## FACULTY SENATE

Minutes of April 20, 1999-(approved)
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The Faculty Senate met at 2:00 PM on April 20, 1999, in the Center for Tomorrow to consider the following agenda:

1. Approval of the Minutes of March 23, 1999
2. Report of the Chair
3. Report of the Bylaws Committee - Charter Change Relating to Senate Oversight of Graduate Education
4. Report of the President/Provost
5. Second Reading of Resolution on Undergraduate Independent Study
6. First reading - Alert for Instructional Staff

## 7. Old/new business

## Item 1: Approval of the Minutes of March 23, 1999

The Minutes of March 23, 1999 were approved.

## Item 2: Report of the Chair

The written report of the Chair was included with the agenda mailing. In addition the Chair reported that the Provost Search Committee, of which he is a member, met for the first time on April 16, 1999. There will be a full external search, but internal candidates are also welcome. Suggestions for candidates may be made to any member of the Search Committee. FSEC looked at a draft job
description, making several suggestions for improvement, which were adopted into the final version.

## Item 3: Report of the Bylaws Committee - Charter Change Relating to Senate Oversight of Graduate Education

Professor Hopkins, Chair of the Bylaws Committee, stated that the Bylaws Committee had reviewed the text substituted at the March 23, 1999, Faculty Senate meeting for the original George proposal. The Bylaws Committee took no position as to the merits of the substituted proposal but concluded that its adoption raises no issues within the scope of the Bylaws Committee. The proposal will not require any changes to the Bylaws of the Voting Faculty; Article II.B.(2) of the Charter of the Faculty Senate will be redundant and should be deleted; changes to the Standing Orders of the Faculty Senatemay be required as to the charges of existing Faculty Senate Committees or the creation of new committees.

The Chair asked for questions for the Committee:

- it is probable that the allocation of authority to the Faculty Senate excluded the professional schools, especially the founding schools, Medicine and Law, from the scope of Faculty Senate power; do you have a reaction to that point? (Professor Swartz)
- the language of the Charter explicitly empowers the Faculty Senate to review professional degree programs (Professor Hopkins)

Following the last discussion of this issue, the Chair contacted the other SUNY Centers to learn what bodies had oversight responsibility for their graduate education programs. He reported that their Faculty Senates had that responsibility. He then introduced Professor George.

Professor George spoke first to the issue of jurisdictional conflict between the Faculty Senate and the Graduate Faculty and the professional school councils respectively. TheBylaws of the Voting Faculty define the membership of the Voting Faculty essentially as those holding academic rank (with no exclusion of graduate faculty or professional school faculty). The Bylaws of the Voting

Faculty enumerate the powers and duties of the UB Voting Faculty very broadly; for example, the first duty of the Voting Faculty is to advise administration on "any matters affecting the instructional, research and service programs of the University" (Article II (1). The Bylaws specify in Article II (5) that these powers and duties are to be discharged "through the faculties...and through the UB Faculty Senate. Article II (5) further stipulates that "the academic units...shall have original and primary jurisdiction regarding their own...academic policies and procedures, subject to the authority vested in the UB Faculty Senate." Neither the Graduate Faculty nor the professional schools are anywhere mentioned in the Bylaws. The intent of theBylaws is to make Faculty Senate the Senate of the entire University, and neither the Graduate School nor the professional schools can assert a position superior to the Faculty Senate.

Professor George then noted that the Bylaws in Article II (6) recognize the right of academic units to adopt and amend their own bylaws, so long as they are consistent with the Bylaws. He concluded that his amendment is consistent with the Bylaws, so there is no impediment to revising the Charter of the Faculty Senate.

Professor George argued that there is a need to amend the Charter. The Faculty Senate has exercised very little responsibility for graduate and professional programs, and there is no imperative in its Charter to do so. As a result no democratically elected body exercises oversight of programs affecting the majority of our students. The amendment will force the Senate to oversee graduate education.

He then raised the question why should the Senate take on this oversight function. He gave three reasons: the Faculty Senate is charged to do so by the Bylaws, no other democratically elected body has oversight of graduate education, and it needs to be done to ensure that Faculties' and Schools' internal governance and procedures are followed.

Professor George asserted that the Faculty Senate is more qualified to provide oversight of graduate and professional programs than undergraduate programs since about three-quarters of Senators come from units that have no undergraduates. He discounted the suggestion that there is no commonality to graduate programs, pointing out that the very existence of the Graduate Faculty disproves that.

Finally Professor George said that this is the moment to redefine the Faculty Senate. The University is struggling to adjust to changing education priorities; The College of Arts and Sciences and the School of Engineering are rewriting their bylaws. The Faculty Senate needs to assert its role in the process of change

The Chair asked for questions and comments:

- believe that a change to the Charter which drastically alters the relationship of the Faculty Senate and the Graduate School would have to be approved by the President; the Bylaws and Charter of the Graduate School were developed by faculty, not administrators; this amendment requires the Faculty Senate to assume the role of the Graduate School not only as to oversight but to doing the basic work (Professor Wooldridge)
- amendment gives the Senate the right to establish general standards for graduation and awarding of degrees which is more than just oversight responsibility; should give Graduate School a chance to respond to this proposal so we will not be guilty of high handed behavior (Professor Adams-Volpe)
- the mere fact that the Law School and the Medical School are not specifically exempted from the jurisdiction of the Faculty Senate does not necessarily mean that power over them as to admission of students and curriculum was given to the Faculty Senate; in the licensed professions, accrediting agencies frequently require that faculty who are qualified in the profession have control of curriculum; proponents of the amendment have done a sloppy job of giving a systematic survey of the impact of this amendment and of explicating relevant documents (Professor Swartz)
- this has not been done sloppily; the Bylaws Committee thoroughly studied the proposal and all relevant documents are available; the Bylaws vest original and primary jurisdiction regarding academic policies and procedures in the academic units, so the Faculty Senate will not try to dictate curriculum to the Medical or Law Schools (Professor George)
- lack of language in the Charter insisting on oversight of graduate affairs has much to do with the failure of Faculty Senate to exercise all responsibilities given to it by the Bylaws; absurd to suggest that Faculty Senate is incapable of exercising this jurisdiction when Faculty Senates elsewhere do, absurd to suggest the Faculty Senate will meddle in whether a graduate student
needs two or three languages to graduate when it has never so meddled in undergraduate affairs; the strongest insurance against mischief is the knowledge that someone is watching (Professor Schack)
- Professor George says that only oversight is contemplated; substitute "review" for "establish" to make the scope of the proposal clear (Professor Rudin)
- as presently worded, the Charter uses "establish" with regard to undergraduate affairs and "review" as to graduate and professional affairs; the proposal abolished the distinction (Professor Hopkins)
- Professor George's objective, making faculty governance real, is a wonderful one; however, we already have power if only we choose to exercise it; this proposal will cause needless upset in graduate and professional schools; better isfestina lente (Professor Welch)
- Bylaws and the Charter already explicitly give Faculty Senate review power over graduate and professional schools but not over the nitty gritty of graduate business; Professor George assures us that the Senate will not attempt to exercise the power over the nitty gritty which this proposal gives; use the power we have before attempting to expand power (Professor Wooldridge)
- Faculty Senate has no record of meddling with the nitty gritty of undergraduate programs, so no reason to fear it will begin doing so with graduate programs; the Graduate School is nowhere mentioned in the Bylaws; because the Faculty Senate is not exercising the authority given to it in the Bylaws, the Graduate School has without authorization taken on that unused authority (Professor Schack)
- some comments against the proposal come down to "let's do it, but let's not formalize it" which is strange advice; the Graduate Faculty hasn't had a quorum or a proposal in front of it for the last decade; a policy has been adopted, by whom is unknown, that requires graduate faculty to be reviewed to confirm their continued graduate faculty status; this policy has not come before any representative faculty body for advice; this proposal is overdue (Professor Baumer)
- the Bylaws of the Graduate Faculty were adopted by the Graduate Faculty after full discussion and with a quorum being present; committees of the Graduate Faculty operate in a
constructive manner and deal with substantive matters; graduate faculty review is being discussed by the divisional committees of the Graduate Faculty (Professor Michalek)
- still hasn't been explained how "establish" really means "review" (Professor Rudin)
- Faculty Senate will review when initiative has been taken and establish when initiative hasn't been taken; Faculty Senate will negotiate with appropriate bodies if the resolution passes (Professor George)
- School of Nursing graduate faculty have held extensive meetings to discuss the new policy regarding graduate faculty review; wish there were as full discussion of Faculty Senate issues in the School of Nursing as there is of Graduate School issues; this proposal is not one to just review graduate matters; Faculty Senate already has that power; this is a proposal to add responsibilities and authority; before we do that should responsibly use the power we have (Professor Wooldridge)

Having established that a two-thirds vote was required for passage, the Chair asked for the vote. The vote was 38 affirmative, 13 negative; the resolution passed.

## Item 4: Motion of thanks to Arnold Gardner

The Chair asked if there was any objection to discussing and then voting on a resolution offered by Professor Malone. There being none, Professor Malone read the following resolution:

WHEREAS, Arnold B. Gardner has rendered exceptional service to the State University of New York through his distinguished service on the Board of Trustees from March 11, 1980 to April 1, 1999, and

WHEREAS, he has served as Chair of the Board's Audit Committee, Budget and Finance Committee, and as a member of many other committees of the Board such as the Executive Committee, the Finance Committee, the Committee on Health Sciences and Hospitals, and,

WHEREAS, Mr. Gardner, in addition, has served on such SUNY committees as the Search Committee for the Chancellor, the Task Force on Fiscal Options, the Ad Hoc Committee on SUNY 2000, the Ad Hoc Committee on Community Colleges, and as a member of the "Rethinking SUNY" Mission/Vision and Operations Committee, and,

WHEREAS, he served to provide effective direction of the SUNY Productive Endowment Fund, which was particularly important to the University at Buffalo, and,

WHEREAS, Mr. Gardner has been an indefatigable advocate of the System strengths of SUNY, and,

WHEREAS, Mr. Gardner has distinguished himself as a staunch supporter and principal advocate of the necessity of meaningful consultation with the SUNY faculty in academic affairs, and,

WHEREAS, he will continue his exemplary service to the people of the State of New York through his appointment to the New York State Board of Regents, now,

THEREFORE BE IT RESOLVED that the Faculty Senate of the University at Buffalo takes particular pride in recognizing Arnold Gardner's superlative service and accomplishment in support of this great public university and this campus

FURTHERMORE, we honor Arnold B. Gardner as a person of the highest integrity, professional modesty, genuine collegiality, and faithful dedication to public service of the highest caliber, as a colleague and friend.

The resolution was seconded. Professor Malone noted that Arnold Gardner is an alumnus of UB. He added that unfortunately the Board of Trustees is not planning to acknowledge in any way his 19 years of service. The SUNY Senate will, however, also consider a similar resolution in honor of Mr. Gardner.

The resolution passed unanimously.

## Item 5: Report of the President/Provost

There was no report of the President/Provost.

## Item 6: Second Reading of Resolution on Undergraduate Independent Study

Professor Meacham, Chair of the Educational Priorities and Policies Committee, offered a slightly revised report which reflects comments from the Faculty Senate meeting of April 6, 1999. He prefaced his comments with the statement that EPPC is strongly in favor of independent studies, recognizing that students have different talents and strengths which can be maximized through the judicious use of independent studies, that undergraduate independent study is an important part of defining UB as a research university, and that the Buffalo area offers many opportunities for practica, internships and field study.

However, it is very difficult to know exactly what is going on with independent study because there are considerable differences among academic units in how independent study is designated in the catalog. In the absence of oversight, there is the potential for abuse. The Committee is aware of a few cases in which students have taken as many as 50 hours of independent study, getting A's in all of them and as a consequence earning a degree cum laude although the students' other grades were in the $B-/ C+$ range. Short of looking at individual transcripts for a combination of large numbers of independent studies and lower grades in other courses there is no way to determine the size of the problem.

This proposal offers an oversight mechanism. It gives all students the right to take up to 18 hours of independent study, 12 credits of which may be letter-graded, while allowing a student who can demonstrate how independent study fits into her academic program to take more credits. It has been suggested that we monitor independent study more closely to ensure that all courses are academically sound. This would be a major burden and, given the variations in disciplines, very difficult to administer centrally.

Professor Meacham moved (seconded) the resolution embedded in the report. He then reviewed the six provisions of the resolution: all Independent Study courses should be designated as Tutorial courses; other courses involving individual study and instruction arranged by mutual agreement of faculty and student should also be designated as Tutorial courses; rescind the limit of three independent studies per faculty per semester; count no more than 18 credits of Tutorial course work towards the bachelor's degree; count no more than 12 letter-graded Tutorials towards the bachelor's degree; permit students to petition the Office of the Vice Provost for Undergraduate Education for a waiver of the 18 and 12 credit limits.

Professor Baumer moved (seconded) to amend the resolution by deleting item 5 in its entirety, in item 6 deleting the phrase "and/or more than 12 letter-graded credits of Tutorial course work," and renumbering item 6 to item 5. Professor Baumer stated that two rationales were offered for allowing only 12 letter-graded credits: not allowing students to get free A's and recognizing that some courses don't lend themselves to letter grading. Only the second rationale is credible, but the 12 letter-graded credit provision doesn't address that problem. Instead such courses should be so described in the catalog and offered only as pass/fail.

The Chair asked for discussion on the amendment:

- support having only one limit of 18 credits (Professor Sridhar)
- another problem with independent study is that it is given a 499 designation but it doesn't have to be 400 level work; if we allow 18 credits of independent study, all 18 credits should be letter-graded (Professor Cowen)


## The amendment carried. The Chair asked for discussion of the amended resolution:

- another potential abuse is that of a faculty member giving a student the entire 18 credits, using the student as free labor; limit the credits a faculty member can give a student to 6 (Professor Ahmad)
- no evidence of such abuse in the transcripts the Committee examined; the pattern is for students to take independent study across several different departments (Professor Meacham)
- with some practica, for example, working on The Spectrum, it is reasonable for a single faculty member to supervise more than 6 credits (Vice Provost Goodman)
- the Vice Provost, after several years of handling petitions for additional independent study, may be able to suggest better regulations (Professor Meacham)
- uncomfortable with designating the entire range of practica, etc., as Tutorial courses when in some disciplines they are very practical courses (Professor Sridhar)
- such courses are probably misdesignated as Tutorial courses and would be better designated LAB (Professor Meacham)
- departments should be able to impose additional restrictions on independent study (Professor Sridhar)
- allowing students to petition to take more than 18 credits of independent study will lead to further abuses and extra work for the Vice Provost's Office; some departments already impose the kind of review on all independent study that this proposal would impose only after the 18 credits threshold; working on the student newspaper used to be considered an extracurricular activity (Professor Benenson)
- some departments have decided to give credit for what were extracurricular activities; proposal does not affect departmental regulation of independent study; believe the Office of Undergraduate Education would identify patterns in the use of independent study and develop procedures to easily handle the workload (Professor Meacham)
- keep the rule of 3 Independent Studies per faculty per semester; the faculty member can petition to exceed the limit; can visualize a faculty member using an unlimited number of Independent Studies to push political views through the curriculum (Professor Pegel)
- there is also potential for a department chair to abuse the possibility of a faculty member offering unlimited numbers of independent study; the limit can be seen as protection for the faculty (Professor Meacham)


## Professor Pegels moved (seconded) to remove item 3 from the resolution. The Chair asked for discussion of the motion:

- a faculty member with many independent study students may refuse to teach a regular course load (Professor Ahmad)
- many courses that would be labeled TUT under items 1 and 2 of the resolution normally have more than 3 students, for example, students working on The Spectrum; don't see how would deal with such situations; respectfully ask that the amendment not be adopted (Vice Provost Goodman)
- for some areas projects require more than 3 students; impose limits on faculty at the departmental level (Professor Sridhar)
- working on The Spectrum should be considered only as an extracurricular activity and not given credit; the Engineer's Angle is published by engineering students who get no credit for the work (Professor Ahmad)
- at graduate level faculty work with more than 3 students and also carry a full teaching load; no reason to restrict the number of undergraduate students; departmental chair should control this issue; giving credit for working on The Spectrum is an example of dumbing down the curriculum (Professor Benenson)
- working on The Spectrum is really a LAB, not a Tutorial (Professor Faran)


## The amendment did not carry. The Chair asked for discussion of the main motion:

- shouldn't legislate a restrictive academic policy out of fear of abuse; the Committee apparently was looking at a small sample, so doesn't have evidence of substantial abuse; dislike standardizing the designation of various kinds of independent study into the single label Tutorial (Professor Wickert)
- Committee doesn't have evidence of wide spread abuse, but there are enough instances to have been noticed by counseling staff; need consistent labeling to facilitate data gathering to monitor what is going on (Professor Meacham)
- this issue is not one for Faculty Senate; Vice Provost Goodman's Office should handle it (Professor George)


## The Chair asked for a vote on the main motion. The motion passed.

## Item 6: First reading - Alert for Instructional Staff

Professor Boot, Chair of the Academic Freedom Committee, introduced the revised report of the Committee on consensual sexual relations with students. The Committee recommends the adoption of an alert for instructional staff warning them of one danger of such relationships. He stressed that the Alert is not a code of conduct requiring enforcement provisions. It is intended primarily to sensitize faculty. If a complaint is registered the existence of the written alert may strengthen the position of the complainant. Also it may limit the liability of the University should a complaint be formally registered with an agency.
$80 \%$ of cases involve a male faculty member and a female student. There is a severe disconnect between male and female perceptions of consensuality, so while the faculty member may in good faith believe the relationship to have been a consensual one, the student may believe that the relationship was not purely consensual. A relationship which was entered into under coercion may constitute sexual harassment. The burden of proof as to consensuality is on the more powerful person in the relationship.

The Alert also points to the Office of Equity, Diversity and Affirmative Action as the appropriate venue for resolution of such complaints. The presence of and wide spread knowledge about University procedures for dealing with complaints of sexual harassment may avert a finding that the University created a hostile environment for the student.

Professor Boot urged unanimous passage of the Alert at the May 11 Faculty Senate meeting. He noted that in the FSEC discussion of the Alert, only male members raised objections to it, while all female members voted for it after expressing concern that it was too weak.

Ms. Stewart, Director of the Office of Equity, Diversity and Affirmative Action, told the Faculty Senate that sexual harassment is a problem at UB, just as it is at other institutions its size. It is important for faculty to understand that a failed relationship may have serious consequences both for the student and the faculty member. Students who have been in a failed relationship with a faculty member often leave the University. She estimated that 16 students, unable to deal with the aftermath of a failed relationship, left the University this year. And, even if cleared of wrong doing, a faculty member's reputation may be damaged.

If a complaint is taken to a federal agency or a court, the agency or court will look at the complaint from the perspective of how a reasonable woman would feel about the actions of the faculty member. They will look at the power differential between the complainant and the faculty member. They will look at whether the student suffered in the preparation of academic work, in grading, in position or in having to endure a hostile environment. The issue of consent will be looked at from the perspective of a student who is powerless and may feel it necessary to do whatever the faculty member demands in order to protect a grade or just to retain the faculty member's attention.

Penalties for sexual harassment fall primarily on the University. However, the supervisor of the faculty member, who knew but did nothing about such a relationship may also be personally liable.

Professor Adams-Volpe spoke about issues of the University's potential legal liability for sexual harassment. She first noted that personally she is most concerned about institutional values and purpose which help to create an educational environment which is supportive of students. She summarized four cases in which a university was held liable for the sexual harassment of a student. In the case of a consensual relationship between a faculty member and a student, Korf vs. Ball State University held that the University, having a duty to provide a proper academic environment for students, did not violate due process by firing the tenured faculty member. Naragon vs.

Whartonestablished liability even though no teaching relationship was involved. Liu vs. Striuliheld a faculty member personally liable for sexual harassment, saying that unless there was a pattern of sexual harassment about which the institution did nothing, the faculty member could not shelter under the institution's liability. Tonkovich vs. Kansas Board of Regents held that a prohibition on exploiting students contained in an institution's Code of Conduct allowed the institution to investigate for a pattern of sexual abuse by a faculty member without violating the faculty member's due process rights.

The Chair asked for comments:

[^0]support the resolution if it narrowed the word "complaints" in its first paragraph to "complaint of sexual harassment" (Professor Wooldridge)

- difficult to ascertain what this proposal is about; have been told many times that the proposal is not about sexual harassment, yet today the discussion has focused on sexual harassment; there is a body working on a sexual harassment policy and procedures and if this is an issue of sexual harassment, it should be part of that body's work; the Faculty/Staff handbook already contains a statement that all kinds of sexual harassment are unacceptable at UB; there are ambiguous references to "formal action against" a faculty member and to a "complaint" which phrases suggest this is a code of conduct, not just an alert; if this is an enforceable code of conduct, regard for procedural due process requires that procedures be provided (Professor Swartz)
- a consensual relationship does not constitute sexual harassment, but a coerced relationship may; third party hostile environment sexual harassment is recognized when a student believes she is being denied a benefit because of a sexual relationship between another student and a faculty member (Ms. Stewart)
- this behavior should not be tolerated in the University community; the resolution should stipulate that it "will", not "may" lead to formal action (Professor Awner)
- this resolution will demonstrate that the University has concern for its students; this is not a statement of enforceable law, it is a guide for faculty and students (Professor Arcara)
- in the case of a graduate student and a supervising faculty member, there is nothing wrong with a romantic relationship so long as the faculty member doesn't supervise the final OK on the dissertation (Professor Ram)
- this policy would extend widely to faculty/student interactions; important to listen to the people to whom complaints are in fact made, and that won't be a male faculty member; this is a warning that is badly overdue (Professor Baumer)
- this resolution is not about sexual harassment; do not read more into the resolution than it says; do not impute provisions of earlier versions to this version (Professor Boot)
- this is a fugitive proposal; Professor Boot just said it doesn't refer to sexual harassment, yet its rationale talks about sexual harassment (Professor Swartz)
- we are voting on the resolution, not the supporting material (Professor Boot)

There being no old/new business the meeting adjourned at 4:20 PM.

Respectfully submitted,
Marilyn M. Kramer
Secretary of Faculty Senate

## Present:

Chair: P. Nickerson
Secretary: M. Kramer
Architecture \& Planning: H. Hata
Arts \& Sciences: B. Ault, J. Ludwig, M. Wickert
Dental Medicine: E. Davis, M. Easley, M. Neiders
Engineering \& Applied Sciences: S. Ahmad, D. Benenson, W. George, R. Mayne, R. Sridhar
Graduate School of Education: C. Hosenfeld, B. Johnstone
Health Related Professions: L. Gosselin
Law: L. Swartz
Management: J. Boot, J. Newman, C. Pegels
Medicine \& Biomedical Sciences: M. Alashari, S. Awner, W. Flynn, S. Gallagher, R. Hefner, A.
Michalek, R. Noble, S. Rudin, D. Swartz, J. Yates, A Vladutiu
Natural Sciences \& Mathematics: M. Bisson, M. Churchill, M. Cowen, J. Faran, M. Ram, S. Schack
Nursing: J. Thompson, P. Wooldridge
Pharmacy: T. Kalman, R. Madejski
Social Sciences: W. Baumer, H. Calkins, P. Luce, J. Meacham, E. Segal, S. Singer, B. Smith, L. Vardi
SUNY Senators: J. Adams-Volpe, J. Fisher, D. Malone, C. Welch
University Libraries: H. Booth, M. Zubrow

## Guests:

W. Coles, S. Wuetcher, N. Goodman, L. Stewart, M. Arcara

## Excused:

Arts \& Sciences: J. Holstun
Health Related Professions: J. Tamburlin
Medicine \& Biomedical Sciences: B. Albini, D. Amsterdam, A. Saltzman, C. Smith
Natural Sciences \& Mathematics: K. Regan
University Libraries: D. Woodson
Absent:
Architecture \& Planning: S. Vassigh
Arts \& Sciences: M. Frisch, M. Hyde, P. McKenna, F. Pellicone
Dental Medicine: R. Baier, R. Hall
Engineering \& Applied Sciences: S. Mohan
Graduate School of Education: L. Klenk, L. Malave
Health Related Professions: S. Nochajski
Information and Library Studies: G. D'Elia
Law: I. Marcus
Management: R. Ramesh
Medicine \& Biomedical Sciences: J. DeBerry, E. Fine, S. Greenberg, F. Schimpfhauser, S.
Spurgeon, J. Sulewski, A. Wakhloo, B. Willer
Natural Sciences \& Mathematics: S. Bruckenstein
Social Sciences: J. Dewald, L. Dryden, M. Harwitz, J. Lawler
University Libraries: C. Densmore, W. Hepfer


[^0]:    - in earlier settings the possibility of a third party bringing a complaint because of perceived favoritism towards a student in a relationship was discussed; this policy also applies to graduate TA's where there is less of a power differential between teacher and student; could

