

Faculty Senate Minutes #181

John Jay College of Criminal Justice

March 9, 1999

3:20 PM

Room 630 T

Present (31): Dorothy Bracey, David Brotherton, Anthony Carpi, James Cauthen, Enrique Chavez-Arviso, Holly Clarke, Glenn Corbett, Edward Davenport, Janice Dunham, Nancy Egan, P.J. Gibson, Amy Green, Edward Green, Lou Guinta, Karen Kaplowitz, Jane Katz, Kwando Kinshasa, Stuart Kirschner, Thurai Kugendran, Sandra Lanzone, Sondra Leftoff, Gavin Lewis, Tom Litwack, James Malone, Mythili Mantharam, Dagoberto Orrantia, Jacqueline Polanco, Lydia Segal, Carmen Solis, Marny Tabb, Agnes Wieschenberg

Absent (5): C. Jama Adams, Effie Papatzikou Cochran, Patrick O'Hara, Martin Wallenstein, Bessie Wright

Guests: Professors Haig Bohigian, Blanche Wiesen Cook, Jerry Markowitz, Maureen O'Connor, Harold Sullivan

AGENDA

1. Announcements
2. Adoption of Minutes #180 of the February 25 meeting
3. Outstanding Teaching Award proposals
4. CUNY Performance Excellence Awards Program (PEAP)

1. Announcements

Professor Blanche Wiesen Cook expressed appreciation on behalf of herself and Professor Jerry Markowitz for the opportunity of announcing a conference at John Jay on "Educating the Incarcerated: Confronting the **Loss** of Literature, Learning, and Hope" on April 29. The conference will be preceded by a talk by Dr. Mary Frances Berry, the Chair of the U.S. Civil Rights Commission, on Wednesday, April 28, at 6:30 PM in Room 1311 N.

2. Adoption of Minutes #180 of the February 25 meeting

By a motion duly made and seconded, Minutes #180 of the February 25 meeting were adopted.

3. Outstanding Teaching Award proposals. Proponent: Faculty Senate Executive Committee

Provost Wilson created the Outstanding Teaching Award six

years ago and Senator Edward Green, one of the two adjunct representatives on the Senate, submitted an agenda item proposing that the Senate recommend to the Provost that outstanding teachers among the adjunct faculty be similarly recognized and honored. Senator Green had explained that adjunct faculty can not compete with full-time faculty for the one award given each year and that, indeed, no adjunct has ever won the award. President Kaplowitz reported that the Senate's Executive Committee consulted with the chair of the Outstanding Teaching Award Committee, Senator James Malone, who supported the proposal. President Kaplowitz said that the Senate's Executive Committee then expanded the proposal into four proposals which Senator Malone also supported and that she then met with Provost Wilson who said that if the Senate endorses the executive committee's four proposals he will implement them.

The Executive Committee's proposals are:

- a. That the Provost create a second teaching award for an Outstanding Adjunct Teacher of the Year
- b. That the recipient of both awards be notified prior to commencement and be invited to speak briefly at commencement upon receiving the award
- c. That the awardees be invited to participate at College academic events, such as Freshman Orientation, the Dean's List reception
- d. That a copy of each plaque be installed on a special wall and that past awardees be honored also.

Senator Dorothy Bracey spoke in support of the four proposals as did Senator James Malone.

A motion was made by Senator Tom Litwack to amend the proposal by recommending that the two awards be called the Outstanding [Adjunct] Teacher Award and that the phrase "of the Year" be deleted because it is impossible to determine the best teacher of the year. Senator Bracey said that although she thinks all our teachers are outstanding and that the title of the award means that for that particular year this particular outstanding teacher is being honored, she sees no objection to the change. The four-part proposal, as amended, passed by unanimous vote.

Senator James Malone reported that the Provost has suggested that if the Senate recommends the creation of an award for adjunct faculty, a second student should receive a scholarship in the name of the adjunct faculty member being honored, paralleling the current practice. The Provost's suggestion is that the \$1000 scholarship that is given to a student each year be divided between two students. Senator Kwando Kinshasa noted that graduate and professional school tuition has increased since the awards were created six years ago and he suggested that the Senate recommend to the Provost that the \$1000 scholarship to a student in the name of the Outstanding Teacher continue and that a second \$1000 scholarship to a student be established in the name of the Outstanding Adjunct Teacher. The motion passed by unanimous vote.

4. CUNY Performance Excellence Awards Program (PEAP) [Attachment A]

President Kaplowitz referred to the January 15, 1999, memorandum from CUNY Vice Chancellor for Faculty and Staff

Relations Brenda Richardson Malone, which was included in the agenda packet. This 7-page memorandum details the implementation of the \$5,000 Performance Excellence Awards provided in the new P&B contract. John Jay is allocated 7 of this year's 120 awards: 5 for faculty [the allocation formula is based on the number of full-time and adjunct faculty at each college] and 2 for HEOs. This January 15 memorandum, which was sent to the chairs by Provost Wilson on February 4, had been included, for information purposes, with the last two Senate agendas.

President Kaplowitz invited Professor Harold Sullivan, the Chair of the Council of Chairs, to report on behalf of the Council of Chairs. She welcomed Professor Gerry Markowitz, Chair of the Thematic Studies Department, who is also at the meeting to help answer questions about the Council of Chairs' action.

Professor Sullivan reported that the previous week the Council of Chairs passed a resolution calling upon faculty to not participate in the Performance Excellence Awards Program (PEAP). He circulated copies of his March 8 memorandum to Karen Kaplowitz:

"At its meeting last Wednesday [March 3], the Council of Chairs voted unanimously to recommend to their departments that the faculty refuse to participate in the award of performance 'bonuses' to faculty as 'divisive and inconsistent with the proper role of the faculty.' My colleagues on the Council and I respectfully request that you inform the Senate of our position and ask the Senate to join us in this request to the faculty."

Professor Sullivan explained that the Provost has met with the Chairs about PEAP on several occasions because the award recipients are to be selected from those recommended first by the department P&B committees and then by the College P&B. He added that President Lynch has said that although 5 faculty may receive the award, he wants to receive more than 5 recommendations from the College P&B.

Professor Sullivan reported that from the beginning the Chairs felt that PEAP is potentially very divisive, noting that department P&B committees will be asked to vote on members of its own department who may self-nominate or be nominated. Then those who receive a majority vote will be considered by this year's tenure subcommittee of the College P&B, where a majority vote will be required, and then those candidates will be considered by the full P&B where a majority vote of the committee will again be required. He noted that the P&B process already takes a tremendous amount of time and this would add another layer to the process and the fear is that it will be divisive. He said that, for example, he believes that every member of his department, Government, deserves the award.

Professor Sullivan called PEAP particularly divisive because a monetary award is involved as opposed to faculty being honored by an award, such as the Outstanding Teacher Award, which does not involve money being given to a faculty member (but rather to an academically outstanding student in the name of the winner).

Professor Sullivan noted that the English Department had taken the lead on this issue when it voted, on February 26, to not participate in PEAP and to bring this issue to the Faculty Senate.

In the meantime, Professor Robert Crozier, chair of the English Department, brought the issue to the Council of Chairs. He then read the Chairs' resolution (see p. 3).

Professor Sullivan said another concern of the Council of Chairs is that PEAP could be the first step toward having merit salary rather than contractually established pay increments as is now the case. He said that the Chairs also see PEAP as a managerial device to control the faculty, especially because in the end it is the decision of the President of the College as to who will receive the awards (because the P&B only recommends to the president and the president has said he wants the P&B to recommend more candidates than the number of awards available).

Professor Gerry Markowitz, chair of the Thematic Studies Department, said that Professor Sullivan had accurately conveyed the discussion and concerns of the Council of Chairs.

Senator Marny Tabb explained that the English Department, which she represents, met on February 26 and its discussion of PEAP included many of the same concerns and issues that Professor Sullivan reported. The English Department voted its opposition to PEAP and its decision to not participate by a vote of 33 to 1. The English Department's resolution also directed the department's Senate representatives to bring this issue to the Faculty Senate for action. On behalf of the English Department, Senator Tabb circulated a proposed resolution for adoption by the Faculty Senate:

"Whereas, The Performance Excellence Awards Program is potentially divisive and undermining of collegiality and morale among faculty, and

Whereas, The faculty are opposed to merit bonuses on general principles,

"Therefore Be It Resolved, That the Faculty Senate calls upon its colleagues not to participate in the Performance Excellence Awards Program either as nominators or as candidates,"

Senator Tabb also distributed copies of other college resolutions opposing PEAP and opposing faculty participation in the program: these resolutions had been passed, thus far, by the Faculty Senate of CCNY, by the Faculty Council of BMCC, and by the Social Science Department of LaGuardia Community College [copies of these resolutions are available from the Senate Office].

Senator James Malone asked whether the University Faculty Senate (UFS) has a position or will be taking a position on this issue and, if so, what is its position. He also asked the legality of the actions proposed by the Chairs and by the English Department.

President Kaplowitz said that the timing of our Senate's discussion is fortunate. At the last UFS meeting, on February 23, reports from delegates from various campuses led to a request from delegates for a resolution opposing PEAP and the UFS executive committee was asked to draft a resolution opposing PEAP for consideration at the next UFS meeting on March 23. This morning, the UFS Executive Committee, on which she serves, met to draft a resolution or a statement opposing PEAP. Knowing this, Dr. Irwin

Polishook, the President of the PSC, asked to meet with the UFS Executive Committee and did so, accompanied by PSC Vice President Richard Boris.

Dr. Polishook told the UFS Executive Committee -- and he explicitly said that his statement was for the record and could be reported -- that he would appreciate hearing from faculty bodies calling on the union to not present PEAP in the next contract if faculty feel that way. He said resolutions from faculty bodies that advise the PSC to not continue PEAP are especially helpful and that if the PSC receives such information the PSC would not support having PEAP in the next contract. He said he and Richard Boris have certainly been listening to faculty responses from the various colleges and if PEAP is something the faculty do not want, the PSC will not support it.

She then told Dr. Polishook that in drafting a statement for the UFS, and in drafting resolutions at the campuses, many faculty have been assiduous in not naming the PSC or the contract so that resolutions against PEAP would not be misunderstood as being anti-union or anti-contract. Dr. Polishook replied that resolutions specifically asking the PSC to not negotiate PEAP in the next contract would not be seen in a negative way but rather would be very helpful if, indeed, faculty oppose PEAP.

President Kaplowitz said that neither Irwin Polishook nor Richard Boris were the source of the following information, which came from other sources: in negotiating the contract, management insisted on two new provisions: appointed department chairs (appointed by the college president rather than elected by the departments) and merit pay.

She said that when some faculty leaders heard about management's demand for appointed chairs, the UFS and various senates, including John Jay's, unanimously passed resolutions opposing in the strongest terms the proposed change from elected to appointed chairs. That provision ultimately did not appear in the contract. Not enough information about proposals about merit pay was known for senates to take a position on the issue prior to the contract's release for vote. She said many who voted against the contract did so in part, at least, because of PEAP. She added that because the contract vote took place in August few had the opportunity to discuss the provisions of the contract.

She reported that at the same meeting this morning, the UFS Executive Committee received a memorandum dated March 2, 1999, from the CUNY Vice Chancellor for Faculty and Staff Relations, Brenda Richardson Malone, to the college presidents, in which she states that implementation of PEAP is a contractual obligation and that it is not permissible for colleges to not participate in the program.

[Professor Haig Bohigian, Chair of the John Jay PSC chapter, arrived at this time.] Copies of Vice Chancellor Malone's memorandum were distributed. [The memorandum is available from the Faculty Senate Office.]

In her March 2 memorandum, Vice Chancellor Malone addresses several questions and possible misunderstandings about PEAP that had been brought to her attention since her January memorandum and she then writes:

"The Performance Excellence Awards Program is an integral part of the collective bargaining agreement that was ratified overwhelmingly by the union's members. Faculty, as members of the union, may not selectively choose to adhere to some provisions of the agreement and not others, just as the University cannot decide, after the Board of Trustees has approved the contract, to ignore the salary increases that were negotiated. The parties to the contract have a legal obligation to carry out its terms. Furthermore, many faculty members may wish to be considered for these awards. Members of committees who refuse to process their nominations interfere with these faculty members' contract rights."

President Kaplowitz explained that, in other words, there must be a process in place for those faculty who want to participate but faculty have the right to not make nominations and to not accept nomination, if they so choose.

Senator Edward Green said that after no pay raises for years, PEAP is a diversion from the issue of adequate compensation. He also said that once a provision is in the contract it tends to remain.

President Kaplowitz said that the **PEAP** provision includes a sunset clause which means that **PEAP** will cease to exist unless it is renegotiated as a provision in the next contract; in other words, there has to be an affirmative action by the negotiators for PEAP to be included in the next contract.

Senator Dorothy Bracey reported that her department, Anthropology, knowing the objections and the discussion among the Chairs, wanted to be respectful of the position that the Chairs took. And yet her department did not think that **PEAP** is necessarily divisive. Her department began with the position that all our faculty are wonderful and rather than be aggrieved, we should react with joy when some of our colleagues receive recognition of this fact and if the recognition puts a little extra money in their pockets, so be it.

What her department did object to strongly, Senator Bracey said, was the method for selecting recipients of the performance excellence awards. She and her colleagues do not think the recipients should be chosen through the P&B process and do not think the choice should ultimately be the President's. And so her department, in trying to maneuver past these objections, made two nominations, and these were made not by the department P&B but by members of her department **as** individuals.

And, Senator Bracey explained, her department tried to respond to the spirit rather than to the letter of **PEAP** and, therefore, ignored several of the criteria listed in the memorandum and, therefore, the people they nominated do not meet the stated criteria. And neither of the two faculty they nominated is from the Anthropology Department. She said her department hopes both individuals will be selected and if they are, her department will stand up and applaud.

Senator Lou Guinta said that in the six years since the Outstanding Teacher Award **was** created at John Jay, it has not created divisiveness, as far as he can tell. But, he said, he does understand what Professor Sullivan is saying in terms of a

precedent being set with regard of the possibility of merit pay being established. He asked Professor Bohigian what the intent of the union was with respect to PEAP and why the union allowed this provision to become a part of the contract.

Professor Bohigian said a lot of misunderstanding has occurred and the PSC is glad that Vice Chancellor Malone issued her March 2 memorandum. He described this as a performance excellence award, not a performance merit award. Professor Bohigian said the University wanted merit pay and the PSC is, obviously, opposed to that. He said the PSC achieved many things in this contract and it is the union's assessment that the University achieved very little. PEAP was one item that the University virtually insisted on and it told the union that money was set aside for PEAP and that if the PSC does not agree to the performance excellence awards the money would not be allocated for anything else. He said the PSC did not and does not regard PEAP to be much different from the designation of distinguished professors which, he said, is not a divisive process.

Professor Bohigian noted that it was the PSC that insisted that the PEAP selection process be a faculty process and not a presidential or administrative one and that is why the P&B process was incorporated. He said he knows the chairs are overworked but, he said, the only other alternative was to permit presidents or deans to choose the recipients. He said that if departments do not adhere to the P&B selection process, such action undermines what the PSC fought to achieve. He said the PSC thought PEAP was a fairly good provision and that the faculty would be astute enough to avoid any divisiveness that might develop.

And, Professor Bohigian said, the PSC is especially proud that the provision permits adjuncts to receive the award. He added that if the full-time faculty oppose PEAP, then they should turn the awards over to the adjuncts and to the non-teaching instructional staff who do want to be recognized. The money is there, it is budgeted for, and it does not come out of a college's operating budget.

Senator Kwando Kinshasa asked if a department such as the English Department votes to not participate, does this not deprive members of the department the right to be a candidate for the award. President Kaplowitz said that Professor Crozier rightly said at the English Department meeting that the vote does not mean that members of the department may not self-nominate or nominate others. Senator Kinshasa said the department's vote does create a certain atmosphere and President Kaplowitz agreed but said that because this is a contractual provision, faculty may not be denied their contractual right to be nominated or to nominate someone else. If a nomination or self-nomination is made, the department P&B has to meet to consider the nomination(s). Professor Bohigian said that if the department P&B (and the College P&B) does not consider the nomination(s), that would be grievable, although the decisions of the department and college P&B and of the president are not grievable. In other words, the process is grievable but the decisions are not grievable nor may they be appealed.

Senator James Malone asked whether departments which choose to not participate might be creating a situation as divisive as participation in PEAP is feared to be.

Senator Tom Litwack asked for the exact language of the PSC contract with reference to the Performance Excellence Awards

Program. President Kaplowitz said that the language is that of the January 15 memorandum from Vice Chancellor Malone: she explained that she has with her the proposed contract which was mailed to all members in August for ratification and that the language in the proposed contract is the same as the language in Vice Chancellor Malone's January 15 memorandum.

Professor Bohigian said the proposed contract mailed in August is not the final language of the contract but is, rather, temporary language and that the PSC and the University are still negotiating the final language of the new contract.

Senator Tom Litwack said he came to today's Senate meeting strongly in favor of the Chairs' resolution. But now he has **very** serious questions about it and one of the questions relates to one of the statements in Vice Chancellor Malone's March 2 memorandum: "many faculty members may wish to be considered for these awards. Members of committees who refuse to process their nominations interfere with these faculty members' contract rights." But whether or not there is such a right, Senator Litwack said, depends on the language of the contract. For example, if the contract says that colleges *may* nominate people for these awards, then there is no right: it is up to the college. But if the contract says that colleges must nominate and select recipients, that is totally different. It all depends on the precise language of the contract.

Senator Litwack said he is strongly against these performance awards and that, in fact, he voted against the contract, in part, because of this provision and, in part, because every one of the dollars set aside for PEAP should be allocated for adjuncts. He said that if he had his way, every one of the awards would be given to adjuncts but there is an impediment to doing so. The impediment is that the eligibility criteria for faculty as stated in the January 15 memorandum are criteria, including scholarly writing, that most adjuncts just can not meet. He said that scholarly writing should not be a criterion but if we abide by the requirements of the contract, we can not give the performance awards to any but perhaps a very few adjuncts and probably those are the adjuncts who need the award the least because they have the time to do scholarly writing.

Professor Bohigian said the criteria are not absolutes but are rather suggestions. He said recipients may be excellent in just in one area.

Senator Litwack referred to the language of the January 15 memorandum which President Kaplowitz noted is also the language of the proposed (and subsequently ratified) contract mailed in August:

"Criteria for Teaching Instructional Staff:
Recommendations for Performance Excellence Awards shall be based upon superior performance in all [emphasis added] areas and [emphasis added] demonstrated excellence in at least one of the areas of 1) teaching or direct instructional contributions; 2) research; 3) scholarly writing; 4) creative works in the individual's discipline; and 5) service to the University and the community."

Professor Bohigian disagreed and read the next section of Vice Chancellor Malone's memorandum: "In applying these criteria at

your college, you may wish to provide guidance to the committee that will review the nominations to focus their attention on particular aspects of the college's mission that they should consider in recommending individuals for these awards. **For** example, one college may wish to focus on excellent teaching, while another college emphasizes research, and a third college concentrates on service to the college community in a special way. In determining which aspects of the college's mission will be emphasized, you may wish to consult faculty governance **leaders.**" Thus, Professor Bohigian said, a person may meet only one criterion to be eligible.

President Kaplowitz said that her understanding is that Professor Bohigian's reading is not correct. She said her understanding is that colleges may decide an area of "**demonstrated excellence**" they will reward but candidates must meet the requirement of "**superior performance**" in all the categories. For example, Queens College has already decided to give all the 11 **PEAP** awards it has been allocated for service but to be a candidate the faculty must have "**superior performance**" in all the categories and "**demonstrated excellence**" in the area of service.

Senator Kinshasa agreed with President Kaplowitz's reading, noting that the word "**emphasize**" is used twice in the paragraph that Professor Bohigian read, which means that the other criteria are still required but one area may be emphasized. He said the text means that the candidates have to be excellent in all the categories but a college may choose to reward only those who are superior in a single area, the area that the college wants to emphasize. Senator Lou Guinta said that is his reading as well.

President Kaplowitz said this was an important part of the English Department's discussion and vote, because although adjuncts are technically eligible, they are rendered virtually ineligible by the stated criteria.

Professor Sullivan questioned how can we implement the new provisions of the contract, including **PEAP**, if the final language of the contract has not, in fact, been agreed upon.

Senator Litwack agreed and he asked Professor Bohigian how one can speak of faculty rights when we do not know what those contractual rights are, not having the final contractual language.

Senator Holly Clarke urged the Senate, therefore, to return to the issue of whether we want to express our opinion about **PEAP** in principle and whether we want to recommend that our colleagues not participate. She said that whatever we call these awards, they are an entry to merit pay. She said we have to ask ourselves **why** management wanted these performance awards so much. She added that we should oppose performance bonuses on principle. Senator Clarke said that if money accompanies a bad idea, the money should be rejected for the very reason that it is a bad idea.

Professor Jerry Markowitz said he favors honoring faculty members who struggle hard and who face difficult economic situations, but said he really does believe that these awards are a management attempt to impose merit pay in the future and, therefore, it is important for the faculty to speak against that. He said, furthermore, that if Irwin Polishook and Richard Boris want us to give them guidance, we have an obligation to do so. He said he believes that Chairs have made the right decision and he looks to the Senate to take a position as well. He added that

as a member of the College P&B, he is looking for guidance from the Faculty Senate because the Senate represents our faculty.

Senator Gavin Lewis suggested separating the issue into two parts: one issue is the Senate's opinion about PEAP and its inclusion in future contracts; the second issue is whether we should recommend to our colleagues whether they should or should not participate. He added his opinion is that the Senate should adopt a position about the first issue but not about the second.

Senator Litwack said the language of the contract is crucial to him both legally and morally. He said if the contract requires us to participate in PEAP then, even though he voted against it and is opposed to it, we have a moral and legal obligation to participate. However, since we do not have the language of the contract and since Haig Bohigian says the final language of the contract has not even been agreed upon yet, he would like to draw the Senate's attention to the first page of Vice Chancellor Malone's January 15 implementation memorandum which states: "If, for any reason, the number of awards granted is less than the number of awards allocated to the college, the college will award the difference in the next academic year." Therefore, he said, since we do not have the language of the contract, he proposed that the Senate vote to roll over all the awards until next year.

Senator Litwack added that he also does not believe that the action of the Anthropology Department in nominating faculty from other departments is permissible. He cited Vice Chancellor Malone's January 15 memorandum which states: "These procedures are modeled loosely on the faculty consultation process in appointment, tenure, and promotion decisions prescribed in the Bylaws." Senator Bracey noted the Vice Chancellor's use of the term "loosely" and reiterated that her department, taking into account the position of the Council of Chairs as well as their own wish to see colleagues recognized, decided to ignore whatever it did not like about the Vice Chancellor's memorandum.

Senator Lou Guinta suggested that the Senate follow the recommendation of Senator Gavin Lewis by speaking against PEAP in principle, because it can be a first step to merit pay, but not address the issue of faculty participation. But, he added, as a point of information, the State of New Jersey has had a merit system for ten years (in addition to regular contractual increments) and to his knowledge it has been working. He said that he is not saying he condones a merit system but that there is a precedence. He said he does, however, think we should inform the union that we are very adverse to the idea of merit pay.

Professor Bohigian said he wants to repeat that this is not merit pay and that Karen Kaplowitz correctly reported that PEAP contains a sunset provision. He said that based on the negative responses at John Jay and the negative responses at other colleges, this provision will not appear in the next contract, unless there is a turnaround by the faculty. Senator Litwack replied that this is even more reason to oppose the provision now.

Senator P.J. Gibson suggested that the Senate recommend that all the awards be given to adjuncts, who really need supplements to their salary.

Senator Tabb said that the Senate should make a statement about PEAP and make a recommendation to the PSC as to whether to include PEAP in the next and future contracts and not recommend

what individual faculty should or should not do.

Senator Tabb amended her original resolution and moved the adoption of the following:

"Resolved, That the Faculty Senate of John Jay College of Criminal Justice opposes performance bonuses on general principles, and be it further

"Resolved, That the Faculty Senate of John Jay College of Criminal Justice calls upon all parties to the faculty contract to not include the Performance Excellence Awards Program or similar programs in the next or in future contracts."

The amended motion was seconded.

Senator Litwack opposed the motion saying that he does support monetary performance excellence awards for adjuncts although he is opposed to such awards for full-time faculty. He said he supports PEAP for adjuncts because there are adjuncts who work very hard and whose work is distinguished and who should receive such awards. But he said the problem is that we do not have the language of the contract. Professor Bohigian said we do have the language because it will be virtually the same as the language in Vice Chancellor Malone's January 15 memorandum.

Senator Litwack asked Professor Bohigian whether the language of the contract prevents us from giving all the performance awards to adjuncts. Professor Bohigian replied that if the P&B recommends adjuncts to receive the awards and the President selects those adjuncts, they will receive the awards because 80th Street signs off on what the President decides, just as is the case with P&B decisions. Professor Litwack asked whether Professor Bohigian is saying that the language of the contract is such that we would not violate the contract if we give all the performance awards to adjuncts regardless of whether or not they meet all the criteria, such as scholarly publications. Professor Bohigian said we absolutely would not be violating the contract.

Senator Orrantia said that Senator Tabb's motion is the key issue. He said if we say we support the awards **as** long as they are given to adjuncts, we are saying we tacitly approve of the awards when we are, in fact, against such awards in principle.

Professor Sullivan said that giving the awards only to adjuncts would be just as divisive as giving them to full-time faculty since we still would be able to reward only a few adjuncts and pass over literally hundreds of others. He said that another obstacle is that most members of the College Personnel Committee do not know adjuncts outside of their own department and could not judge in a sufficiently informed manner.

Senator P.J. Gibson said that Professor Sullivan's point that the members **of** the College P&B do not know adjuncts outside their own department is an important one because even if we recommend that adjuncts receive the award, the pool of nominees will include full-time and adjunct faculty and it is extremely unlikely that adjunct faculty would be chosen in preference to full-time faculty. She said this identifies another problem with the entire

PEAP concept and process.

Senator Edward Green said contracts tend to pit one member against another. He said that as an adjunct representative to the Senate he thinks it would not be appropriate to give all the awards to adjuncts because, although he appreciates the sentiment, many full-time faculty also deserve Performance awards if we are to have them. Furthermore, the faculty should not be segregated into full-time and adjunct: we are one faculty and we need to **work** together and see ourselves as one faculty, he said.

Senator Holly Clarke said that as the other Senate adjunct representative she, too, appreciates the positive comments about adjuncts but at the same time she believes these comments derive from sympathy resulting from a recognition that adjuncts are not paid well. If adjuncts are not paid well, she said, then the solution is for the contract to provide increases in the base salary for all adjuncts. She asked what could be more divisive than to choose five adjuncts out of 500 adjuncts who, furthermore, could not compete against full-time faculty. She urged that the Senate vote against performance bonuses in general and call for the sunset clause to become operational.

Senator Clarke said that performance bonuses for 5 adjuncts when we have 500 underpaid adjuncts at John Jay and 7,000 underpaid adjuncts in CUNY is a way of avoiding the real issue which is that adjunct faculty must be compensated for office hours and must receive better compensation in general. She said that even if 5 adjuncts were each to get the \$5,000 award there would still be 500 underpaid adjuncts whose contributions would not and do not receive sufficient recognition.

The question on Senator Tabb's motion was called. The motion to call the question was unanimous.

Senator Tabb's resolution was adopted by a vote of 15 yes, 3 no, and 4 abstentions [Attachment A].

Senator Litwack said that as a member of the College P&B Committee he wants guidance. The Chairs have passed a resolution saying faculty should not participate. According to the procedures, nominations can only move forward if there is an affirmative departmental vote and then an affirmative P Committee vote. So, he said, he needs guidance: should he abstain on every nomination or should he vote.

Senator Enrique Chavez-Arviso said his department, Art, Music, and Philosophy is also looking for guidance, just as is Senator Litwack. Indeed, AMP has been thinking of nominating an adjunct member of its department but is questioning the possibility of an adjunct being chosen over full-time faculty. He said that his department is dismayed that money was set aside for PEAP when there is no money to repair equipment necessary for his colleagues' courses and there is only \$500 for each department to conduct faculty searches which results in candidates having to pay for their own travel and hotel expenses.

Senator P.J. Gibson said that like Senator Litwack she is concerned about the absence of the final contract language because a single word could shift the entire meaning of a provision. Professor Bohigian said it would not do so with this issue.

President Kaplowitz suggested that the Senate consider recommending that John Jay not engage in this process this year but let the awards roll over to next year, as described in Vice Chancellor Malone's memorandum, as Senator Litwack has pointed out. She said one reason for this suggestion is that many faculty have not yet learned of PEAP and do not know they may nominate themselves or others. Next year when we will have seen the final contractual language we can also take up the question of whether we want to recommend that our College emphasize one area: teaching, research, or service. Also it is still not clear whether the P&B must follow the criteria listed for eligibility.

Senator Litwack said that because such a roll over is permitted in the guidelines, he supports this suggestion and **said** we should not make further decisions on this issue this year.

Senator Guinta said that the difficulty with such an approach, while logical on the face of it, is that if some faculty do nominate themselves or are nominated, we may be contractually obligated to consider those nominations and if so, then a recommendation to roll over the awards for a year will not be practicable.

Senator Litwack asked whether the language of the contract requires faculty to accept these awards. President Kaplowitz said the January 15 memorandum and the contract both state that a person who is nominated must be given "an opportunity to accept or decline nomination." And, indeed, those who accept nomination are required to submit material in support of their candidacy.

President Kaplowitz asked how many faculty received copies of the January 15 document from Vice Chancellor Malone, which Provost Wilson sent to the chairs on February 4. Faculty from three departments said they had. President Kaplowitz said that if we must engage in the PEAP process, all faculty need to know about it so they have a choice of nominating themselves or others.

Senator Nancy Egan agreed and said she would like to consult with her department, the Library, before voting on a proposal to roll over the awards to next year. Other senators said they too wanted to consult with those whom they represent. President Kaplowitz said that no deadline for nominations at John Jay has yet been announced and so there is time to defer this issue until the next Senate meeting in two weeks as senators are requesting.

The Senate agreed to have this issue on the next Senate agenda for possible additional action after senators would have had an opportunity to consult with department members, study the language of the contract that had been mailed to us in August (for ratification), and further review the March 2 memorandum from Vice Chancellor Malone.

By a motion duly made and seconded, the meeting was adjourned at 5 PM.

Respectfully submitted,

Edward Davenport
Amy Green

Recording Secretaries

ATTACHMENT A



JOHN JAY COLLEGE OF CRIMINAL JUSTICE

The City University of New York
445 West 59th Street, New York, N.Y. 10019
212 237-8000

RESOLUTION OF THE FACULTY SENATE
OF JOHN JAY COLLEGE OF CRIMINAL JUSTICE
ON THE
PERFORMANCE EXCELLENCE AWARDS PROGRAM

RESOLVED, That the Faculty Senate of John Jay College of Criminal Justice opposes performance bonuses on general principles; and be it further

RESOLVED, That the Faculty Senate of John Jay College of Criminal Justice calls upon all parties to the faculty contract to not include the Performance Excellence Awards Program or similar programs in the next or in future contracts.

MARCH 9, 1999