NEW YORK UNIVERSITY

**Full-Time Continuing Contract
Faculty Senators Council**

194 Mercer Street, Suite 401
New York, NY 10012

P: 212 998 2230
F: 212 995 4575

c-fsc@nyu.edu

MINUTES OF THE C-FACULTY SENATORS COUNCIL MEETING OF NOVEMBER 17, 2016

The New York University Continuing Contract Faculty Senators Council (C-FSC) met at 9:00 AM on Thursday, November 17, 2016 in the Global Center for Academic & Spiritual Life at 238 Thompson Street, 5th Floor Colloquium Room.

In attendance were Senators Borowiec, Burt, Carl, Frangos, Gold-Von Simson, Halpin, Herman, Howard-Spink, Jahangiri, Killilea, Mooney, Morton, Paiz, Sacks, Slater, Stewart, White, and Ying; Alternate Senators Bianco, Celik, Cittadino (for Joachim), Lee, Renzi (for Youngerman), and Smith.

APPROVAL OF THE AGENDA

Upon a motion duly made and seconded, the meeting agenda was approved unanimously.

APPROVAL OF THE MINUTES OF THE MEETING HELD OCTOBER 20, 2016

A Senator suggested the following edit to the minutes of October 20, 2016, to clarify Matthew Santirocco and Linda Mills' support of the GNU Committee's recommendation:

Page 3:
>
> Faculty Committee on NYU's Global Network University
>
> The Committee met with Matthew Santirocco and Linda Mills and communicated their support for all continuing contract faculty to have all of the opportunities of utilizing the GNU offered to tenured/tenured track faculty members. Santirocco and Mills made it clear that continuing contract faculty will have all of these opportunities.

In addition, an edit was made to list Alternate Senator Celik as an Alternate.

Upon a motion duly made and seconded, the minutes of the October 20, 2016 meeting were approved as corrected.

REPORT FROM THE CHAIRPERSON: FRED CARL

See attached Document A: C-FSC Chair Update

Discussion/Questions on Chair's Report

Online Evaluations

A Senator inquired on the Steering Committee (SC)'s meeting with Provost Fleming and the discussion of methods of teaching evaluation, including the possibility of a midterm evaluation. He expressed concern over a university-wide initiative that implements more student evaluations. A SC member noted these evaluations would be internal and are to provide support to faculty by offering the chance to work on issues that may be

1

occurring in the classroom before the end of the semester. These would not be communicated to the University, but be only between the student and the faculty member.

A Senator noted the School of Professional Studies uses mid-term evaluations, but faculty are asked to report on the findings and outcome in their annual activity reports.

A Senator suggested using mid-term evaluations in the third week of the course to identify issues early in the semester.

A Senator expressed disagreement with the new seven question evaluations created after it was proposed that evaluations be uniform across schools. He stated if this sort of recommendation is to be developed, he recommends the creation of best practices.

A Senator noted one of the proposals discussed by the Senate Academic Affairs Committee is a simple, unstructured feedback form.

Senators expressed disagreement with online evaluations and the same seven questions being applied to all schools, from science programs to arts programs.

Senators discussed the importance of identifying how evaluations apply to teaching effectiveness.

It was clarified the new evaluation system is being rolled out at select schools, including the College of Arts and Science and Liberal Studies. It was already rolled out in NYU Abu Dhabi and Shanghai.

In Abu Dhabi, it was mandatory to complete the evaluations in class, and they had a high return rate around 90%. There is discussion of including more specific questions related to Abu Dhabi.

It was noted the decision to pursue university-wide online evaluations was made prior to the establishment of the C-FSC. The C-FSC did not have input into the final questions.

A Senator noted some departments have their own class evaluations that are weighed more heavily when faculty are reviewed for promotion, tenure, and/or annual merit increases. She commented the seven questions may be applied differently within each school.

It was suggested the C-FSC work with the Student Senators Council (SSC) on this issue. The Council agreed that the Educational Policies & Faculty/Student Relations Committee should examine the issue and present to the Council at the December meeting, and then bring these discussion points to the SSC at the beginning of the spring semester.

Provost Response to Policy Review and Recommendations

A Senator asked if there was discussion on posting the Provost's responses on Council recommendations regarding School or University policies on the Council's website.

Chairperson Carl confirmed the final policies will be posted on the Provost's website and the C-FSC website will provide a link. Responses to recommendations are often circulated as part of the minutes.

The Senator recommended providing a specific link to the Provost's response.

The Chair's Report was accepted into the minutes.

COMMITTEE REPORTS

See attached Document B: Committee Reports

Discussion/Questions on the following submitted reports:

Administration & Technology: Jamie Skye Bianco

University Access to Personal Digital Content (PDC)

See attached Document C: PDC Policy

Alternate Senator Bianco reported the Social Media Policy is still under review. In that review, the University Access to Personal Digital Content Policy was developed to address certain issues.

She noted there are specific cases where ITS must access employee's personal digital content.
The Committee felt it important to clarify that NYU does not monitor the PDC of a specific NYU faculty member, student, or staff member, and recommended removing the word "routinely" before monitor on page 3 of the document.   NYU may obtain access to PDC, but only for a legitimate institutional purpose, as set forth in the policy.

The Committee also advocated for a review committee to examine instances when the university accesses PDC. This is called Oversight Committee in the policy.

The Committee recommends the Council approve this document.

A Senator asked for clarification on the following statement on page 5, under Scope of Access:
    "It is a legal issue to require un-encryption and not part of this policy."

Bianco stated these cases are not in the scope of the policy to address and would need to be pursued as a legal issue.

A Senator asked if students have the right to view emails that are written about them. Bianco responded if this is through a subpoena, the University would comply.

A Senator asked about notice and Bianco clarified that the University made it clear this remains on a case by case basis. Unless there is legitimate rationale for not providing notice, notice will be given.

Bianco summarized while the University has access to all digital data, the question is whether they exercise that access. This policy makes it clear they do not access unless a situation falls under a specific reason for access, as detailed in the policy. The policy also outlines the oversight system to ensure the University is accessing according to the policy.

A Senator asked who will access PDC if it is determined necessary to access. Bianco stated it most likely will be the local IT unit. She added that the ITS personnel sign a code of conduct.

The policy was approved by general consensus of the Council.

University Senate SCOG: Larry Slater

A Senator asked for clarification on representation for Liberal Studies on all Councils and in the Senate. Slater noted this includes students serving on the SSC and the Dean serving on the Dean's Council.

Faculty Committee on Future of Technology-Enhanced Education: Mary Killilea

A Senator asked about Provost Fleming's charge to the committee to evaluate third party vendors used for online courses, schools restrictions on online courses, and coordinating communication about available instructional technology tools.

Vice Chairperson Killilea stated the issue is that schools have an agreement which states any course taught at any school at NYU is acceptable, but some of the schools have said they will not accept online courses. The Committee will examine the pros and cons of different platforms.

University Senate Academic Affairs: Ben Stewart

Senator Stewart reported the Committee has asked the registrar, Elizabeth Kienle-Granzo, to attend the December Council meeting to discuss the future academic calendar.

No Discussion/Questions on the following submitted reports:

Undergraduate Program Committee: John Halpin

Reports at Meeting:

Faculty Advisory Committee on Academic Priorities: Ezra Sacks

Senator Sacks reported the Committee met with Provost Fleming and noted there is concern regarding the rankings of the University. NYU's ranking is below the ranking of the following peer schools: USC, Tufts, and Boston College.

Personnel Policies and Contract Issues: Brian Mooney

The Committee is reviewing the NYU Shanghai Guidelines on the Full-Time Continuing Contract Faculty Review Process for Reappointment and Promotion and plans to bring their recommendations for a vote at the December meeting.

Senate Task Force on Diversity and Inclusion: Fred Carl

Chairperson Carl announced the Committee is hosting a Teach-in with NYU Law School Professors Nancy Morawetz and Adam Samaha, and a New York Civil Liberties Union (NYCLU) representative about freedom of speech, legal rights and responsibilities, and what protest in America means from a rights perspective on Friday, November 18, 2016 from 1:30pm – 3:00pm at Hemmerdinger Hall, Silver Center for Arts and Science, 100 Washington Square East.

NEW BUSINESS

Council Meetings: 2017-2018

It was clarified the meetings for next year have not yet been set and will be scheduled after the University Senate meeting schedule is finalized.

A poll will be sent out to determine the best time slots to set the Council meetings.

Connecting from Portal Campuses

Senator Burt suggested creating guidelines for the process of connecting NYU Abu Dhabi and Shanghai members to meetings, including the committee meetings of the Senate, Council, and University.

He commented his connection to the Council meetings has worked well, particularly regarding participation and voting. He suggested for larger meetings, such as the University Senate, there be a more formal electronic voting process.

Senators agreed there is a need for a better process of connecting with portal campuses, including at the Committee level.

The Steering Committee will raise this issue with the Provost and President. The GNU Committee will also add it to their agenda.

ADJOURNMENT

The meeting adjourned at 11:00 AM.

C-FSC—Chair's Report
Chairperson Fred Carl

Report as of November 15, 2016

1. **C-FSC Communications Committee**

   We now have a Communications Committee:

   Sally Cohen
   Leila Jahangiri
   Vicky Steeves
   Susan Stehlik

   We look forward to their report and recommendations after their first meeting. In the meantime, please don't forget to send the Communications Committee, with a copy to Karyn, notification of any awards, publications, curatorial work, performances, conference participation, etc. that you have received or completed.

2. **Ad Hoc Committee to Research Alternate Faculty Organization**

   Our Ad Hoc Committee investigating various models of faculty organization beyond the Tenure/Continuing Contract model currently at NYU has been formed. The members are:

   Fred Carl
   Iskender Sahin
   Heidi White

   They will begin their work by researching institutions where other models exist. If anyone is aware of different models at other institutions, please pass that information to the committee.

3. **NYU Judicial Board**

   At the upcoming meeting of the Senate Executive Committee, the Steering Committee will be requesting a change of membership for one of the C-FSC seats on the Judicial Board:

   Aysan Celik (NYUAD), to replace
   Susan Stehlik (Stern)

4. **Meetings between Provost Fleming and the Steering Committee**

The Steering Committee met with Provost Katie Fleming, Senior Presidential Fellow Ellen Schall, and Senior Vice Provost Carol Morrow on Thursday, October 27, 2016, for a productive meeting discussing the continuing issue of the lack of voting rights for continuing contract faculty in certain schools, discussing methods of teaching evaluations that foreground the effectiveness of teaching (e.g., possibly having a mid-term evaluation that would allow a faculty member to remedy any issues that are discovered before the end of the class), and brainstorming mechanisms to increase ways to recognize excellence in teaching beyond the NYU Distinguished Teaching Awards given at Commencement and various awards that are school specific.

Our next meeting is on Wednesday, November 16, 2016.

5. **Post-Election Issues**

As Andy Hamilton mentioned at last week's University Senate meeting, last week's election victory of the Donald Trump and Mike Pence, along with the continued Republican majorities in both houses of Congress, will present very challenging times for NYU, both as an institution and as a community. The specific contours of those challenges are still not crystal clear, but based on the pre-election rhetoric, those challenges may be sizeable.

As well, the spike in instances of verbal and physical intimidation and attacks on many people and institutions, both in New York City and nationally, has and will continue to have a chilling effect on many students, staff and faculty, raising concerns of personal safety.

Our position as the front-line teachers to most of NYU's undergraduates and many of NYU's graduate students means that we may be looked to by our students for comfort and assistance in navigating these new times.

There have been calls for statements in support of our students and other members of our community by, among others, the NYU Faculty of Color Caucus, who have circulated the following letter and asked faculty who agree with the statement to sign it. Please see the link here if you would like to sign it:

https://docs.google.com/document/d/1pRT4Z9FG2UzkDTM-biQ0LBWky0vO73PfOvvVVFTM3cs/pub

As well, there is a letter for undocumented and DACA-protected students, "**What Trump's Election Means for Your Immigration Status**," written

by University of Baltimore School of Law Professor Elizabeth Keyes and adapted by the NYU Department of Sociology which may be useful for those students who may be affected by changes to immigration law, found here.

6. **C-FSC Meeting Participation**

As always, the Steering Committee would like to encourage all C-FSC members, Senators and Alternate Senators, to attend and participate in C-FSC meetings and committees. Our Rules of Procedure stipulate that only Senators may vote on any action items (Alternate Senators vote when their corresponding Senator is unable to attend). It should be kept in mind that votes on Action Items comprise a relatively small part of our meetings. The bulk of our meetings consist of in-depth discussions of items of importance to continuing contract faculty by all members of the C-FSC, Senators and Alternate Senators included, and all committees and discussions rely on participation by the full Council.

Thank you!

Senate Committee on Organization and Governance (SCOG)
C-FSC Meeting
November 17, 2016

John Gershman
Brian Mooney
Vincent Renzi
Larry Slater

At its last meeting on October 20, 2016, SCOG elected its chair and vice-chair, which were Larry Slater and Vincent Renzi, respectively. This is the first time that SCOG leadership is from the C-FSC since the Council's inception 3 years ago. Also at the meeting, the Committee reviewed its charge from the Senate Executive Committee, which is to review the mission of the Senate. As part of this review, the Committee will:

- determine if an overall mission statement should be developed for the Senate to incorporate into the University Bylaws;
- examine the 6 functions of the Senate outlined in the University Bylaws; and
- determine if these functions should be amended (additions, deletions, changes).

In addition, Committee members discussed topics of importance to them. As such, over the next academic year the committee will be exploring representation of those groups that are not represented within the University Senate structure, as well as address representation of those whose representation differs based on their Senate Council.

- Representation for Liberal Studies on all councils and in the Senate
- Post-Doctoral Fellows and Research Scientists who lack representation
- The place, if any, of union employees in University governance (administration, adjunct faculty)

The Undergraduate Program Committee has met twice this semester. On Thursday, September 29, the committee considered a proposal from NYU Abu Dhabi for a BA program in Legal Studies. On Thursday, November 3, we considered two proposals - one from NYU Shanghai for a BS in Interactive Business and Media, and the other a minor in Peace and Conflict Studies from The Steinhardt School of Culture, Education, and Human Development. Our next meeting will be on Monday, December 5, 2016.

Respectfully submitted by John Halpin

Report on the Faculty Committee on Future of Technology-Enhanced Education

C-FSC Representative: Mary Killilea

Report as of November 15, 2016

In June of 2016 the Faculty Committee on Future of Technology-Enhanced Education produced an annual report. The report provides a comprehensive summary of the work done by the committee. It has also produced recommendations for our work this year. The full report can be found here: https://www.nyu.edu/content/dam/nyu/provost/documents/Committees/FTEE-Annual-Report-2016.pdf

The minutes of last year's meetings can be found here: https://www.nyu.edu/about/university-initiatives/technology-enhanced-education/meeting-minutes-spring-2016.html

On Monday October 17, 2016, the committee met for the first time this semester. Len Peters, the new CIO of the University, introduced himself. We then discussed our next meeting with the Provost. We also discussed our plan for this year. My sense of the room is that we will focus on how we evaluate effectiveness of different teaching models.

Our second meeting of the semester was on November 7, 2013. Provost Katherine Fleming attended and charged the committee with evaluating third party vendors used for online courses, schools restrictions on online courses, and coordinating communication about available instructional technology tools.

Senate Academic Affairs Committee Report
Committee Members: Peggy Morton, Ezra Sacks, Ben Stewart (Chair)

The Senate Academic Affairs subcommittee on the Founders day award met yesterday, November 16th to come up with options for modifying the award. We came up with three options and will be presenting those to the full committee at an early-December meeting.

Both Ezra and I served on that subcommittee

On November 10th, the full SAAC met and considered two items of business: a slate of honorary degrees and we were also briefed on calendar rules and we were presented with calendar options for three years beyond 2017-2018. The next step of the plan for discussing the future calendar is for the registrar, Elizabeth Kienle-Granzo, to present her proposals to the various Senate councils. I have checked with Beth to see if she is available to present at our December 6th meeting, but she has not yet confirmed.

Respectfully submitted,

Ben Stewart

New York University
UNIVERSITY POLICIES

Title: University Access to Personal Digital Content
Effective Date: October 3, 2016
Supersedes: New Policy
Date of Latest Revision: N/A
Issuing Authority: Executive Vice President, Finance and Information Technology
Responsible Officer: Vice President, Information Technology and Chief Information Officer

Policy

It is the policy of New York University, including its Schools and other units, Global Network University sites, and all University Affiliates (together "NYU"), that NYU limits the circumstances under which NYU will access, disseminate, and use Personal Digital Content, or "PDC" (as defined in this policy) of NYU faculty, students, and staff, and that NYU be transparent about those circumstances and its related procedures.

NYU recognizes that as faculty, students, and staff increasingly create, receive, use, transmit, and store information in digital form — as opposed to traditional media (e.g., print materials, file cabinets) — there is growing concern that such information may be more vulnerable to unintended or inappropriate use. At the same time, NYU appreciates and affirms that NYU faculty, students, and staff have an expectation of privacy. Such privacy is a necessary part of fulfilling NYU's commitment to academic freedom (as set forth in the Faculty Handbook), and its commitment to respect in its relationships with faculty, students, and staff (as set forth in the *New York University Code of Ethical Conduct*).

Purpose of this Policy

The purpose of this policy is to establish internal standards and procedures governing NYU's access to, and dissemination and use of, PDC to achieve the above-stated policy objectives. This policy is grounded on six important principles:

- Access to, and dissemination and use of, PDC of NYU faculty, students, and staff will be authorized only by the PDC Access Panel, and access will be conducted pursuant to NYU's *Policy on Requests to Information Technology (NYU IT) to Support Investigations*.
- Access to, and dissemination and use of, PDC of NYU faculty, students, and staff will occur only for a legitimate NYU purpose, as set forth in this policy.
- Except as provided in this policy notice pursuant to the Notice section of this policy will be given to affected NYU faculty, students, and/or staff when their PDC will be, or has been, accessed.
- Access to, and dissemination and use of, PDC of NYU faculty, students, and staff will be limited in scope to the information needed to accomplish the purpose.

- NYU will maintain sufficient records to enable appropriate review of compliance with this policy.
- Access to, and dissemination and use of, PDC will be subject to ongoing, independent oversight by an NYU Committee that will issue regular reports to the University Senate.

This policy does not create rights in any individual or entity to seek legal redress for action inconsistent with the policy.

Scope of this Policy

This policy affords protections to faculty, students, and staff of NYU with respect to their Personal Digital Content and sets forth NYU's commitment and processes to effectuate those protections.

Procedures for Implementation

Background

NYU faculty, students, and staff rely on technology in multiple aspects of their work, teaching, research, study, and other activities. In doing so, they often use electronic systems, networks, and devices that NYU owns, provides, or administers. These NYU Systems assist NYU in carrying out certain activities. As used in this policy, "NYU Systems" means all information technology services, networks, and devices owned, provided, or administered by any unit of NYU. Services include, but are not limited to, email services, internet access, file servers, voice message servers, hardware and cloud-based storage devices and/or services, laptop, tablet, desktop, and other computers, phones or other mobile devices, and other outsourced information technology services (e.g., Google NYU Mail or Google Apps for Education).

This policy provides protections to NYU faculty, students, and staff with respect to their "Personal Digital Content" or "PDC," which means the following content and its associated metadata to the extent stored in files and/or accounts on, or transmitted through, NYU Systems and that are associated with a specific NYU faculty member, student, or staff member:

(a) digital documents and communications of NYU faculty, students, and staff, such as emails, voice mails, text messages, audio and video files;
(b) internet search records and internet sites visited for specific NYU faculty, students, or staff;
(c) manuscripts and other similar works of authorship by NYU faculty, students, or staff that are not publicly available; and
(d) other scholarly content of NYU faculty, students, and staff that comprises "Traditional Works of Scholarship" under NYU's *Statement of Policy on Intellectual Property*, except to the extent such works also qualify as "Instructional Media" under that policy.

Examples of content that are not included within the definition of PDC include: (a) logs or records of access, including video files, to NYU facilities or equipment; (b) "Research Data" as defined in NYU's *Policy on Retention of and Access to Research Data*; (c) personal information needed for management of NYU records, such as financial, human resource, and student information system records; and (d) routine uses of NYU instructional management systems(e.g., the statistics section of NYU Classes). If members of the University community have a question about whether specific

data is included within the definition of PDC, they should consult with their Dean or Director who, together with the Responsible Officer for this policy, will provide guidance.

Reasons for Access

NYU does not ~~routinely~~ monitor the PDC of a specific NYU faculty member, student, or staff member. <u>However,</u> NYU may obtain access to such PDC in some circumstances, but only for a legitimate institutional purpose, as set forth in this policy. The paragraphs below describe certain purposes for which NYU may access such information. While this list is expected to cover most instances of access, the list is not intended to be exhaustive. NYU may access the PDC of NYU faculty, students, and staff for other comparable reasons that advance a legitimate institutional purpose, as determined pursuant to this policy, and subject to review by the Oversight Committee as described below. In evaluating the institutional purpose, the PDC Access Panel will in each case weigh not only the stated reasons for access but also the possible effect of access on NYU values such as academic freedom and internal trust and confidence.

A.   System Protection, Maintenance, and Management

NYU Systems require ongoing management, maintenance and inspection to ensure that they are operating properly; to implement new systems; to protect against threats such as attacks, malware, and viruses; and to protect the integrity and security of information. For example, system logs, also known as log files, are created during system operation and contain information about system events that are needed for specific business reasons or to satisfy legal requirements. Business reasons include, but are not limited to, deploying new software, troubleshooting, system testing, collecting metrics on system performance and usage, billing, documentation, electronic discovery, and forensic investigation. No routine network scans of faculty, students, or staff are done that examine content.

B.   Business Continuity

NYU may access PDC of NYU faculty, students, and staff for the limited purpose of ensuring continuity in its business operations where the information in question is material to conducting business operations, and where it is reasonably determined that there is no better practicable alternative under the circumstances. This need can arise, for example, if an employee who typically has access to the files or business information in question is unavailable for the time period when the files or information is needed. The term "business continuity" includes University business and administrative data and files, but does not include teaching materials, scholarly works, or other similar academic information.

C.   Safety Matters

NYU may access PDC of NYU faculty, students, and staff to deal with exigent situations presenting a threat to campus safety or the life, health, or safety of any person.

D.   Legal and Regulatory Process and Litigation

NYU may access PDC of NYU faculty, students, and staff in connection with pending litigation or a bona fide threat of litigation (as determined by the Office of General Counsel), and to respond to subpoenas and similar lawful requests for information in relevant law enforcement investigations, other government investigations and regulatory processes, and legal and regulatory processes, and as otherwise required by law.

E.   Internal Investigations and Audits

NYU may access PDC of NYU faculty, students, and staff: a) in connection with investigations under, and consistent with the requirements of, any applicable NYU policies (such as, for example, claims of discrimination, harassment, sexual misconduct, research misconduct, financial misconduct); b) for purposes of internal audits and audits by NYU's public accounting firm; and c) in connection with claims relating to public safety, including allegations of criminal conduct, and other circumstances as outlined in policies such as *Electronic Communications and Social Media , Missing Student Notification, Appropriate Use of Email at New York University,* and *Terms of Use for NYU Google Apps for Education.* Access may be authorized only when the PDC Access Panel has determined that the investigation advances a legitimate institutional purpose and that there is a sufficient basis for it.

Authorization of Access

Access to PDC of NYU faculty, students, and staff must be authorized by a three-person standing University panel ("PDC Access Panel") comprising the VP/CIO or his/her designee, a representative of the Office of General Counsel, and the Provost or his/her designee. The PDC Access Panel will develop and approve protocols for approvals. Once authorized by the PDC Access Panel, the VP/CIO or his/her designee will undertake access in accordance with NYU's *Policy on Requests to NYU Information Technology (NYU IT) to Support Investigations.*

Any authorization of access by the PDC Access Panel will apply only to the particular situation and specific NYU faculty, students, and/or staff. Any other situation must be separately authorized.

No independent authorization is required for information technology personnel to conduct routine system protection, maintenance, or management in accord with internal protocols and processes. Likewise, requests for access in connection with litigation, legal and regulatory processes, or requirements, or law enforcement investigations, or to preserve PDC for possible subsequent access in accordance with this policy, need no independent authorization if made by the Office of General Counsel.

In exigent situations involving a threat to campus safety or the life, health, or safety of any person where there is no other governing policy, access may be authorized by the Office of General Counsel. If emergency conditions do not allow for prior authorization, the matter will be reported to the Office of General Counsel as promptly as possible.

Notice of Access

When NYU intends to access PDC of current NYU faculty, staff, and students, and except as otherwise provided in this policy, all reasonable efforts will be made to give notice to the affected community member(s) at or before the time of access or, where it is deemed necessary by the PDC Access Panel (e.g., to preserve the integrity of the PDC) as soon thereafter as reasonably possible, and consistent with any applicable laws and university policies. Notice will be provided by the VP/CIO and will ordinarily include a summary of the actions taken (including date and time of access), and the reasons the action was taken. However, the timing, content and scope of notice are often dependent upon unique circumstances, and the PDC Access Panel will establish for the VP/CIO any specific requirements for notice in each situation for which access has been authorized consistent with this policy.

The following are examples of situations where notice is not required:

A. System protection, maintenance, and management — Individual notice is not required for ordinary system protection, maintenance, or management as described in this policy. Notice should be given if the access relates specifically to the activity of an individual faculty member, student, or staff member, unless troubleshooting the individual user's problem with a system based on a report from the user.

B. Business continuity — Individual notice prior to access normally is not required for access to PDC for purposes of business continuity, in accordance with this policy and established NYU practice, and the common understanding is that individual notice prior to access in such cases typically is not practicable.

C. Legal restrictions — Individual notice is not required where NYU is subject to legal constraints, or with requests by law enforcement or regulators, or similar constraints on NYU's ability to give notice.

D. Emergencies and other extraordinary cases — Contemporaneous individual notice is not required in cases where there is insufficient time, where giving notice could otherwise interfere with an effective response to an emergency or other compelling need (e.g., at a stage of an internal investigation where giving notice could compromise the investigation, or in exigent situations presenting a threat to campus safety, or the life, health, or safety of any person), or where it is impracticable. The decision not to give contemporaneous notice to an NYU faculty member, student or staff member must be made by the PDC Access Panel. In such cases, notice will ordinarily be given as soon as practical.

E. Policy Restrictions – Notice is not required where providing such notice would be in violation of any other applicable University policies

The PDC Access Panel may decide not to give notice. Any such decision, and the grounds for overcoming the presumption set forth in this policy, will be documented, and available for review by the Oversight Committee, as set forth in this policy.

Scope of Access

NYU will adopt reasonable steps, whenever practicable, to limit access, dissemination, and use of PDC of NYU faculty, students, and staff obtained under this policy to the content that is related to NYU's documented purpose in obtaining access. These steps will vary depending on the circumstances of the search. Participation in the search, and access to, and dissemination and use of, the PDC in question should be limited to those personnel with a reasonable need to be involved. It is a legal issue to require un-encryption and not part of this policy.

Records of Process

The PDC Access Panel will ensure that reasonable records of the process are preserved, including who requested the access, the purpose for which the access was requested, who undertook any investigation, the process undertaken, and any decision reached. The PDC Access Panel will also ensure that any person involved in accessing PDC signs an acknowledgement that all such PDC will be held in strict confidence in accordance with this policy.

In all instances of access under this policy, records should be maintained that are adequate to permit effective review as described in the Oversight Committee section of this policy. Records will be maintained for a period of time that is consistent with all legal obligations and with custom and practice.

Compliance with Laws

There are numerous international, federal and state laws related to data privacy, data security, and data transfer. This policy should be understood in light of those laws, including the Family Educational Rights and Privacy Act of 1974, the Electronic Communications Decency Act of 1986, the Healthcare Insurance Portability and Accountability Act of 1996, and implementing regulations.

Oversight Committee

This policy, its implementation and protocols, and instances of access under this policy will be subject to review by an Oversight Committee to be constituted by the Provost annually, which will include representatives (or their designees) from each council of the University Senate and appropriate senior administrators. The Oversight Committee will be provided at least annually with a report by NYU IT that categorizes the number of incidents where PDC of NYU faculty, students, and staff was accessed, and for each incident, the date of access, position of the individual(s) whose data was accessed (i.e., faculty, student, staff), the academic or administrative unit that requested access, the purpose for the access, whether there was notice provided, and whether such access, dissemination and use was in compliance with this policy and with NYU's *Policy on Requests to Information Technology Services (NYU IT) to Support Investigations*. The report will not contain any actual PDC, and will not directly or indirectly identify individuals whose PDC was accessed. The Oversight Committee will meet at least annually to discuss the report and may make recommendations to the Provost as to the processes set forth in this policy and possible amendments to the policy. The Oversight Committee will also make periodic reports to the University Senate on the implementation of this policy.

Policy Definitions

"Personal Digital Content" or "PDC" means the following content, and its associated metadata, to the extent stored in files and/or accounts on, or transmitted through, NYU Systems and that are associated with a specific NYU faculty member, student, or staff member:

(a) digital documents and communications of NYU faculty, students, and staff, such as emails, voice mails, text messages, audio and video files;
(b) internet search records and internet sites visited for specific NYU faculty, students, or staff;
(c) manuscripts and other similar works of authorship by NYU faculty, students, or staff that are not publicly available; and
(d) other scholarly content of NYU faculty, students, and staff that comprises "Traditional Works of Scholarship" under NYU's *Statement of Policy on Intellectual Property*, except to the extent such works also qualify as "Instructional Media" under that policy.

"NYU" means Schools and other units of NYU, NYU's Global Network University sites, and all University Affiliates.

"NYU Systems" means all information technology services, networks, and devices owned, provided, or administered by any unit of NYU. Services include, but are not limited to email services, internet access, file servers, voice message servers, hardware and cloud-based storage devices and/or services, laptop, tablet, desktop, and other computers, phones or other mobile devices, and other outsourced information technology services (e.g., Google NYU Mail or Google Apps for Education).

"School" means each NYU school, college, and institute that functions similarly to a school or college (e.g., IFA, ISAW, Courant, and CUSP), each NYU portal campus (e.g., New York and Abu Dhabi), and may include for purposes of this policy other global sites as designated by the Provost.

"University Affiliates" consist of those entities controlled, directly or indirectly, by the University through (a) ownership of more than 50% of the ownership interests in the entity or (b) the power to appoint or elect a majority of the organization's governing body (e.g., directors or trustees)

Related NYU Policies

- Appropriate Use of Email at New York University [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/appropriate-use-of-e-mail-at-new-york-university.html]
- Data Classification at NYU [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/data-classification.html]
- Electronic Communications and Social Media Policy
- Family Educational Rights and Privacy Act (FERPA)
- HIPAA Policies [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/hipaa-policies.html]
- Missing Student Notification Policy [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/missing-student-notification-policy.html]
- NYU Code of Ethical Conduct [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/code-of-ethical-conduct.html
- Policy on Personal Identification Numbers [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/policy-on-personal-identification-numbers.html]
- Policy on Requests to Information Technology (NYU IT) to Support Investigations [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/requests-to-its-support-investigation.html]
- Policy on Responsible Use of NYU Computers and Data [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/responsible-use-of-nyu-computers-and-data-policy-on.html]
- Policy on Retention of and Access to Research Data [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/retention-of-and-access-to-research-data.html]
- Principles and Procedures for Dealing with Allegations of Research Misconduct [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/researchmisconduct.html]
- Statement of Policy and Guidelines on Educational and Research Uses of Copyrighted Materials [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/educational-and-research-uses-of-copyrighted-materials-policy-st.html]

- [Statement of Policy on Intellectual Property](https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/policy-intellectual-property.html) [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/policy-intellectual-property.html]
- [Terms of Use for NYU Google Apps for Education](https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/google-tou.html) [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/google-tou.html]
- [World Wide Web Policies and Procedures](https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/world-wide-web-policies-and-procedures.html) [https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/world-wide-web-policies-and-procedures.html]
- Faculty Handbook: https://www.nyu.edu/faculty/governance-policies-and-procedures/faculty-handbook.html
- Faculty (Tenured and Tenure-Track) Grievance Procedures: http://www.nyu.edu/faculty/governance-policies-and-procedures/faculty-handbook/the-faculty/policies-applicable-to-tenured-and-tenure-track-faculty/additional-faculty-policies-applicable-to-tenured-and-tenure-tra/faculty-grievance-procedures.html
- Faculty (Continuing Contract Faculty) Grievance Procedures: http://www.nyu.edu/faculty/governance-policies-and-procedures/faculty-handbook/the-faculty/faculty-policies-applicable-to-full-time-continuing-contract-faculty/grievance-procedures.html
- Student Grievance Procedures: https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/student-grievance-procedure.html
- Student Grievance Procedure (Summary): http://www.nyu.edu/students/student-information-and-resources/student-community-standards/student-grievance-procedure-.html
- Employee Handbook [NO GRIEVANCE INFO]: https://www.nyu.edu/employees/hr-at-your-service/employee-handbook.html