



University at Buffalo
OFFICE OF SHARED GOVERNANCE
FACULTY SENATE

**Executive Committee Meeting
October 26, 2016**

CHAIR: Philip Glick PRESENT
SECRETARY: Cynthia Tysick EXCUSED
PARLIAMENTARIAN: James Hassett PRESENT
ARCHITECTURE & PLANNING: Ernest Sternberg ABSENT
ARTS & SCIENCES: Sampson Blair PRESENT Michael Cowen PRESENT Kenneth Dauber PRESENT Stephen Dyson PRESENT Jean-Jacques Thomas PRESENT
DENTAL MEDICINE: Michael Hatton PRESENT
EDUCATIONAL OPPORTUNITY CENTER: Nancy Lane PRESENT
ENGINEERING & APPLIED SCIENCES: Dimitris Pados ABSENT Marina Tsianou PRESENT
GRADUATE SCHOOL OF EDUCATION: Lilliam Malave-Lopez EXCUSED
LAW: Matt Steilen PRESENT
MANAGEMENT: Sudhir Suchak PRESENT
MEDICINE & BIOMEDICAL SCIENCES: Jessy Alexander PRESENT Peter Elkin ABSENT Gabriela Popescu EXCUSED Charles Wiles EXCUSED

NURSING:

Laura Anderson PRESENT

PHARMACY:

Fred Doloresco PRESENT

PUBLIC HEALTH AND HEALTH PROFESSIONS:

Jim Lenker EXCUSED

SOCIAL WORK:

Charles Syms PRESENT

UNIVERSITY LIBRARIES:

Glendora Johnson-Cooper PRESENT

SUNY SENATORS:

Cemal Basaran PRESENT

Philip Glick IN SEAT AS CHAIR OF FACULTY SENATE

Heather Montague PRESENT

Ezra Zubrow PRESENT

PRESIDENT OF THE UNIVERSITY AT BUFFALO:

Satish Tripathi ABSENT

PROFESSIONAL STAFF SENATE:

Domenic Licata PRESENT

COUNCIL OF ADVOCACY AND LEADERSHIP (COAL):

James Corra ABSENT

INVITED GUESTS:

Charles Zukoski, Provost PRESENT

Sharon Nolan-Weiss, Diversity and Inclusion PRESNET

OTHERS IN ATTENDANCE:

NAME	EMAIL
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CRAIG ABBEY

ROBERT GRANFIELD

EILEEN SHERMAN

CAROLIN LOJACONO

MARIBETH TAMSEN

JAMIE SPILLER

Faculty Senate Executive Committee Minutes

October 26, 2016

Minutes not reported due to Secretary excused

Chair's Report

- SUNY Senate & CGL meetings. Phil testified to SUNY Council to get Chairs of both Faculty and Professional senates to sit on university councils. It is moving through the legislative process in Albany. This will include all the SUNY campuses and Dr. Zimpher is all behind this legislation. SUNY Trustees now get it, followed by the process to convince the Governor's office and appropriate committees that this is necessary. This is important because "the UB Council's most significant job is picking our next President when these transitions occur".
- We will charge ad hoc committee to study salaries of UB ladder faculty.
- SUNY Provost regal meetings being held locally. Alex Cartwright will discuss future plans and opportunities for campuses with SUNY Investment Fund. In the spirit of Shared Governance the SUNY Faculty Senate has asked all local CGLs to be included, dates to be announced.
- Decanal reviews for Architecture and Planning and Jacobs School of Medicine & Biomedical Sciences will be starting. The faculty senate provided member nominations to the Provost, he has not yet finalized the review committee membership.
- Resolution on Diversity, Inclusion, Academic Freedom and Freedom of Speech and Artistic Expression was passed last year. "Freedom of Expression Statement for the University at Buffalo SUNY" appendix has been forwarded to Dr. Miller (VP-Office of Diversity and Inclusion) who will charge an ad hoc committee, membership yet to be decided, to craft a Freedom of Expression statement. Select members from the Faculty Senate Committees who crafted the Faculty Senate resolution will serve on the committee. However, the exact statement FS approved will not be used by Dr. Miller's committee.
- UBF board makeup-Phil has discussed adding the chairs of the faculty, professional, and student senates to the UBF Board with Ed Schneider and Fran Letro as of now they feel "there is sufficient transparency" (that is a quote) and there will be no new members to the UBF Board.
- Referred everyone to a Monday Spectrum article by students who wrote a letter to the President and administration. It was beautiful and they wrote it in only 12 hours. Applaud them for their transparency.
- All campus foundations transparency is big across the state. We will discuss this more at the next executive committee.
- UBreathe Free is insufficient in its ability to enforce. Unions, police, and HR were consulted and Phil and Dom will ask the President to recharge a committee. If you see egregious smoking on campus, like near the daycare by Lockwood library and you have your phone on you take a picture let me know, it will help us in the future.
- Modified Duties following FMLA resolution. Involved HR, Unions, Office of Shared Governance and administration to determine how we're going to do this. Original resolution was denied by the President on the 18th of October. That resolution had a significant typo in section 7, it said leave instead of modified duties. We amended it and changed it to modified duties and on

October 20th the President denied the amended resolution. To set the public record straight: In the 10/18/16 denial letter in the third paragraph the President refers to a discussion that Phil had with a lawyer in Albany from SUNY, she denies ever having this conversation with him. Phil guesses “this is legal lingo that it never really happened”. GORE and local carve outs and how to go about this process was never on his radar “I never knew nothing about this until after I had this discussion with this woman and although she denies it I thank her very much.” Phil has since spoken to the Provost, Susan Udin (chair of the committee who craft the resolution), the Union, and Deans on campus for the Provost’s plans for a soft and flexible implementation of modified duties following FMLA in all decanal units.

- The faculty senate has certain existential primacy rights, including things like academic freedom, curriculum, promotion & tenure and although teaching is one of our primal rights modified duties after FMLA is really a term and condition of employment and that is where the union comes in and the chair has been trying to separate faculty senate issues from union issues because we should concentrate on academic matters in the faculty senate and they [the union] should concentrate on terms and conditions of employment; but, this modified teaching hits the gray area so as the chair of the faculty senate Phil has taken this as far as it can go. Phil announced that if anyone wanted to talk about his he would go into executive session now before the Provost’s report.
- Announced this week’s UB DifCon series and urged members to attend. The conversations were great!
- Questions:
 - Cowen: The Freedom of Expression policy originated here with the CAS policy committee? Phil clarifies there were at least two parallel processes going on within the faculty senate. One at Diane Christian’s Academic Planning Committee and a slow moving one going on within CAS. Diane’s committee finished their statement months ahead of CAS and Phil delayed it but eventually he had to bring it to the executive committee before CAS was ready to bring it to our committee because we wanted to get this done before the end of the spring semester in the faculty senate. We [FSEC] discussed the Christian document which became the body of our resolution. Then we read it the first time at a faculty senate meeting and then by the second reading CAS had caught up on things and we got Valerie Nessel’s Faculty Senate Committee on Academic Freedom involved and recrafted so it would look more like a UB statement as opposed to a CAS statement. That statement was amended into an appendix of our original resolution and both were passed together. Cowen clarified that he was concerned as to whether or not the body of the text in the CAS statement that became an appendix to the Academic Planning Committee resolution would be changed and who was going to work on that? Phil stated that the Provost is going to charge an ad hoc committee to craft a Freedom of Expression for the UB Communities statement. Dr. Miller does not want to use the language from the CAS appendix document because she feels it is not inclusive enough language. Provost chimed in that the Academic Planning Committee’s piece on Academic Freedom was a values statement that he felt could and should be passed by the faculty senate as their set of values and posted to the faculty senate website. He is working with Dr. Miller to craft a UB-wide set of Institutional Values. We want faculty to be able to speak in an academic freedom way in the

classroom, especially in areas of their expertise. That is what is codified. The Freedom of Speech across campus debate is more on “just because you can say it, should you say it?”. How do we hold conversations about race, art, about any of those things? A values statement that will speak for faculty, staff, and students on how as a community we want to communicate. Conversation between the Provost and the Chair ensued and it was clarified that the Provost felt the appendix could be posted to the faculty senate website as a *faculty* statement of Freedom of Expression but he [the Provost] wants the campus to own a statement of Academic Freedom. The Provost called it a foundational document that should not be an appendix, it should be its own document passed by the faculty senate.

- Thomas said that it is back in CAS governance and is still being discussed. It is very confusing to everyone in CAS as to what is going on with the “appendix” document passed by the Faculty Senate. He asked for someone from the Faculty Senate to speak to the College and clarify this issue. Provost urged that we should have only one Academic Freedom statement so that faculty senate should work on this so we don’t have more than one. The Provost commented that he would write a document clarifying the actions his office will take on this issue.

Provost’s Report

- Modified Duties resolution: As passed by the Senate was explored and came back that it is a term and condition of employment and part of the contract and the President and Provost can’t make policy on things that are in the contract. What is in the contract is language about flexibility, in appendix A42. States we want to be flexible in relation to work/life balance with examples (FMLA and other time off the tenure clock). Provost has talked through the issue of flexibility with the deans, they now understand they are enjoined by the contract to be flexible with the needs of the faculty when faced with significant life changing events (illness in the family, death, adoption, birth, etc.). Deans brought up significant differences in the teaching duties of faculty and what we mean by that. The language in the senate would be make it difficult to operationalize. The asked to be flexible for both the faculty and unit needs. Uniform desire for creating flexibility around issues life changing situations. Deans now understand they need to create ways to be flexible. The Provost has also talked to ER run by Chris Putrino pointed out that his office is always available if faculty feel they are not getting a fair hearing within their unit on this issue. There are both inside and outside avenues to address flexibility. Developing the language to have these conversations is difficult so sensitivity on how we do this is also needed so we can enable these conversations to happen. Provost will have Bob Granfield (VP Faculty Affairs) run through a session on this topic with the chairs so that they have the training on how to enter into these conversations. These topics might be negotiated in the upcoming contract so things may change regarding this matter in the future. Chair reiterated the point that if a faculty member felt they had exhausted all avenues within their department and school, they did have access to Chris Putrino’s Office of Employee Relations for further assistance. This a culture we are trying to change. We have gone as far as we can go with this.
 - Questions: Steilen, what will you say to a dean who is not flexible? Provost, if the issue comes to him he will talk to the dean. If the issue comes to Chris and Chris comes to the Provost he will again to talk to the dean and reflect on the need for flexibility. Thomas,

what if it is the chair and not the dean? Sometimes there are not enough faculty to teach in an area of expertise so they can't be flexible. Provost, faculty member must figure out a way to get the message to the dean, to me, and/or employee relations. The conversation can be held. A blanket 'no' is not acceptable but a conversation of what can be done must take place. Thomas-there shouldn't be fear of being punished for this? Provost, affirmed that there should be no punishment for asking for flexibility. Steilen, is there money available to hire adjuncts to increase their range of flexibility? Provost, I'd have to create a tax to create a pool to give it back. He has not thought about that but he could consider it. We do that with spousal accommodations and so we could do it for this.

SUNY Plenary (Dr. Basaran, Senator): Approved resolutions were, first- allow governance leaders of each SUNY campus on their respective Councils. Second on applied Learning, third on SUNY ethics review was sent back to the committee. Fourth requesting full compliments on university councils so they may all have a quorum passed and is being sent to the governor. The fifth was assuring faculty governance is followed for micro-credentialing and other "alternative" certification was approved. The six was the changing of the criteria for faculty awards to include language on "curricular innovations". Q&A with Chancellor, SUNY Poly and Buffalo Billion. She didn't want to answer the question and referred to Alex Cartwright who Interim President and looking for a new president. Gender, Equity and Race she asked to look at our data so she can have something to bring before Board of Trustees. Question regarding the balance and roles of faculty, staff and students in regards to choosing their campus presidents. Chancellor said her office continually revises the criteria for hiring and committee membership. If there are not enough faculty on the search committee she hears about it. Campus FS Chairs asked for a set of shared governance principles for SUNY. She was asked if she would work with them to develop such a set of principles and then assist us in bringing that to the board of trustees. She thought it was a great idea as long as it wasn't called the "Zimpher Doctrine". Campus governance leaders continual to struggle for their place at the table when making important decisions and they asked her what kind of structures exist within SUNY to help educate the Board of Trustees, campus college councils, boards, presidents, provosts and vice-provosts about shared governance? Chancellor's response was a SWAT team idea, we could have a four or five member team, with faculty included, we have not been as good at matching presidents with mentors but University Faculty Senate (USF) has a model of visiting campuses that has worked effectively, maybe we can build on that model for mentorship. Last question was asking her opinion on the matter of giving governance leaders a seat on college councils boards with all the rights and responsibilities of members. Her response, "Hey I would give it a run, I would just editorially say that just getting nominations for college councils and boards of trustees is overwhelmingly slow, we have councils that cannot vote because they don't have a quorum. I think it is a great idea, it is just something we have to work through the political system and I am willing to try it".

Presentation: Salary & Gender Equity History of past surveys (Craig Abbey, Office of Institutional Analysis and Sharon Nolan-Weiss, Department of Equity, Diversity and Inclusion)

- Can run statistical models and analysis on these issues. They have done so in 2008, 2010 and 2013 to see whether gender, race and ethnicity were playing an inappropriate role in predicting salary. What should play a role: rank, time and title, discipline (ie. Medicine vs Romance Languages), FTE (faculty going down below 1) and overrun that with gender, race and ethnicity. There are a number of regression models that we have experience in running. In the two past

studies we have not found anything statistically significant in the areas of race, gender and ethnicity. There could be individuals that are experiencing inequity.

- We do look at outliers and pull them from the study. Sharon Nolan Weiss does look at individual's salaries and ask departments if they have a non-discriminatory reason why this person's salary is here and others are there. Since June 2015-10 complaints with 4 needing salary increase. Can't measure things like productivity so we have other ways to assure we have equitable salaries.
- Chair stated that when they ran the 2012/2013(?) survey the union ran a parallel survey with the same datasets. Craig Abbey corrected the chair and said they did not have the same datasets. The chair then corrected himself and stated they had similar datasets, which Abbey also refuted. The stated that "we" were are going to be working from the same dataset for the 2016 survey. We would be working with one hypothesis before "we" get started, we will agree on the materials and methods, agree on the statistical analysis, and then we will see what the data shows.
- Questions: Hatton asked about age as a variable. Abbey stated that it was highly correlated to rank so it skews the estimators. If we wanted to see if there was age discrimination in relation to salary we'd have to figure out a different way to do that. Nolan-Weiss said that on an individual basis her office could look at that differently. Basaran asked if productivity could be factored into a study. Abbey said that it is difficult to measure across a university but is easier within a single discipline. We assume productivity is spread equally among genders. Chair asked Dr. Zubrow to speak as a senator and not a union member. Zubrow wanted to correct the record and state that it was not a union survey in 2012 but a faculty senate ad hoc committee survey. It used both the same data from the database of information given by the state to the administration survey and another set of data from a database of information given to the union by the state. There were different assumptions made and there were different groups of people who were included and who were not included. Sudhir Suchak asked a question (tape garbled) regarding experience level as related to non-tenure track. Abbey stated that the first set of data Dr. Zubrow referenced only took into account 300 faculty from north campus so it excluded the faculty from the medical professions on the south campus. It also included EOC faculty which do follow their own tenure track and included librarians, which we would also think of as a different population. For measures of experience we take in rank and time in title. We would have to do that differently for the clinical and non-ladder or tenure track faculty. Thomas asked about market value vs internal value of a faculty member. Abbey replied the model does account for this by rank and time in the title and a discipline market factor from AAU Exchange. Provost-this study looks at population salary distribution between women and men. Is there an institutional bias against women? We need a significant number in each comparison set. The study is to focus on bias based on gender. Chair, what is the definition of salary? State lines, out of foundations? Abbey, typically just state lines. Summer salary off a grant, we would not take into account. Chair feels that is fair. Dyson asked about those who languish in associate level. Abbey stressed that time in title gives them a statistical signal that something is different about the others. Dyson asked if there was a cap at associate professor. Abbey said no there was not. Zubrow, the issue is, is there or is there not gender discrimination, the details of the methodology shows the difficulties. Standardize by number of years of service or time in rank? Women spend more time in service before being promoted so we underestimate the amount of

gender inequity that take place. We should be very careful about how we do the analysis. Whatever the FS committee is, they have to look at these degrees of standardization very careful. Who is going to be on this committee? Chair said he would get to that in a moment.

Presentation: Table vs Postpone (Dr. Hassett, Parliamentarian) **postponed by decision of the chair exercising "prerogative"**

Charging Ad Hoc Committee on Salary and Gender Equity: Do a salary study on the UB ladder faculty from about 1800 to about 900 faculty. Look at salary distribution of men vs women/time in title/discipline. Hypothesis, materials and methods first, meet and probe the data and by the first week of the spring semester report on the data analysis. Zubrow and Nolan-Weiss will also be on the committee. Cowen asked about the difference between hypothesis driven vs non-hypothesis driven studies. The Chair stated that he believed that when these studies were conducted in the past they may have been hypothesis driven but the committees never wrote them down. When they did their statistical analysis they weren't sure if there were statistically significant differences in the two groups, they knew what they were looking at. They will write a hypothesis to prove or disprove and let the data lead them where it leads them.

Discussion: Consulting with Administration on proposed resolutions (Matt Steilen, Law School)

- Steilen stated that the chair had asked him to continue a discussion that started in the Tenure, Promotions and Privileges Committee and the FSEC about two weeks ago when the Chair and Provost were not present. How to handle the process of reconciliation. What to do when FS passes a resolution that is within their legislative or advisory competence and we hear back from the administration that there are problems with the resolution that was passed. Steilen acknowledged that the Tenure, Promotions and Privileges committee was very concerned about Modified Duties resolution and why it was stopped and who stopped it from becoming a policy. Steilen said *he* was concerned about the resistance being framed as resting on a legal ruling that we have yet to see and assess. It puts the FS and FSEC in an uncomfortable position when we are told a resolution is unwise, infeasible, impractical, illegal, or otherwise not fully thought out. For those of us who share the frustration we should think about ways we might settle on practices moving forward for either reconciliation after the passage of a resolution or before the fact consultation so that we can inform ourselves before passing a resolution of all the "devils hiding in the details". He thought the Provost's hope that we would consult with each other more before the passage of a resolution was a good one but there are things that maybe said against that as well. Chair says it's important and pointed out that we have current examples where things bubble up through committees and then works with appropriate administrators to get things passed. The recent mentor resolution was an example of that. The textbook resolution was an example on the other side. There were policies in place that had we done our homework two years ago we would have found and realized the complex resolution was not needed. Provost-agrees with Matt and would want a formalized process for reconciliation would be good for all. It was cumbersome with the modified duties and textbook resolutions so a process would be helpful. If the senate wants to pass something they feel strongly about then they should but the answer may still be no. It isn't clear from his office what reconciliation means. Basaran, we should work with the Provost and President before a committee works on a resolution. Work with them at the very beginning of a resolution idea. It should be a joint

effort. Chair, one size does not fit all. If we took the modified duties to the Provost first we would have gotten nowhere. Zubrow, formalizing a reconciliation committee is a great idea. Useful to have a senate council from the law school to see if there are legal issues on both sides.

Postponed until Nov. 2nd FSEC meeting.

Meeting adjourned at 4:29pm

Submitted by Cynthia Tysick Secretary of the Faculty Senate with assistance from recording of the meeting and approved agenda