly available information regarding the Parties, including information relating to awards given to Construction #5 and media reports regarding construction of the NYU Abu Dhabi facility.4

As Paul Hastings cannot provide advice regarding Chinese law, all summaries of and analysis regarding PRC law have been reviewed and confirmed to be accurate by Mr. Jay Chen, a partner with Shanghai Baohua Law Firm and specialist in PRC employment law.

IV. PRELIMINARY OBSERVATIONS AND CONCLUSIONS

As described more fully below, our review indicates that the NYU Shanghai Campus was constructed largely in compliance with the Statement of Labor Values. While we found some departures from best practices, which are discussed below, these were relatively minor issues. Overall, the standards outlined in the Statement of Labor Values appear to have been implemented, and more fundamentally, the spirit of the Statement of Labor Values appears to have been upheld. We conclude this Report with some suggestions for how NYU Shanghai can align its activities with best practices in the future.

A. Standards Established by Statement of Labor Values of NYU Shanghai

The Statement of Labor Values of NYU Shanghai was initiated by NYU. The standards were based on the Statement of Labor Values adopted in connection with the construction of NYU

3 Paul Hastings did not interview all individuals with knowledge of the Statement of Labor Values and the construction of the NYU Shanghai Campus. In addition, while we conducted interviews of more than 15 construction workers, including low-level managers, almost all of the workers we interviewed worked on the latter stages of the construction project. A more varied sample of workers was not available because construction is largely complete, and most workers have left the NYU Shanghai construction site. While additional interviews of workers from earlier stages of the construction project might have been helpful, given the consistency of the responses received from the workers who were interviewed, we have no reason to believe that additional interviews would have yielded different or contradictory information.

4 Paul Hastings was not able to obtain or review certain documentation, including copies of tender documentation or contracts with Construction #5 or any of the subcontractors because NYU was not a party to any of the contracts and did not conduct any of the tenders as well as records related to workers (including payroll records) maintained by Construction #5 and the subcontractors.

4
Abu Dhabi, but Fangda Partners made some minor changes to conform them to PRC labor law. The Parties negotiated the final language of the Statement of Labor Values based on comments to NYU’s draft made by Pudong and/or ECNU.

The Statement of Labor Values is available for review at [http://shanghai.nyu.edu/about/labor](http://shanghai.nyu.edu/about/labor), and is appended to this report as Attachment 2.

B. Conformity to PRC Labor Law Requirements

As a general matter, the standards set forth in the Statement of Labor Values are closely aligned with requirements of PRC labor law. In recent years, the National People’s Congress, the national legislature of the PRC, promulgated multiple laws to improve employee benefits and protect employee interests (e.g., the Labor Law (1995), the Employment Contract Law (2008) (the “ECL”), the Law on Mediation and Arbitration of Employment Disputes (2008), and the Social Insurance Law (2010)). The ECL strengthened protections for workers in a number of respects, including protection from furloughs and protections related to collective bargaining for wages and benefits. The surge of labor law-related arbitration and court cases in China after the enactment of the ECL indicates the growing consciousness of Chinese workers regarding their legal rights.

None of the standards in the Statement of Labor Values provides less protection to workers than applicable PRC labor law. One requirement in the Statement of Labor Values -- the requirement related to non-discrimination -- provides more protection to workers than applicable PRC law in that it covers more types of employment discrimination than the types prohibited under law. While PRC law prohibits discrimination for reasons of gender, ethnicity, race, religion, disability, infectious pathogen (e.g., AIDS) and residence status (i.e., workers from rural areas), the Statement of Labor Values prohibits any discrimination in employment.

C. Compliance with the Statement of Labor Values

As part of the compliance audit conducted for this Report, Paul Hastings examined whether the Parties complied with the standards set forth in the Statement of Labor Values in connection with the construction of the NYU Shanghai Campus. As described above, the Statement of Labor Values sets forth standards related to fourteen separate categories of issues addressing working conditions and the rights of workers. Those fourteen issues and Paul Hastings’ analysis of actual compliance with each is set out in Attachment 1 to this Report.

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5 NYU and the Emirate of Abu Dhabi agreed to create NYU Abu Dhabi, which is the first liberal arts and science campus in Abu Dhabi. Construction on the NYU Abu Dhabi campus began in June 2010. NYU ABU DHABI, Statement of Labor Values, www.nyuad.nyu.edu, [http://nyuad.nyu.edu/en/about/statement-of-labor-values.html](http://nyuad.nyu.edu/en/about/statement-of-labor-values.html). In addition to changes in terminology (such as “worker” to “employee”) and references to applicable law (such as UAE law to PRC law), NYU Shanghai’s Statement of Labor Values includes three additional values: two require the provision of Social Insurance and statutory grounds for termination of employment other than by mutual consent, and the third addresses application and enforcement of the Statement of Labor Values. In addition, the NYU Shanghai Statement of Labor Values adds specificity to the values for Wages and Benefits and Securing Health and Safety. The NYU Shanghai Statement of Labor Values provides less specificity than the Abu Dhabi version for Working Hours and Protecting Women’s Rights; however, both provisions specifically require compliance with PRC law on these topics.
Our review indicates the Parties generally complied with the standards regarding workers’ rights set forth in the Statement of Labor Values during the construction of the NYU Shanghai Campus. We paid special attention to potential noncompliance related to the following standards: (1) Standard 3 (Working Hours), (2) Standard 4 (Overtime Compensation) and (3) Standard 14 (Enforcement), and we identified certain shortcomings, as follows.

First, based on information provided by the workers we interviewed, some workers did work long hours and 7 days per week; however, those workers say they did so on a voluntary basis. Second, according to the information provided by some of the workers, while they did receive overtime compensation (if compensated on an hourly or daily basis), the overtime rate may have been lower than the rate required under applicable PRC law. Our conclusions regarding working hours and overtime compensation could have been more definitive if contemporaneous records were available for review and if we had been given access to compensation information from Construction #5 and the subcontractors.

Third, with regard to Standard 14 (Enforcement), the Statement of Labor Values should have been but does not appear to have been included in the construction contracts with Construction #5 and the subcontractors. Although we have not reviewed the contracts between Pudong and LJZ, LJZ and Construction #5 and Construction #5 and the subcontractors, information we have collected to date indicates that the Statement of Labor Values was not included in these contracts. This omission does not appear to have had any substantive impact, but inclusion of the Statement of Labor Values would have facilitated both this review and other enforcement efforts.

While the Statement of Labor Values was not included in the contracts, NYU Shanghai made efforts to enforce the final clause of Standard 14 (Enforcement) which states in part that commercially reasonable endeavors shall be used to ensure compliance with the Statement of Labor Values by the contractors. While NYU Shanghai did not implement a formal monitoring program, NYU Shanghai’s own personnel did conduct their own monitoring. Further, some limited review was conducted by JLL, a global financial and professional services firm that specializes in commercial real estate services and investment management, including providing commercial construction management services. JLL was retained to provide project consultancy services throughout the different stages of the planning, building, and commissioning of the NYU Shanghai Campus. As part of the construction phase, JLL’s scope of work included monitoring Construction #5’s safety program, attending safety sessions, attending meetings, and overseeing Construction #5’s performance. In addition, beginning in the summer of 2013, JLL conducted labor compliance monitoring at NYU Shanghai’s request.

D. Paul Hastings’ Conclusions

Inclusion of the Statement of Labor Values in the Operating Agreement was proposed by and insisted upon by NYU. NYU could have relied upon a basic representation in the Operating Agreement that construction of the NYU Shanghai Campus would be completed in accordance with applicable PRC law. The Statement of Labor Values, which specifies the particular

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6 Project Management and Associated Services Agreement between Jones Lang LaSalle and Center for Formation of New York University Shanghai for the NYU Shanghai Project, dated March 1, 2012.
standards that must be satisfied, provides additional clarity regarding the Parties’ expectations. Adding the Statement of Labor Values was not an uncomplicated matter. The NYU Shanghai Campus building was built and is owned by an affiliate of LJZ. As a result, NYU Shanghai did not have the power to insist on inclusion of the Statement of Labor Values.

As a general matter, the Statement of Labor Values conforms to local culture and practice and is consistent with applicable PRC laws and regulations. As PRC law is protective of the rights of workers, this conformity is a positive factor. The apparent level of risk that the Statement of Labor Values would be violated appears to have been limited. Our assessment of the apparent level of risk is based on the following factors:

a) the developer and general contractor -- LJZ and Construction #5 -- are large, well-respected companies in China;

b) construction workers, in particular, generally are in high demand in the area, and therefore, presumably could have found alternative employment if they were not satisfied with working conditions;

c) the workers were free to leave the job site as they pleased and had clean and reasonable living conditions;

d) the workers appear to have earned well above the minimum wage and their regular wages appear to have been in accordance with local industry standards;

e) the workers appear to have been enrolled in social insurance programs, which included pension, medical insurance, unemployment insurance, workers compensation insurance, and maternity insurance;

f) no significant health and safety problems were reported throughout the construction process;

g) the NYU Shanghai Campus construction project is in a highly-visible urban location that is easily accessible to government authorities/inspectors and NYU representatives; and

h) the NYU Shanghai project was a prominent venture for the Pudong government.

As described above and in Attachment 1 to this Report, our review indicates general compliance with the Statement of Labor Values. Of the issues we observed, perhaps the most significant relates to the fact that JLL was initially tasked only with project consultancy services (including safety and health monitoring) and its mandate was not expanded to include labor compliance monitoring until 2013. Clearly, retaining an independent expert at the start of the construction project to conduct labor monitoring would have provided stronger assurances regarding compliance with the Statement of Labor Values and would have resulted in the creation of a contemporaneous written record of such compliance. Further, even without retaining an independent third party, adoption of a formal monitoring protocol would have yielded more reliable information than the information currently available for review, including a formal record of compliance established at the time of construction. We note however, that since NYU Shanghai personnel did not observe any “red flags” to give them concern about the status of compliance with the Statement of Labor Values, there was no apparent need for NYU Shanghai to increase the level or type of monitoring already being conducted.
V. RECOMMENDATIONS TO ENSURE “BEST PRACTICES” COMPLIANCE

Going forward, Paul Hastings recommends that NYU Shanghai implement certain mechanisms to ensure continued compliance with the Statement of Labor Values. Further, if NYU continues to expand its global network and initiate other projects and campuses around the world, Paul Hastings recommends that the University adopt certain standard operating procedures. Below is an overview of the type of enhancements that we recommend. We will continue discussions regarding these recommendations separately with NYU.

First, with regard to the NYU Shanghai Campus, it is incumbent upon NYU Shanghai to continue to enforce compliance with the Statement of Labor Values. To that end, we recommend that the Statement of Labor Values be incorporated into any agreements related to the lease, property management, maintenance or operation of the campus; NYU Shanghai should also consider implementing the Statement of Labor Values in all other NYU Shanghai activities and terms of employment. NYU Shanghai has included the Statement of Labor Values in contracts with companies working on the Jinqiao Dormitory construction project.

Second, we recommend that from the Statement of Labor Values, NYU develop more detailed guidelines that can be used as a basis for monitoring and auditing compliance. The fourteen principles set forth in the Statement of Labor Values are very general in nature. Development of more detailed standards with specific, auditable expectations would be preferable.

Third, we recommend that NYU Shanghai implement a regular review of compliance with the Statement of Labor Values. This review could be conducted periodically, as appropriate. The review should be undertaken by an independent third party, and the results of the review should be documented in a written report.

Fourth, to supplement that independent review, we recommend that NYU Shanghai establish a hotline that employees and third parties (such as construction workers) can contact to raise issues of concern.

Fifth, we understand that a Compliance Officer has been hired for NYU Shanghai and that the Compliance Officer’s responsibilities include some regular monitoring of compliance with the Statement of Labor Values. We strongly support this appointment and recommend that the Compliance Officer continue this work.

Sixth, we understand that while all courses will be taught at the NYU Shanghai Campus, research or other activities may be conducted at sites owned by ECNU. We recommend that NYU Shanghai consider whether the Statement of Labor Values has been applied to work being performed on the University’s behalf at such sites, and if not, what steps should be taken. We understand that with regard to a new construction project involving certain laboratories on the ECNU campus, the Statement of Labor Values has been or will be included in the relevant construction documents.

Seventh, for both NYU Shanghai as well as future projects undertaken by NYU, Paul Hastings recommends that NYU create one or more checklists that highlight potentially applicable international regulatory compliance issues. Such checklists could be used as a screening mechanism for a variety of initiatives outside the United States, such as new campuses, study
abroad programs, research initiatives and other programs. The checklists should identify the
types of regulatory issues that should be considered and addressed by the University prior to any
new applicable international initiative and throughout any such programs. These regulatory
issues include not only labor issues and the rights of workers, but also anti-corruption, export
controls, economic sanctions, privacy, money laundering, academic freedom/government
censorship and other similar compliance risks. For current programs such as NYU Shanghai, the
University should use the checklists to identify the types of operational compliance risks that
may exist and how to address them.
Compliance by Parties with Statement of Labor Values

As part of the compliance audit conducted for the Report, Paul Hastings examined whether the Parties complied with the standards set forth in the Statement of Labor Values in connection with the construction of the NYU Shanghai Campus. The Statement of Labor Values sets forth standards addressing fourteen separate categories of issues related to working conditions and the rights of workers. Those fourteen issues and Paul Hastings’ analysis of actual compliance with each are set out below.¹

1. Wages and Benefits
   a. Requirements in Statement of Labor Values

   The Statement of Labor Values requires that “[a]s a floor, employees providing services to NYU Shanghai or in connection with the construction, maintenance and operation of NYU Shanghai will be timely and adequately paid wages and benefits which conform to their essential needs and living standards pursuant to all applicable PRC laws and regulations (including without limitation, the minimum wage standards required by the government).”

   b. Evidence of Compliance

   Under PRC law, employers have an obligation to pay their employees’ wages fully and in a timely manner. Wages must be paid at least once per month to full-time employees and once every two weeks to part-time employees. The wages may not be lower than the local minimum wage.

   In Shanghai, the minimum wage is RMB 17 ($2.70) per hour or RMB 1,820 ($293) per month, based upon working hours of 8 hours per day, 40 hours per week, excluding overtime pay.² The minimum wage increases every year by approximately 10%. Therefore, the minimum wage in 2012 and 2013 was lower than the 2014 amount.³ In 2013, the city average wage was RMB 5,036 ($812) per month.⁴

   Based on information obtained during interviews, it appears that all of the workers received their wages in full and on a timely basis. Their regular wage (i.e., excluding overtime pay) exceeded the minimum wage, and the regular salary of many workers was more than the 2013 average wage in Shanghai. According to the representatives of LJZ and Construction #5, no workers had to pay a recruitment fee in order to have a job with Construction #5. Wages were allocated in full to the workers on time, and no complaints were filed for nonpayment of wages.⁵

¹ As we did not have access to certain contemporaneous records related to the workers (including payroll records) maintained by Construction #5 and the subcontractors, we were not able to independently verify information provided by the workers during interviews.
² These rates were effective as of April 1, 2014.
⁵ Complaints can be filed with the labor bureaus at the district or municipal level. Workers can also initiate labor arbitration with the labor arbitration commission at the district level.
regard to the payment of wages, NYU Shanghai’s Director, Campus and Facilities, noted that Construction #5 typically held each worker’s wages until the worker requested the funds be disbursed because the workers did not have bank accounts and did not want to be paid large amounts of cash if they lived in communal housing. According to this Director, workers typically requested and were given their wages prior to returning home on vacation or if they were transferring to another job site. Interviewees confirmed that they could have been paid on a monthly basis if they so requested; however, some of them chose to be paid only a certain percentage and to receive the remainder at the end of their work on the project or before returning home for Chinese New Year.

Multiple interviewees advised that there is a shortage of construction workers in Shanghai, especially skilled laborers. At least partially as a result of this shortage, the wages paid to construction workers have increased in recent years, and construction companies pay premium wages to attract workers to their jobs.

2. Social Insurances

a. Requirements in Statement of Labor Values

The Statement of Labor Values requires that for all employees, whether with or without permanent Shanghai residence registration and whether or not full-time employees, statutory social insurance must be paid “timely and adequately in accordance with all applicable PRC laws and regulations.”

b. Evidence of Compliance

Under PRC Social Insurance Law (2010), employers are required to enroll employees in social insurance programs, which include pension, medical, unemployment, work compensation and maternity insurance. Both employers and employees are required to make contributions to social insurance programs.

Interviewees confirmed that companies pay the social insurance for their employees. Other interviewees confirmed that all of the workers were enrolled in social insurance programs in accordance with PRC law. Further, the representative of LJZ stated that the staffing agencies paid social insurance for the workers in accordance with PRC law. This LJZ representative noted, however, that since social insurance contributions are made on a monthly basis, the staffing agency could not make a contribution for those workers who worked only for several days. The workers we interviewed also understood that their employers enrolled them in social insurance programs when they did not otherwise have social insurance.6 Some of these workers received benefits under the medical insurance program when ill.7

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6 Some workers we interviewed stated that they do not need their employers to pay for their social insurance programs because their local government already pays for them.

7 We did not independently verify whether Construction #5 and the subcontractors paid the correct amount of social insurance for each employee as such an undertaking would have required us to obtain each employee’s contribution records and information regarding his/her salary.
3. Working Hours

   a. Requirements in Statement of Labor Values

   The Statement of Labor Values requires that “employees shall not be required to work more than the limits on working hours allowed by” PRC labor laws and regulations. Further, “implementation of any non-standard working hours system” also must comply with PRC laws and regulations.

   b. Evidence of Compliance

   Under PRC law, there are three systems for calculation of working hours: (1) the standard working hours system, (2) the comprehensive working hours system, and (3) the flexible working hours system. Under the standard working hours system, which is similar to non-exempt employees in the United States, the working hours are restricted to 8 hours per day and 40 hours per week. Employers are required to ensure that employees take one day off every week. Based on business needs, an employer may extend work time after consulting with the union and the employee. The extension of work time generally should not exceed one hour per day; if a special circumstance warrants a further extension of work time, the extension may not exceed three hours per day and the total overtime hours may not exceed 36 per month. Under the comprehensive working hours system, the work hours can be calculated based on a given cycle (e.g., on a weekly, monthly, quarterly or yearly basis) instead of a daily basis. The hour limits are 40 hours per week, 166.67 hours per month, 500 hours per quarter or 2000 hours per year. So long as the total hours worked during one cycle do not exceed the hour limit, the employees are not considered to work overtime. If employers require employees to work overtime during the calculation cycle, the overtime hours may not exceed 36 hours per month on average. Under the flexible working hours system, which is similar to exempt employees in the United States, there is no specific hour limit.

   Local labor authorities’ approval is required to apply either the comprehensive working hours system or the flexible working hours system. In addition, only limited positions are eligible for the comprehensive or flexible working hours systems. Rank-and-file construction workers are not eligible for flexible working hours, so they would have been classified under either the standard or comprehensive working hours systems. As a result, their overtime hours should not have exceeded 36 hours per month on average.

   Based on information obtained during interviews, we understand that many rank-and-file workers worked 8 hours per day and 6-7 days per week. Some workers also worked overtime frequently for 2-3 hours per day. These hours exceeded the limit set by PRC law. However, we understand that these workers were not required or forced to work overtime but chose to do so voluntarily, in order to earn additional wages.

   The PRC Labor Law only prohibits employers from extending work hours exceeding the statutory limits. It is unclear under PRC Labor Law whether an employer has an obligation to stop employees from voluntarily working additional hours. However, the PRC Labor Law does require employers classified under the standard working hours system to ensure that employees take off one day every week. If workers employed at the NYU Shanghai Campus were classified
under the standard working hours system, working 7 days per week would not have been permissible.

4. **Overtime Compensation**

a. **Requirements in Statement of Labor Values**

The Statement of Labor Values requires that overtime compensation be paid for employees’ work for overtime hours as required by law.

b. **Evidence of Compliance**

Under PRC law, for employees working under the standard working hours system, employees working overtime must be compensated at a rate no less than 150% of their salary for overtime on regular work days, no less than 200% of their salary for overtime on rest days (or be provided with the same amount of time off) and no less than 300% of their salary for overtime on public holidays. For employees working under the comprehensive working hours system, the overtime rate is no less than 150% for overtime on regular work days and rest days and no less than 300% for overtime on public holidays.

Based on the interviews conducted, it appears that workers who earned monthly-based or daily-based salaries worked overtime when there was an emergency need or the extra hours were otherwise deemed necessary. Multiple workers who were interviewed stated that they were paid at a higher rate for overtime work. Some workers stated that the overtime rate was 200% of their regular salary; however, others stated that they were paid a rate greater than their normal rate but less than 150% of that rate. We note that none of the workers interviewed complained about their overtime pay, and it appears that all were satisfied with the overtime rate paid by their employers.

In addition, workers who were paid upon completion of a certain project generally were not paid overtime as their rates took overtime into account. Project-based compensation was structured to incentivize the employees to work more. Specifically, those employees who chose to work longer hours or more days could complete more projects in the same time frame than workers who chose to work shorter hours or fewer days and thus, did earn more money for the additional hours worked.

All of the workers interviewed confirmed that they received the full amount of overtime compensation owed to them and were paid in a timely manner.

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8 For example, a worker may be paid a set amount to paint a room. The worker may decide how many hours to work each day to complete the project. The worker’s salary is not based on the number of the hours he works, so there is no overtime pay.
5. **Protecting Women’s Rights**

   a. **Requirements in Statement of Labor Values**

The Statement of Labor Values requires that female employees “receive equal treatment, including equal salary and relevant benefits; equal evaluation; and equal opportunity to fill all positions open to male employees.” Further, “[w]omen’s right during the pregnancy, child birth and nursing period as provided by the PRC law shall be protected.”

   b. **Evidence of Compliance**

The PRC Law on Protection of Women’s Interests and Regulations on Occupational Protections of Female Employees grants multiple protections to female employees, which include, without limitation, equal employment opportunities and maternity benefits (e.g., maternity leave and protection from termination during pregnancy and maternity leave).

According to the interviews conducted, there were some women on the work site assisting with a variety of jobs. It appears that most female employees were hired for the kitchen, cleaning and other supporting work with a light workload. According to representatives of LJZ and Construction #5, female employees typically were in their 40s to 50s, and women were paid in the same manner as male workers and were not discriminated against in pay or otherwise.

6. **No Employment of Child Labor**

   a. **Requirements in Statement of Labor Values**

The Statement of Labor Values requires that no persons are employed who are younger than sixteen years old unless otherwise permitted by applicable PRC law.

   b. **Evidence of Compliance**

PRC law prohibits the use of child labor, which is defined to encompass persons younger than 16 years old, with limited exceptions (e.g., actors/actresses).

All interviewees stated that no children were observed working on-site, and representatives of LJZ and Construction #5 confirmed that no children were employed. Further, representatives of Construction #5 observed that Construction #5 paid specific attention to the issue of child labor.9

7. **No Harassment or Abuse**

   a. **Requirements in Statement of Labor Values**

The Statement of Labor Values requires that employees are treated with dignity and that no employees are subjected to any physical, sexual, psychological or verbal harassment or abuse. Further, no form of corporal punishment may be used or tolerated.

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9 One interviewee stated that he saw a worker who appeared to be around 16 or 17 years old on the construction site. No other interviewees made similar statements.
b. Evidence of Compliance

No interviewees stated that they were aware of or had observed any conduct that appeared to be harassing or abusive.

8. **No Forced Labor**
   a. Requirements in Statement of Labor Values

The Statement of Labor Values prohibits the use of forced prison labor, indentured labor, bonded labor or other forced labor.

b. Evidence of Compliance

No interviewees indicated that there was any forced labor at the construction site. Interviewees also advised that it is a worker’s market, and workers will leave immediately if they do not like the work or are not paid well. Workers could enter and leave their dormitory at the construction site freely.

9. **Securing Health and Safety**
   a. Requirements in Statement of Labor Values

The Statement of Labor Values requires that a “safe and healthy working environment” be provided to employees to prevent accidents and injury to health. Further, “[t]he direct operations of NYU Shanghai and the vendors, service providers, contractors and subcontractors in connection with NYU Shanghai shall comply with all workplace safety and health regulations established by the PRC government, including, without limitation, the requirement on construction and operation of labor safety and sanitation facilities as well as the standards applicable to construction work.”

b. Evidence of Compliance

Interviewees reported that the worksite was safe and that the workers’ living conditions were clean. Representatives from JLL observed that the Pudong inspection office conducted regular inspections every month. In addition to inspecting construction quality, they also inspected the dormitories. If problems were found, they would send a report of rectification to the contractor; however, no criticism was made regarding the conditions of the dormitories. JLL also reported that it observed no health or safety violations.

Representatives of LJZ and Construction #5 stated that Construction #5 strictly complied with all PRC laws and regulations regarding health and safety. In fact, Construction #5 advised that the NYU Shanghai Campus construction site was selected as a Model Construction Site by the Shanghai Urban Construction and Administration Commission. The Shanghai Urban Construction and Administration Commission is a government agency overseeing strategic planning of rural and urban construction and city management. The Commission regulates the construction and construction materials industries, monitors the quality and safety of construction projects, and coordinates major construction projects. Each year, the Commission
awards the title of Model Construction Site to 30 to 40 construction sites selected from more than
around 200 sites nominated by district commissions. To receive the title, sites must meet certain
standards relating to issues such as basic management, construction quality, living conditions,
and work environment.

Various governmental authorities inspected the construction site from time to time to verify that
the health and safety requirements were met. Sometimes, they visited 3-4 times in 1 week. In
addition, according to LJZ and Construction #5, there were on-site medical facilities, and the
workers had medical insurance as part of the social insurance. Further, LJZ hired AECOM and
another company to supervise the entire project. Those two supervising companies submitted
monthly reports to LJZ, which covered, among other topics, worker health and safety.10

Regarding the dormitories, we understand that they were built in accordance with legal
requirements. Generally, 6 to 8 workers shared a dorm room of 20-30 square meters
(approximately 215 to 323 square feet). Each worker had his own bed. Bathroom and shower
facilities were shared. AECOM’s project manager considered the living conditions to be good.
NYU Shanghai’s Director, Campus and Facilities, visited the dormitories and took pictures of
them.11 According to this Director, bathrooms were very clean, the dormitory rooms were air
conditioned and also had television. In addition, the canteen provided three meals a day at
minimal cost to the workers.

Finally, interviewees reported that no significant accidents or serious work-related injuries
occurred during construction.12 AECOM’s project manager noted that there were normal, small
problems typical of any construction project, which were immediately resolved by Construction
#5 and any applicable subcontractors. Overall, the AECOM project manager considered the
NYU Shanghai Campus project to be above the industry standard. This is consistent with the
information reported in AECOM’s monthly reports, which did not reflect any significant
accidents or work-related injuries but noted other potential safety issues, such as an out-of-date
inspection for a cargo elevator and some employees found drinking, smoking, or not wearing
proper safety equipment. The reports also indicate that the AECOM project manager asked the
contractors or relevant subcontractors to take specific actions to address the particular safety
issues found, including safety education for workers and disciplinary action if necessary.

10. Principle of Nondiscrimination

a. Requirements in Statement of Labor Values

The Statement of Labor Values provides that “[n]o person shall be subject to any discrimination
in employment including hiring, salary, benefits, advancement, discipline, termination or
retirement.”

10 Paul Hastings reviewed certain of the AECOM reports for the period from December 31, 2012 to June 29, 2014.
Photographs of the construction site at the various stages of construction are attached to each report.
11 See Attachment 3. NYU Shanghai’s Director, Campus and Facilities visited the dormitories twice and provided
pictures of the living quarters and canteen.
12 One worker died from sudden cardiac arrest during his second day of employment, which was not related to his
work. Construction #5 paid RMB 1,000,000 to the deceased worker’s family, even though it was not legally
obligated to do so.
No interviewee was aware of any discriminatory treatment. However, Construction #5 does not hire workers who are age 55 or older. PRC law does not prohibit or address age discrimination. As a result, it is not illegal to impose age restrictions during the recruitment of employees. We understand that the imposition of age restrictions during recruitment is common in China.

11. **Termination of Employment**

a. **Requirements in Statement of Labor Values**

The Statement of Labor Values states that termination of employment, except for termination through mutual consent, must be based on statutory grounds as provided by PRC law. Further, terminated employees have the right to claim severance payment.

b. **Evidence of Compliance**

Interviewees either reported that no or very few workers were terminated during construction, and no one was aware of any wrongful termination claims filed with the labor bureau or the courts. None of the workers we interviewed were terminated; rather, those workers who no longer are employed at the NYU Shanghai Campus left that project when their work was completed. In general, it appears that there has been a shortage of construction workers in Shanghai, so all workers were needed.

12. **Resolution of Work Disputes**

a. **Requirements in Statement of Labor Values**

The Statement of Labor Values provides that employees’ rights to resolve labor disputes must be respected and recognized and that no employee shall be subject to harassment, intimidation or retaliation for efforts to resolve work disputes.

b. **Evidence of Compliance**

The interviewees indicated that they were not aware of any labor disputes. The representative of LJZ advised that Construction #5 posted hotline numbers for Construction #5, LJZ and the Shanghai Municipal Labor and Social Security Bureau at the construction site. Workers were free to file complaints using any of these hotline numbers.

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13 Some of the workers we interviewed are still working at the NYU Shanghai Campus.
14 One interviewee, the representative of LJZ, indicated that all labor problems were resolved at the project level and that no lawsuits or requests for arbitration were initiated.
13. **Compliance with Laws**

   a. **Requirements in Statement of Labor Values**

   The Statement of Labor Values states that the labor inspection requirements of PRC labor laws and regulations shall be “implemented and comprehensively enforced in the construction, operation and maintenance of the NYU Shanghai campus.”

   b. **Evidence of Compliance**

   Pursuant to the Regulations on Labor Security Inspection (2004), PRC labor authorities have the right to conduct inspections of employers to ensure compliance with PRC labor law.

   Based on the discussions with LJZ and Construction #5, as well as other interviews conducted during Paul Hastings’ review, no evidence of non-compliance with labor security inspection requirements was found.

14. **Enforcement**

   a. **Requirements in Statement of Labor Values**

   The Statement of Labor Values requires that:

   - the Statement of Labor Values be annexed to any tendering documents with respect to the selection and appointment of contractors and service providers who will be on-site and provide significant services;

   - the contractors be contractually obligated to comply with the Statement of Labor Values during the terms of their contracts;

   - remediation and enforcement measures with respect to the Statement of Labor Values be incorporated in the contractors’ contracts; and

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15 **Article 14 of Regulation on Labor Protection and Supervision**, adopted at the 68th executive meeting of the State Council on October 26, 2004, which was promulgated and came into force as of December 1, 2004, provided that the labor inspection authorities shall conduct labor inspections in the forms of making daily inspection tours, of examining the written documents submitted by the employing entities as required, and of accepting reports and complaints, etc. over the particulars as stipulated in Article 11: (1) the employing entities’ formulation of internal labor protection rules and systems; (2) the employing entities’ conclusion of labor contracts with laborers; (3) the employing entities’ compliance with provisions on prohibiting employment of child laborers; (4) the employing entities’ compliance with provisions on special labor protection of female employees and underage laborers; (5) the employing entities’ compliance with provisions on working hours, rests and holidays; (6) the employing entities’ payment of wages to the laborers and implementation of the lowest rate of wages; (7) the employing entities’ buying of various social insurances and payment of social insurance premiums; (8) the compliance with relevant provisions of the state on job intermediation, occupational skills training, and occupational skills assessment and authentication by the job intermediary institutions, occupational skills training institutions, and occupational skills assessment and authentication institutions; and (9) other particulars prescribed in laws and regulations on labor safety supervision to perform its duties, which include publicizing labor safety laws, regulations and rules, and urging employing entities to implement them, lawfully correcting and investigating and punishing the acts of violating labor security laws, regulations or rules.
commercially reasonable endeavors be used to ensure compliance with the Statement of Labor Values by the contractors, including implementation of enforcement measures, and any Party may ask the contractors to submit reports regarding compliance with the Statement of Labor Values.

b. Evidence of Compliance

(i) Inclusion of Statement of Labor Values in Tendering Documents and Written Agreements

As described in the Report, LJZ advised that Pudong did not enter into any actual written agreements with LJZ for the construction of the NYU Shanghai Campus because LJZ is owned by Pudong. LJZ and Construction #5 did enter into a written agreement for the construction project. (Paul Hastings did not obtain a copy of this contract). Based on interviews conducted, however, it appears unlikely that the Statement of Labor Values was included in the contract between LJZ and Construction #5 or in any of the contracts with subcontractors.

(ii) Efforts to Ensure Compliance with Statement of Labor Values

Although the Statement of Labor Values apparently was not included in the written agreements related to the construction of the NYU Shanghai Campus, Paul Hastings’ review indicates that NYU Shanghai made efforts to ensure compliance with the Statement of Labor Values. First, we understand that NYU Shanghai personnel actively monitored the construction site, including the treatment of the workers. In addition, other NYU personnel visited the construction site at various times and observed the overall health and safety conditions.

Some limited review was conducted by JLL. As part of the construction phase, JLL’s scope of work included monitoring Construction #5’s safety program, attending safety sessions, attending meetings, and overseeing Construction #5’s performance. During portions of the construction phase, JLL personnel were at the construction site on a regular basis and monitored safety issues. Certain safety issues were addressed in project weekly reports prepared by JLL personnel and issued between March 2, 2012 and December 17, 2013. Beginning in the summer of 2013, JLL also conducted labor compliance monitoring at NYU Shanghai’s request. In April 2014, the Regional Director, Greater China, for JLL reported that within JLL’s “reachable means of observation, there has been no breach nor violation in relation to the construction workers’ labor hours, workplace safety, and sanitation facilities.” The Regional Director further noted that there were “no incidents of child, forced, or abused labor.” Finally, he noted that based on available information, JLL had not “read or heard any reports that would be contradictory to our belief that LJZ company has been in compliance with the agreed Labor Values as published on the website of NYU Shanghai.”

16 Project Management and Associated Services Agreement between Jones Lang LaSalle and Center for Formation of New York University Shanghai for the NYU Shanghai Project, dated March 1, 2012.
17 Letter from J. Mortensen to H. Liu dated April 8, 2014.
Finally, while NYU Shanghai did not request reports from the contractors regarding compliance, both JLL and NYU Shanghai personnel did participate at various times in weekly meetings with Construction #5 and the subcontractors. The purpose of those meetings was to discuss any issues with the construction project, including any complaints from the subcontractors.
T-FSC Governance Committee Report
April 16, 2015

The FSC Governance Committee (Senators Uleman and Kane, co-chairs; Senators Becker, Drysdale, Garabedian, Jelinek, and Martin; and C-FSC observers Carl and Sacks) met twice this semester, on February 6 and April 6, 2015. Pursuant to our responsibility to monitor faculty governance, we report on three areas.

1. Faculty acceptance of the Faculty Handbook revisions

The Governance Committee has devoted considerable attention to the 2012 Faculty Handbook, particularly to an important revision that appears to contradict our recently celebrated spirit of shared governance. At the conclusion of the 2008 Faculty Handbook, there is a simple declaration that indicates the participation of elected faculty in its development and promulgation: "All of the material included in this Faculty Handbook has been reviewed by and accepted by the Faculty Senators Council of New York University."

When this statement was omitted from the 2012 edition of the Handbook, representatives of the Governance Committee immediately expressed concern. To date, this omission has not been restored. It would seem that an expression of "acceptance" by the faculty's elected representatives would have some value to our community as a signal of support of the Faculty Handbook. It would reassure the larger faculty that they, through their representatives, have been partners in its creation.

As we anticipate a new President, and in the spirit of shared governance at NYU, we think that the role of the faculty as partners in a truly collaborative enterprise should be reflected in the Faculty Handbook. We hope that the Board of Trustees would agree, and would value an expression of acceptance from representatives of the faculty charged with executing the central mission of New York University. We understand that the T-FSC Executive Committee is exploring restoration of this sentiment to the Faculty Handbook.

2. Tenure modifications at the School of Medicine

The T-FSC has passed many resolutions opposing modifications of tenure at the SoM, including those posted on our website on 11/18/10, 9/17/09, 5/1/08, 2/16/06, 5/3/01, and 1/22/98. In addition, in a memo dated 4/27/14, former chair of the FSC Professor Salah Al-Askari, M.D. has described "the rights of the tenured faculty at NYU to full salary as stated in the printed handbooks and documented in the resolutions of the FSC and in the medical school’s Faculty Council documents." Nevertheless, modifications have been implemented retroactively for long-term tenured faculty, and the matter is in the courts. We decided another resolution would serve no purpose, but we will continue to call this developing situation to your attention.

3. Implementation and reporting of “best practices” in the election of T-FSC Senators

We continue to monitor the implementation of our recently adopted “best practices” for the election of T-FSC Senators in the schools of NYU. Particularly at this time of year when most schools conduct elections, we ask that Senators inform themselves of these recommended practices (on our website) and notify the Governance Committee of any significant departures from them. We also ask Karyn Ridder to continue collecting information on actual practices in the schools.