

## Faculty Senate Minutes #363

October 28, 2010

3:20 PM

Room 630 T

**Present (37):** Spiros Bakiras, Elton Beckett, Ben Bierman, Marvie Brooks, Erica Burleigh, Sergei Cheloukhine, Demi Cheng, Kathleen Collins, Lyell Davies, Edgardo Diaz Diaz , Virginia Diaz-Mendoza, James DiGiovanna, Jennifer Dysart, DeeDee Falkenbach, Beverly Frazier, Terry Furst, Robert Garot, Jay Gates, Lior Gideon, Norman Groner, Maki Haberfeld, Jay Hamilton, Karen Kaplowitz, Tom Litwack, Vincent Maiorino, Nivedita Majumdar, Xerxes Malki, David Munns, Paul Narkunas, Richard Perez, Rick Richardson, Richard Schwester, Francis Sheehan, Staci Strobl, Patricia Tovar, Fritz Umbach, Monica Varsanyi

**Absent (12):** William Allen, Andrea Balis, Elise Champeil, Katie Gentile, Olivera Jokic, Evan Mandery, Isabel Martinez, Roz Myers, Frank Pezzella, Richard Ocejo, Raul Rubio, Valerie West

**Invited Guests:** VP Richard Saulnier, President Jeremy Travis, Asst. Vice President & Counsel Rosemarie Maldonado, Asst. Counsel & Director of Affirmative Action Silvia Montalban

### Agenda

1. Adoption of the agenda
2. Approval of Minutes #362 of the October 13, 2010, meeting
2. Announcements & Reports
4. Ratification of Election Slates
5. Invited guest: VP Richard Saulnier: Proposed new Admission requirements for baccalaureate freshman admissions
6. Proposals for a Community Period: Invited Guest VP Richard Saulnier
7. Student Evaluation of the Faculty: A question from the Provost: Should the process be suspended in Spring 2011 and Spring 2012
8. Student Evaluation of the Faculty instrument revision
9. Invited Guests: President Jeremy Travis, Counsel Rosemarie Maldonado, and Associate Counsel Silvia Montalban: Sexual Harassment

1. Adoption of the agenda. Approved.

**2. Adoption of Minutes #362 of the October 13, 2010, meeting. Approved.**

### **3. Announcements**

President Kaplowitz reported that an item on the agenda, item #7, a request from the administration to suspend the Student Evaluation of the Faculty process during the Spring 2011 and Spring 2012 semesters because of the College's budget situation, is now moot because faculty at a committee meeting the previous day argued so effectively against a suspension that the administration withdrew its request. The cost, according to the administration, is approximately \$18,000 each semester that the evaluation is conducted. The CUNY Board of Trustees policy mandating these student evaluations requires that they be conducted at least once each academic year. Many years ago, the Senate recommended to the Provost that the process be conducted every semester (and, indeed, recently recommended that it be conducted during the summer sessions and during the winter session, which is still not being done). At the previous day's meeting, she, Francis Sheehan and Jay Hamilton, from the Senate, made the case that the process should be conducted twice a year and their arguments prevailed.

President Kaplowitz announced that the Executive Committee of the Faculty Committee is recommending that the Faculty Senate co-sponsor the Faculty Development Day that Provost Bowers plans to hold on Thursday, January 27. The topic is student academic success and student engagement. As the co-sponsor, the Senate would name a faculty planning committee. Associate Provost James Llana will be staff to the committee and his office will take care of all the administrative work. A senator asked if there is a contractual issue about an event during intersession. President Kaplowitz explained that the contract requires us to be available from the first day of classes in the fall until commencement. She added that if we are asked to come in during the summer, we have to be offered to be paid.

A senator spoke about concern that there would be implicit or even explicit coercion to attend, especially for untenured faculty. President Kaplowitz said she would speak with the Provost and make a condition of our co-sponsorship a promise that there would be an invitation only, not coercion to attend. There was discussion about the terrible faculty development day last January. President Kaplowitz agreed and said she had told both Provost Bowers and President Travis that the event was terrible, that the faculty were angry at the waste of their time, and that faculty development days should not be planned by outside consultants (Keeling Associates) or by non-teaching administrators but by faculty. She said a faculty development day planned and organized by faculty is an opportunity for us to learn how to better handle the challenges and opportunities we, as faculty, face as teachers, both in our classroom and, in general, with our students. There was a motion that the Faculty Senate co-sponsor the event and that the Senate name the planning committee. The Senate voted unanimously to co-sponsor the event.

#### **4. Ratification of Election Slates for the Committee on Honorary Degrees and for the Workplace Violence Advisory Team/ Security Committee**

***The Committee on Honorary Degrees*** comprises 7 faculty members, elected by the entire full-time faculty. To be eligible they must be tenured members of the professorate. The term of office is three years. The Committee solicits nominations for candidates for an honorary degree from the John Jay community and determines which candidates merit recommendation to the Faculty Senate. The Committee considers the nominations without knowledge of the identity of the nominator. (The same is true of the Faculty Senate when the Senate deliberates and votes about the candidates.) Four seats become vacant this semester on the Committee. The following seven faculty have been nominated by the Senate's Executive Committee, for ratification by the Faculty Senate, in accordance with the Senate's Constitution. If the slate is ratified, the following faculty names will be on the ballot, to be sent to all full-time faculty, for election to the Committee on Honorary Degrees:

Valerie Allen – English  
Janice Bockmeyer – Political Science  
Richard Culp – Public Management  
Diana Friedland – Science  
Gail Garfield – Sociology  
Katie Gentile – Counseling  
Margaret Kovera – Psychology

The faculty who are continuing their 3-year terms on the 7-member Committee on Honorary Degrees are Professors: Amy Green – Communication & Theater Arts/ISP; Elizabeth Hegeman – Anthropology; and Gerald Markowitz – History/ISP.

***The College's Workplace Violence Advisory Team/Security Committee*** is a College Committee comprising faculty, administrators, and students. The Security Committee is mandated by NYS Education Law. The Workplace Violence Advisory Team is mandated by CUNY policy. CUNY permits each college to decide whether to have two separate committees or to have one committee responsible for the charges of both committees. At John Jay, it was decided to have one committee. The Senate's Executive Committee has nominated the following four faculty members for re-election; all four have been serving on this Committee and have been active participants and have attended meetings assiduously:

Sergei Cheloukhine – Law, Police Science & CJA  
Katie Gentile – Counseling  
Norman Groner – Protection Management  
Francis Sheehan – Science

The Senate voted to ratify both slates.

**5. Invited guest: VP Richard Saulnier: Proposed new Admission requirements for baccalaureate freshman admissions**

VP Saulnier explained the current admission policy and the proposed plan to change the policy. High school average is the best predictor of success at John Jay, independent of which high school that a student attended and independent of SAT independent scores. VP Saulnier stated that this year is the first baccalaureate degree freshman class (that is, this is the first year that no associate degree students were admitted) and, furthermore, these students are better prepared than the baccalaureate students we admitted last year. The College now has a faculty admissions committee if students wish to appeal, in writing, their non-admission. Students with high school averages between below 75 are permitted to appeal. VP Saulnier discussed the plan to change the admissions requirement from a College Academic Average (CAA) of 79 to a CAA of 80 and, furthermore, to raise to 76 the CAA that would be the cut off for any appeals. He stated that we will need 2100 students to enroll in the fall.

A senator expressed his discomfort about raising the admission standards and the financial implications this could have for the College. The senator discussed the economic climate of the country and how this is a time when many students will decide to return to college. We may have to think about the number of students we could be losing, he said. VP Saulnier stated that "if we build it they will come." He discussed to negative results when better prepared students are in the same class as students who are underprepared. At the same time he agreed that there are risks involved. Another senator said that we will probably not have a challenge in meeting our enrollment goals because of the 2+2 partnerships with the CUNY community colleges that we have established. These Justice Academy students may very well make up for any loss that is experienced. Furthermore, President Kaplowitz explained, underprepared students do not do well at John Jay, that they do better at the community colleges which are designed for such students, and that most of the underprepared students do not succeed at John Jay and that this costs our college lots of money and costs such students much of their financial aid while they fail to progress toward any degree. She said therefore she completely supports the proposed increase in admission standards.

#### **6. Proposals for a Community Period: Invited Guest VP Saulnier**

VP Saulnier and the Senate again discussed the community hour. VP Saulnier said that since the last Senate meeting he has thought about the Senate's comments and agrees that the community period could take place during the 5th period, that is, at approximately 2 pm. He said he will be looking at the graduate class schedule but has not been able to do that as yet.

#### **7. Student Evaluation of the Faculty: A question from the Provost: Should the process be suspended in Spring 2011 and Spring**

See Item #3, above: Announcements

## **8. Student Evaluation of the Faculty instrument revision**

The Senate discussed the elements of a proposed statement on the purpose of the student evaluation of the faculty Instrument. President Kaplowitz discussed some of the background about the need to revise the instrument and some of the work that the Committee on the Student Evaluation of the Faculty is involved in. She said that the Committee has communicated that it cannot start its work until there is a clear statement of the purpose of the instrument and process.

## **9. Invited Guests: President Jeremy Travis, AVP & Counsel Rosemarie Maldonado, and Assistant Counsel & Director of Affirmative Action Silvia Montalban: Sexual Harassment [Attachment A]**

President Travis spoke about how successful the Master Plan initiative has been since its inception. He next reported that the Madison Square Theater is being renovated and will not be available for any events, including our commencement, for the next three years. We still do not have a venue for this year's commencement and until a contract is actually signed, he does not want to announce the date, but it looks as if it will be either June 2 or June 3.

He thanked the Senate for inviting him, Assistant Vice President & Counsel Rosemarie Maldonado, and Assistant Counsel & Affirmative Action Director Silvia Montalban to discuss sexual harassment. He noted that the new Master Plan includes as one of its strategies to achieve the goal of Institutional Effectiveness that the College shall provide a welcoming, safe, and attractive campus that is in compliance with all applicable laws, regulations, and policies. He said it is important to give attention to this important topic, which has not been addressed well at the College heretofore. He stated that to his surprise the College did not have a legal counsel when he began his tenure as president and that one of the first things that he did was to bring Rosemarie Maldonado on board. One question that he contemplated was the capability of the College to address the legal aspects of sexual harassment. In addition to Counsel Maldonado, the College now has Silvia Montalban, who is working closely on the issue of sexual harassment. The Counsel's Office has been working on professionalizing how the College deals with the process of investigating the phenomena of sexual harassment and establishing an environment at the College where individuals can feel safe about discussing the issue. They said they wish to get the key stakeholders involved, including the Faculty Senate.

Counsel Maldonado thanked the Senate for the opportunity to discuss this very important issue. She demonstrated the need for education and action by reporting some of the actual cases at John Jay within approximately the past year; she explained that the descriptions of the following are actual cases at John Jay, not imagined scenarios, and that they have been written so as to not disclose any personal information or any way to identify any of the individuals:

1. A student-employee reports that she feels uncomfortable at the workplace because a professor:

<>Repeatedly asks her out to lunch and social events;

<> When he speaks to her, he positions himself behind her chair, leans in close to the side of her face and places his hand on her shoulder;

<> Embarrassed her by making a joke about her buttocks in her presence and in the presence of a co-worker

2. Employee advises a student on how to sexually please her boyfriend and recommends a threesome. Same employee remarks to his subordinate about her being a lesbian and expresses his desire to meet other lesbians through her for sex acts.

3. Employee asks a student she supervises intrusive questions about her sex life. The employee obtains sexually explicit photographs of the student and shares them with third parties.

4. Employee has an affair with a student and threatens her to make sure she does not inform his wife.

5. Professor repeatedly makes remarks to his co-worker about her appearance and insists that she go out with him. Female professor feels very uncomfortable and fears retaliation.

6. Cafeteria worker makes pejorative comments about gay people to students standing in line. Another student alleges that the worker leers at female students and makes inappropriate remarks about their appearance.

7. Instructor hold a student's hand, pulls her close to him in a hallway during a class break and speaks to her in a flirtatious manner. After the student and some classmates approach him about the inappropriate interaction, he admonishes the students in an intimidating manner.

8. Worker stares at a co-worker's chest and body in a way that makes her uncomfortable. He also makes flirtatious and repetitive remarks about her ring, asking whether she is engaged or whether she uses the ring to keep men away.

9. Professor poses for pictures with students in a flirtatious manner, including intimate embraces. These pictures are posted on the internet.

10. Professor makes comments about a student's body and makes sexual overtures. Student claims that she did not get the grade she deserved because she did not accept his overtures.

11. Employee accosts a female student he did not know by telling her she looks good and kissing her in the hallway.

Assistant Counsel Silvia Montalban discussed the procedure and directed those who have a need or an issue to be addressed to the Office of Affirmative Action, which she directs. She spoke about the obligation of faculty to report any instances of sexual harassment to her. She said that as agents of the College, faculty have this obligation and could be held personally liable if there were litigation and it was asserted that a member of the faculty knew about or suspected a case of sexual harassment and did not report it. A senator asked whether there is a document that faculty members sign stating that they are fully aware of the CUNY Sexual Harassment policy. The response was that there is not.

Counsel Montalban read the very definition of sexual harassment in the CUNY policy, a copy of which the Senate members received with their agenda packet [Attachment A]. She explained her role in the fact finding investigation when an allegation made. Only President Travis, Counsel Maldonado, and Assistant Counsel Montalban know about allegations and investigations and all three are privy to all cases.

Counsel Maldonado noted that the CUNY policy assures that academic freedom will be respected: "This policy shall not be interpreted so as to constitute interference with academic freedom." She noted that several cases have been dismissed on the grounds that they are cases of academic freedom. She gave, as examples, films shown in class and texts assigned to students that are appropriate and relevant to the course but that some students objected to on the grounds of sexual harassment.

Today's discussion is for the purpose of beginning the process of raising awareness of the issue and of the resources at the College respecting this important issue. Counsel Montalban asked that a member of the Senate serve as a representative on a task force that will launch a campaign to raise community awareness about sexual harassment. She discussed some of the ideas that came out of the initial meeting of the task force. President Travis said that he does not expect the education campaign to reduce the number of cases reported, but rather the opposite. He said that he expects that as people become educated as to what sexual harassment is and where one is to go to report allegations, there will be many more cases. He said the goal is to have a campus where everyone is treated in a respectful manner and where everyone feels respected and safe.

Submitted by Virginia Diaz-Mendoza

Recording Secretary

# **ATTACHMENT A**

## **From CUNY Manual of General Policy**

### **CUNY BOARD OF TRUSTEES BYLAWS**

#### **ARTICLE VI LEGAL**

##### **Policy 6.8 Sexual Harassment Policy**

It is the policy of The City University of New York to promote a cooperative work and academic environment in which there exists mutual respect for all University students, faculty, and staff. Harassment of employees or students based upon sex is inconsistent with this objective and contrary to the University's non-discrimination policy. Sexual harassment is illegal under Federal, State, and City laws, and will not be tolerated within the University. (BTM,2004,11-29,006,\_A)

The University, through its colleges, will disseminate this policy and take other steps to educate the University community about sexual harassment. The University will establish procedures to ensure that investigations of allegations of sexual harassment are conducted in a manner that is prompt, fair, thorough, and as confidential as possible under the circumstances, and that appropriate corrective and/or disciplinary action is taken as warranted by the circumstances when sexual harassment is determined to have occurred. Members of the University community who believe themselves to be aggrieved under this policy are strongly encouraged to report the allegations of sexual harassment as promptly as possible. Delay in making a complaint of sexual harassment may make it more difficult for the college to investigate the allegations. (BTM,2004,11-29,006,\_A)

##### **1 Prohibited Conduct**

It is a violation of University policy for any member of the University community to engage in sexual harassment or to retaliate against any member of the University community for raising an allegation of sexual harassment, for filing a complaint alleging sexual harassment, or for participating in any proceeding to determine if sexual harassment has occurred. (BTM,2004,11-29,006,\_A)

##### **2 Definition**

For purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other oral or written communications or physical conduct of a sexual nature when (BTM,2004,11-29,006,\_A):

- a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing
- b) Submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting such individual
- c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or abusive work or academic

environment. Sexual harassment can occur between individuals of different sexes or of the same sex. Sexual harassment most often exploits a relationship between individuals of unequal power—such as between a faculty member and student, supervisor and employee, or tenured and untenured faculty members. Sexual harassment may, however, also occur between individuals of equal power —such as between fellow students or co-workers. In some circumstances sexual harassment may even occur where it appears that the harasser has less power than the individual harassed—for example, a student sexually harassing a faculty member. A lack of intent to harass may be relevant to, but will not be determinative of, whether sexual harassment has occurred. (BTM,2004,11-29,006,\_A)

### **3 Examples**

Sexual harassment may take different forms. Using a person's response to a request for sexual favors as a basis for an academic or employment decision is one form of sexual harassment. Examples of this type of sexual harassment include, but are not limited to, the following (BTM,2004,11-29,006,\_A):

- a) Requesting or demanding sexual favors in exchange for employment or academic opportunities—such as hiring, promotions, grades, or recommendations
- b) Submitting unfair or inaccurate job or academic evaluations or grades, or denying training, promotion, or access to any other employment or academic opportunity, because sexual advances have been rejected

Other types of unwelcome conduct of a sexual nature can also constitute sexual harassment if sufficiently severe or pervasive that the target does find, and a reasonable person would find, that an intimidating, hostile or abusive work or academic environment has been created. Examples of this kind of sexual harassment include, but are not limited to, the following (BTM,2004,11-29,006,\_A):

- a) Sexual comments, teasing, or jokes
- b) Sexual slurs, demeaning epithets, derogatory statements, or other verbal abuse
- c) Graphic or sexually suggestive comments about an individual's attire or body
- d) Inquiries or discussions about sexual activities
- e) Pressure to accept social invitations, to meet privately, to date, or to have sexual relations
- f) Sexually suggestive letters or other written materials
- g) Sexual touching, brushing up against another in a sexual manner, graphic or sexually suggestive gestures, cornering, pinching, grabbing, kissing, or fondling
- h) Coerced sexual intercourse or sexual assault

### **4 Consensual Relationships**

Amorous, dating, or sexual relationships that might be appropriate in other circumstances have inherent dangers when they occur between a faculty member, supervisor, or other member of the University community and any person for whom he or she has a professional responsibility. These dangers can include: that a student or employee may feel coerced into an unwanted relationship because he or she fears that refusal to enter into the relationship will adversely affect his or her education or employment; that conflicts of interest may arise when a faculty member, supervisor, or other member of the University community is required to evaluate the work or make personnel or academic decisions with respect to an individual with whom he or she is having a romantic relationship; that students or employees may perceive that a fellow

student or co-worker who is involved in a romantic relationship will receive an unfair advantage; and that if the relationship ends in a way that is not amicable, either or both of the parties may wish to take action to injure the other party. (BTM,2004,11-29,006,\_A)

Faculty members, supervisors, and other members of the University community who have professional responsibility for other individuals, accordingly, should be aware that any romantic or sexual involvement with a student or employee for whom they have such a responsibility may raise questions as to the mutuality of the relationship and may lead to charges of sexual harassment. For the reasons stated above, such relationships are strongly discouraged. (BTM,2004,11-29,006,\_A)

For purposes of this policy, an individual has "professional responsibility" for another individual at the University if he or she performs functions including, but not limited to, teaching, counseling, grading, advising, evaluating, hiring, supervising, or making decisions or recommendations that confer benefits, such as promotions, financial aid awards or other remuneration, or that may impact upon other academic or employment opportunities. (BTM,2004,11-29,006,\_A)

### **5 Academic Freedom**

This policy shall not be interpreted so as to constitute interference with academic freedom. (BTM,2004,11-29,006,\_A)

### **6 False and Malicious Accusations**

Members of the University community who make false and malicious complaints of sexual harassment, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action. (BTM,2004,11-29,006,\_A)

### **7 Procedures**

The University has developed procedures to implement this policy. The President of each constituent college of the University, the Senior Vice Chancellor at the Central Office, and the Dean of the Law School shall have ultimate responsibility for overseeing compliance with this policy at his or her respective unit of the University. In addition, each dean, director, department chairperson, executive officer, administrator, or other person with supervisory responsibility shall be required to report any complaint of sexual harassment to the individual or individuals designated in the procedures. All members of the University community are required to cooperate in any investigation of a sexual harassment complaint. (BTM,2004,11-29,006,\_A)

### **8 Enforcement**

There is a range of corrective actions and penalties available to the University for violations of this policy. Students, faculty, or staff, who are found—following applicable disciplinary proceedings—to have violated this Policy are subject to various penalties, including termination of employment and/or student expulsion from the University. (BTM,2004,11-29,006,\_A)