



**University at Buffalo**  
*The State University of New York*

## **FACULTY SENATE**

**May 5, 2015**

### **CHAIR:**

Ezra B. W. Zubrow

Camillo Trumper (absent)

Marion Werner

Paul Zarembka (excused)

### **SECRETARY:**

Cynthia Tysick

### **DENTAL MEDICINE:**

Michael Hatton

Ray Miller

Sawsun Tabbaa

Mine Tezal (absent)

### **ARCHITECTURE & PLANNING:**

Ernest Sternberg (Jordan Geiger-Alt  
absent)

### **ENGINEERING & APPLIED SCIENCES:**

### **ARTS & SCIENCES:**

Alex Anas (absent)

Joe Buscaglia (resigned)

Melvyn Churchill (excused)

Michael Cowen

Kenneth Dauber (excused)

Stephen Dyson

Walter Hakala (off Spring Sem. Lee,

Eunhee Alternate-absent)

James Holstun (resigned)

Jacob Kathman

Charlotte Lindqvist

Sara Metcalf

Peter Morgan (excused)

Alyssa Mt. Pleasant

Harvey Palmer (absent)

Katja Praznik

Adam Sikora (absent)

Kristin Stapleton

Jean-Jacques Thomas

Paschalis Alexandridis (absent)

Christine Human

Igor Jankovic

James Jensen

Joseph Mollendorf

Adel Sadek (resigned?)

Sabanayagam Thevanayagam (absent)

Robert Wetherhold

### **GRADUATE SCHOOL OF EDUCATION:**

Maureen Boyd (absent)

Anne Perroult

Lorna Peterson (retired)

Sarah Robert

Lynne Yang (excused)

### **SCHOOL OF PUBLIC HEALTH & HEALTH PROFESSIONS:**

Peter Horvath (excused)  
Heather Kearns  
Jim Lenker (excused)  
Sue Nochajski (absent)

**LAW:**

Christine Bartholomew (absent)  
Martha McCluskey (excused)

**MANAGEMENT:**

Veljiko Fotak  
Jun Ru (absent)  
Larry Sanders

**MEDICINE & BIOMEDICAL SCIENCES:**

Daniel Amsterdam (absent)  
Jeffrey Anker  
Matthew Barth (absent)  
Kathryn Bass (resigned?)  
Peter Bradford  
Michael Chaskes  
George Chen (resigned?)  
Peter Elkin  
Edward Fine (absent)  
Lorna Fitzpatrick (absent)  
John Gibbs (resigned?)  
Richard Gronostajski  
Vijay Iyer (resigned?)  
Dennis Nadler (absent)  
Chukwumere Nwogu (absent)  
Garbriela Popescu  
Laurie Sadler  
Rajeev Sharma (absent)  
David Shucard (absent)  
George Simpson  
Satpal Singh (absent)  
Scott Stewart (absent)  
Daniel Swartz (absent)  
Susan Udin  
Charles Wiles  
Taechin Yu (absent)

**NURSING:**

Grace Dean  
Donna Fabry (excused)

**PHARMACY:**

Alice Ceacareanu (absent)  
Fred Doloresco

**SOCIAL WORK:**

Robert Keefe (excused)  
Kathleen Kost

**SUNY SENATORS:**

Henry Durand (absent)  
Kathleen Kielar (excused)  
Rober Van Wicklin

**UNIVERSITY LIBRARIES:**

Glendora Johnson-Cooper  
Ophelia Morey  
Margaret Wells

**PARLIAMENTARIAN:**

Richard Gronostajski

**GUESTS:**

Satish Tripathi, President  
Gabriela Julia, The Spectrum  
Marcia Zubrow, Libraries

Meeting began at 3:00pm

1. Approval of the minutes from 03/03/15 and 04/07/15
  - The body voted to approve the minutes from the March 3<sup>rd</sup> and April 7<sup>th</sup>, 2015 Faculty Senate meetings.
2. Report of the Chair (Ezra Zubrow)
  - SUNY changes to Intellectual Property rules and regulations policy change.
    - First change in over 30 years. (licensing, copyright, patents, technology transfer, etc.)
    - Allows individual campuses to determine how they wish to handle intellectual property.
    - End of October resolution to come to SUNY Senate and Board of Trustees.
    - Faculty Senates SUNY-wide should have a say on this issue.
    - Will ask for lawyers familiar with this issue to come to Faculty Senate in the Fall to consider this issue.
  - Family Leave
    - Not consistent across the system. In some cases departments apply the policy differently than another department at the same institution.
  - Low Cost Scholarship
    - SUNY Provost Alex Cartwright is concerned about large publishers like Elsevier and Thomson/Reuters inflating the cost of access to, what they deem, high-quality research through their database platforms. He is looking for alternative modes of publishing such as open access. He would like faculty to think about a SUNY-wide initiative, similar to the California model, whereby our faculty decide what is valuable scholarship and not an H-Index.
3. President's Report
  - AAU and the PhD problem
    - Time to degree now averaging six years.
    - Membership to AAU tied to number of PhDs completed but universities are seeing this number go down.
    - Considering moving completion and time to degree back to third year of study. Most students are now committed to a PhD at this point and those who are not have most likely received a Masters and resigned from the PhD track.
  - NIH funding
    - Decrease in funds available

- Shift in the age of RO1 recipients. Increase in those over age 60 receiving funding while the age group 35-40 is seeing a decrease. The average age for those receiving RO1 funding is 43 years old.
4. Committee Reports
- Academic Policies & Grading (Michael Cowen-Conveyor)
    - Recommendation to amend the repeat/controlled enrollment policy. (see Appendix i)
      1. Report presented, no discussion, motion to accept recommendation made with **recommendation approved**.
5. Textbook Resolution
- Ad Hoc committee formed and have drafted a textbook resolution to address an issue brought to light by a Fall 2014 Spectrum article that reported on the practice of faculty assigning their own published materials for their courses and charging the students through means other than “traditional” methods (such as direct, in class transactions, a website, or a self-publishing online shop). The committee was also asked to address the issue of faculty receiving royalties for this practice.
  - Resolution read by Ezra Zubrow
    - Helps provide guidelines for faculty assigning textbooks for Fall semester. The Chair recommends that it be approved today, reminding the body that it can always be amended.
  - Michael Chaskes makes amendment to item number three.
    - Not a unanimous resolution. Some members did disagree with this final resolution.
    - Not prohibiting faculty from assigning their own materials.
      1. *It is unethical and unacceptable for a faculty member to receive profits or royalties on material he/she has assigned to classes, unless remedial measures are taken as below.*
        - a. *Provide opportunities for no-cost reserve books or reserve electronic resources, in number sufficient for the class enrollment (and hence to benefit from the class without buying the materials), or*
        - b. *Make a documented charitable contribution equal to the profits or royalties to a fund established by UB Libraries, UB Foundation, and/or the UB Student Association for such purpose.*
  - Discussion
    1. Michael Hatton made the suggestion to consider rewording the opening to say:
      - a. *A faculty member must not receive profits or royalties on material he/she has assigned to classes, unless remedial measures are taken as below.*
    2. Michael Chaskes accepted the suggested rewording.

3. Joseph Mollendorf asked for clarification that a professor could collect royalties on for his/her book for any course (here at UB or another institution) but could not receive royalties when they assign it as required in the course they teach. Michael Chaskes commented that the students in the professor's course are a captive audience and have no choice. Ezra Zubrow pointed out that the resolution does allow them to collect royalties from their book when assigned in their course but those royalties must be placed in a fund.
  4. Alyssa Mt. Pleasant pointed out that there is already Federal law, "Higher Education Opportunity Act of 2008" addresses this issue. Textbook price disclosure law. This resolution should reference this federal law. Ezra Zubrow agreed this was important but wanted to focus on the amendment discussion and asked for this to come back as an amendment to the resolution, if passed.
  5. Another faculty member brought up the issue of film royalties, which was not included in this resolution.
  6. James Jensen thinks this amendment is impractical. The royalty streams a difficult for a faculty to keep track of due to a number of issues. The checks come months after the book was assigned, they do not indicate where they came from (university bookstore, another professor's course, Amazon, etc.). With a lump sum check how is someone to determine if their students purchased the book? Michael Chaskes referenced that Harvard does this already, it is imperfect but good enough.
- Quorum called by Joseph Mollendorf. There was no quorum so the resolution goes back to Faculty Senate Executive Committee for a decision.

The Chair thanked everyone for all the hard done over the last four years. He mentioned the Winter Semester, new General Education Program, Decanal Review Policy, Seamless transfer to name a few. I leave you with this thought "There is a small problem with Buffalo's culture and the way we think of the University at Buffalo. We think of this university and city as a second choice. That is not true this university is a smart choice, think of that in the future, it has been has been a smart choice for us and the students and I believe it is a smart choice for you."

Adjourned at 4:30pm

Respectfully submitted 09/30/2015 by Cynthia Tysick, Secretary.

## Appendix i

**Faculty Senate Grading Committee  
Course Enrollment Control Policy  
3 February 2009; 24 April 2013  
Proposed revisions 15 April 2015**

The Faculty Senate Grading Committee recommends the Faculty Senate adopt the "Course Enrollment Control Policy" permitting units to control students' enrollments, including repeat enrollments, in courses having limited student positions available in any academic term. The policy combines procedures for this with protections for the students involved.

**Undergraduate Course Enrollment Control Policy**

Academic units may request controlled enrollment in any limited position course, *i.e.*, one whose enrollment is limited by available student positions for lectures or associated sections, laboratories, other specialized facilities, internships, *etc.*, to provide positions for students seeking initial enrollment in it. Requesting controlled enrollment status for a course or changes to the status of such a course must be filed with the Office of the Senior Vice Provost for Academic Affairs prior to the annual deadline for making changes to the Catalog for the coming year.

Students seeking initial enrollment have not previously enrolled in the course at UB or in an equivalent course accepted for transfer credit at UB. Students seeking repeat enrollment are those who have previously enrolled in and have a grade of record other than 'W' for the course or its equivalent. For purposes of this policy, grades of record other than 'W' include but are not limited to: 'A', 'B', 'C', 'D' and their qualified values, *e.g.*, 'A-', 'D+', 'F', 'P', 'S', 'U', 'I', 'blank (no grade received)', 'N', and 'R'.

Academic units shall prominently designate all controlled enrollment courses in catalogs and course schedules with specification of the terms affected, and include this in the course information and syllabi. Notices in catalogs, course information and syllabi shall include an explicit statement that repeat enrollment may be difficult or cancelled, and that any student seeking to repeat the course to supersede a prior resignation or course grade may be able to do so only in a UB summer or UB winter session or during the open enrollment period of a regular semester (if seats are available). Available seats in a designated course will be released for open enrollment at an appropriate date that ensures priority to students enrolling for the first time. When possible, the date of release will be communicated to students and advisors prior to the start of enrollment appointments for the term.

The HUB system will be utilized to implement these designations, thereby preventing ineligible repeat enrollment, and providing such notice to the student at the time of attempted ineligible enrollment.

Academic units may control or prohibit limited position course enrollment by students seeking repeat enrollment by any one or combination of:

1. Requiring any student seeking to enroll in a course, to do so through a waiting list operated by the unit where priority assignments are given to students seeking initial enrollment by that unit.
2. Requiring any student seeking repeat enrollment in a course to do so through a waiting list operated by the unit where priority assignments are controlled by that unit.

Academic units may control enrollment in limited position courses for selected terms while providing open enrollment for other terms, *e.g.*, controlled for Fall and Spring terms, open enrollment for Winter and Summer Sessions.

### ***Commentary***

*The policy when first approved and implemented reflects the state of course capacity at the time as well as the limits of the class scheduling and enrollment technologies.*

*Given the implementation of HUB in summer 2011 and the investment in expanded class capacity, the requested changes reflect the tools that can now be utilized as well as the potential to ensure seat capacity is utilized.*

## Appendix ii

**Proposed Faculty Resolution  
On Faculty Conduct Regarding Textbooks and Other Educational Material  
Assigned to Classes**

WHEREAS, some assigned textbooks, electronic resources, supplies, or other educational materials (henceforth “assigned educational materials” or “such materials”) are very expensive and put an undue burden on student budgets; and

WHEREAS, there are reports that some instructors at UB require student to purchase assigned educational materials for which the instructor receives royalties, mark-ups, or profits, raising a perception of conflict of interest; and

WHEREAS, in some cases, students are given no alternatives, such as books placed on reserve; and

WHEREAS, there are reports that in some instances faculty members carry out direct cash transactions for the sale of such materials to students; and

WHEREAS, there are reports of that in some universities faculty members have charged for quizzes, tests, or other assessments meant to influence class grade, [and

**THEREFORE BE IT RESOLVED THAT:**

1. Regarding textbook affordability in general: In partial support of a 2013 resolution by the SUNY Student Assembly, the Faculty Senate
  - a. Urges campus administrators, faculty and libraries to explore ways to increase faculty knowledge of the low- or no-cost textbook alternatives, through presentations in faculty orientations, training programs, webinars, and outreach.
  - b. Supports the “Open SUNY Textbooks” initiative and encourages the Provost and Deans to promote it to faculty.
  - c. Supports, where feasible, the disclosure of required textbook ISBN numbers and costs, and course pack costs, on web-based class information.
2. To Expand Options for Multiple Kinds of Access to Educational Material:  
The Faculty Senate:
  - a. Declares that instructors must permit students to gain access to material for study or for class activities through means such as sharing, library borrowing, renting, leasing, on-line reading, or purchase from lowest-cost vendors of their choice.



3. Regarding educational material mark-up or profits to the faculty member, in classes to which he or she has assigned material:
  - a. This Article applies to published text book royalties, course-packs, supplies, instructor's proprietary material, and other material assigned by the instructor for his or her class.
  - ~~b. If a professor requires that students pay a fee for own materials, then the professor must justify the fee. This justification should provide an analysis of the merits and market prices of alternatives that the professor could have assigned if he or she did not use own materials. The justification should establish that it is to the benefit of students to pay the fee for the required own materials, rather than to purchase alternatives.~~
  - ~~c. In syllabi, the instructor should specify mode of adherence to Faculty Senate rules regarding textbooks and other class material.~~
  - d. [Chaskes amendment] *A faculty member must not receive profits or royalties on material he/she has assigned to classes, unless remedial measures are taken as below.*
    - i. *Provide opportunities for no-cost reserve books or reserve electronic resources, in number sufficient for the class enrollment (and hence to benefit from the class without buying the materials), or*
    - ii. *Make a documented charitable contribution equal to the profits or royalties to a fund established by UB Libraries, UB Foundation, and/or the UB Student Association for such purpose.*
  - e. This article applies only to sales of materials to the instructor's own classes and does not apply to royalties, etc., for educational material sold in other settings.
4. Regarding transactions by which assigned educational material are sold to students, the Faculty Senate:
  - a. Payments made to a professor for course materials should be collected and processed by a third-party that provides an accounting of the payments to UB.
  - b. Department Chairs or Deans may provide to faculty written exceptions to this rule, as for class tours or lab or studio expenses, when no reasonable third-party payment method is available. Such written explanation must be filed, as by a Department Secretary, and made available upon request.
  - c. Urges UB administration, deans and chairs to make third-party transactions available through a UB-administered electronic (web-

based) mechanism, into which faculty members can login to upload material to be sold.

5. Regarding charges for certain quizzes, tests, and other assessments meant for in-class grade. The Faculty Senate
  - a. Prohibits charges for such assessments that are (1) prepared by the instructor, and (2) assigned to his/her class, with the intent of affecting the class grade.
  - b. Prohibits instructors from managing exams and other assessments through an electronic platform that also hosts the instructor's e-text, forcing students to purchase the text in order to be allowed to take the exam.
  - c. The following are not covered by this prohibition:
    - i. Exercises, tests, or simulations obtained from a third party, and available only for a charge from the third party, and for which the instructor UB instructor receives no profit or mark-up, and for which payment is arranged in accordance with Article 4.
    - ii. Exams meant for external recognition for professional certification or licensure
    - iii. Exercises, quizzes, and tests for which a Department Chair or Dean asserts in writing, that there must be a charge, and provides an explanation. Such written explanation must be filed, as by a Department Secretary, and made available upon request.