

## 2011-2012 University Senate

Monday, February 6, 2012  
2:45 pm, CC Assembly Hall

Susanna Fessler, Chair

### Minutes

**Present:** J. Philippe Abraham, Bradley Armour-Garb, Hassaram Bakhrui, Joseph Bassell, Lee Bickmore, Joshua Bolin, Pedro Caban, Raysa Capellan, David Carpenter, James Castracane, Vishnu Chaturvedi, Thomas Devlin, Bruce Dieffenbach, Peter Duchessi, Diana Dumesnil, Carmen Duncan, Sue Faerman, Susanna Fessler, Richard Fogarty, Cynthia Fox, Jennifer Greiman, Timothy Groves, Hal Gueutal, Yenisel Gulatee, Jean Guyon, Janell Hobson, Michael Jaromin, Richard Johnson, Janine Jurkowski, Jane Kadish, Donald Keenan, Daniel Keyser, Alice Krause, Vincent LaBella, Kajal Lahiri, William Lanford, Danielle Leonard, David Lewis, Eric Lifshin, Andi Lyons, JoAnne Malatesta, Adrian Masters, Candace Merbler, Carla Meskill, Robert Miller, Bruce Miroff, Elizabeth Moran, John Murphy, Toni Naccarato, Nancy Newman, Gregory Nowell, Lawrence Raffalovich, Bruce Saddler, Donna Scanlon, John Schmidt, Charles P. Scholes, Shadi Shahedipour-Sandvik, Holly Sims, Leonard Slade, Jr., Joette Stefl-Mabry, Tim Stephen, Christine Wagner, Daniel White, Kevin Williams, David Wills, Alissa Worden

**Guests:** Jesus Alonso-Regaldo, Jon Bartow, Bret Benjamin, Eloise Briere, Jean-Francoise Briere, Sarah Cohen, Ron Friedman, Elana Gordis, Jill Hanifan, Lani Jones, Deborah LaFond, Walter Little, Tamra Minor, Aran Mull, R. Michael Range, Lotfi Sayahi, Helen Scheck, Tim Sergay, Barbara Sutton, Kathie Winchester

The meeting convened at 2:50 pm.

### **APPROVAL OF MINUTES OF DECEMBER 12, 2011**

A motion to approve the December minutes was made. Senator Fox requested that comments made by Provost Phillips addressing a videotaped shared services conversation with UFS President Ken O'Brien and SUNY Provost Lavallee be added to the minutes.<sup>1</sup> The minutes were then approved by a vote with the following results: Approve: 54; Oppose: 0; Abstain: 0

### **SENATE CHAIR'S REPORT – SUSANNA FESSLER**

February 6<sup>th</sup> is UAlbany Day at the Plaza downtown. Various activities are scheduled for 9:00 a.m. – 6:00 p.m. See <http://www.albany.edu/ualbanyday/index.php?WT.svl=image> for more details.

The call for nominations for Teaching Faculty for the Presidential Search Committee went out before the break. The deadline was January 20th. By request of the University Council, the call for nominations was also sent out to management/ confidential

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<sup>1</sup> Provost Phillips' comments have been added to the December minutes.

personnel on 1/13/2012, with a deadline of 1/20/2012. The SEC reviewed the list of nominees at the 1/23/12 meeting and discussed the election process. For that discussion, both the Senate Chair and Vice Chair recused themselves because they are nominees. The chair of CPCA led the SEC in the subsequent discussion, and her report is below.

A web page for the Presidential Search has gone up at <http://www.albany.edu/presidentialsearch/>, where updates will be posted regularly as the process gets underway. There is a link to this page from the main Senate site, also.

The University Council sent out a Request for Proposals to 10 firms for the Presidential search. 5 firms sent in proposals, and they were interviewed on 1/23/12. The Council will choose one firm to conduct the Presidential search.

The University Council requested that the Senate Chair put out a call for nominations for Professional Faculty, one of whom will serve on the Presidential Search Committee. That call went out on 1/10/12, and the deadline for nominations is February 3, 2012. The University Council will choose one person from among the nominees to serve, in accordance with the Board of Trustees guidelines.

Because of restrictions on the number of e-mails that can be sent from one address in one 24-hour period, the Senate Recorder has modified the way that messages will be sent out to the Senate and the SEC. As a recipient you should notice little if any difference. However, if you experience any problems with Senate e-mail messages please contact Gail Cameron.

Last semester a few people were inadvertently left off of the Senate distribution list. This error has been corrected. In particular, Senator Wills requested that the Chair make a full report about why he was one of the faculty who did not receive Senate e-mails. Below is that report.

At the beginning of every academic year, the Senate Recorder, in coordination with the Senate Secretary, compiles a complete list of Senate members. This list is then used by the Recorder to set up an e-mail distribution list for disseminating Senate materials. In Fall of 2011, a number of Senate seats were unsettled at the beginning of the semester, including the undergraduate student senators, the graduate student senators, the Senator from the School of Social Welfare, and one of the CAS at-large Senate seats. In the last case, Brett Bowles had been elected in the spring of 2011 to represent CAS as an at large senator. However, Senator Bowles took leave in Fall 2011 and did not contact the Senate to inform it of his inability to serve as a Senator. Thus, at first Senator Bowles' name was on the distribution list. The Senate Chair received an e-mail from the chair of LLC, informing her of Bowles' leave, on 9/2/11. She contacted the chair of the CAS Faculty Council and requested that CAS replace Senator Bowles. Senator Wills was that replacement. Confirmation that he was willing to serve came to the Senate Chair on 9/21/11. The Chair e-mailed the Senate Recorder with this news immediately thereafter, and indicated that Senator Wills would also serve on UPPC. The Chair explicitly asked that Senator Wills be added to the UPPC distribution list, but she neglected to explicitly request that he be added to the Senate distribution list, also, assuming that this would happen as a matter of course. It was not until December 2011 that the Chair and the Recorder were made aware of this omission, along with a handful of others. As soon as we were made aware of the situation, we rectified it.

#### Report from Christine Wagner regarding the Presidential Search Committee:

##### Action of the Senate Executive Committee on Election of Teaching Faculty to the Presidential Search Committee

A motion regarding eligibility to vote in the election of teaching faculty to the Presidential Search Committee was made to the Senate Executive Committee by email on 1/26/12. The motion stated that all full time teaching faculty on the Senate excepting those who are also administrators (as defined by being Management/Confidential, not UUP) should vote. The motion was seconded and a vote was recorded by email response. The motion passed on 1/27/12 with a vote of 11 Yes, 0 No, and 3 Abstentions.

#### Procedures for Ratifying the Election of the Teaching Faculty to the Presidential Search Committee

Established and Approved by the Senate Executive Committee as of 1/30/2012

Vote of the Teaching Faculty of the Senate: According to the Senate Charter (X.1.4.2.5.5) if an election of the Senate results in a tie, the Senate Chair will cast the winning vote. Because the Senate Chair and the Senate Vice-Chair are nominees for the Search Committee, the Immediate Past Chair of the Senate will cast the deciding vote at a special executive session of the Senate Executive Committee. The Immediate Past Chair will not vote in the general election by the Teaching Faculty of the Senate.

Procedures for the Senate Executive Committee: In order to ensure that the guidelines for representation and diversity as required by the Board of Trustees Guidelines and the Chancellor are met, the Senate Executive Committee (SEC) has approved that the following criteria and procedures be used to methodically achieve such representation and diversity on the Presidential Search Committee. These procedures will be implemented at a special executive session of the SEC following the Senate election.

Criteria: The number of teaching faculty from the College of Arts & Sciences (CAS) on the Search Committee shall be no more than four (4) and no less than two (2).

- Procedure: Should the election result in more than 4 CAS faculty members on the Search Committee, the CAS Faculty member(s) with the fewest votes will be replaced with the faculty member(s) from a different School/College with the next largest number of votes.
- Procedure: Should the election result in less than 2 CAS faculty members on the Search Committee, the non-CAS Faculty member(s) with the fewest votes will be replaced with the faculty member(s) from CAS with the next largest number of votes.

Criteria: At least one member of the Search Committee shall be female.

- Procedure: Should the election result in six male faculty members on the Search Committee, the male faculty member with the fewest votes will be replaced by the female nominee with the greatest number of votes.

Criteria: No two teaching faculty on the Search Committee shall be from the same department.

- Procedure: Should the election result in two faculty members on the Search Committee from the same department, the faculty member from that department having the fewer votes will be replaced with the faculty member from a different department with the next largest number of votes.

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Should meeting one criterion violate another criterion, the procedure shall be repeated until the violated criterion is met.

In the event of a tie between nominees with the next largest number of votes, the Immediate Past Chair shall cast the deciding vote.

*Chair Fessler provided additional updates concerning the Presidential Search. February 3 was the deadline for submitting nominations for professional staff to serve on the committee. Chair Fessler forwarded the names to the University Council today and one will be chosen from the list. Chair Fessler explained the need to recuse herself from the last SEC meeting during the discussion concerning today's election. The report added to the Senate Chair's report by CPCA Chair Wagner is a result of that discussion.*

## **OTHER REPORTS**

### **UFS (University Faculty Senator's Report) –Daniel D. White, J. Philippe Abraham & Shadi Shahedipour-Sandvik, SUNY Senators**

The SUNY Senators attended the SUNY Winter Plenary at Cornell University on January 26, 27, and 28<sup>th</sup> 2012. There were two resolutions considered and passed at the plenary. The titles of the resolution appear below and will be reproduced in the next SUNY Senator report. In short, the SUNY senate supports the idea that equitable access to higher education should be afforded to all residents of the State of New York. The Senate also expressed grave concerns for the process by which the CUNY administration circumvented faculty to approve a new general education policy called "Pathways." Of particular interest to UAlbany is the fact that the Board of Trustees has passed a new set of guidelines by which campuses must abide when searching for a new president. The University Center representatives asked the Chancellor to address a concern that professional faculty raised about their representation on presidential searches. The guidelines indicated that one professional or staff member should be on the search committee but there is no parallel process similar to the teaching faculty process whereby professionals may elect their representative.

Resolution supporting the Board of Trustees' January 25, 2012 resolution "Equitable financial and educational access to higher education for New York's undocumented immigrants" (The DREAM Act).

SUNY University Faculty senate resolution on CUNY's failure to use the principle of shared governance in establishing a new curriculum.

*UFS Senator White informed the Senate that a longer report would be provided at the next meeting. Carey Hatch, Associate Provost for Academic Technology and Information Services, led a discussion at the winter plenary last at the end of January concerning technology on campuses. Senator White suggested that perhaps the SEC would put together a forum to address the issue.*

### **GSO (Graduate Student Organization) – Heidi Nicholls, GSO Representative**

The RGSO training was held on January 23rd and funding applications have been submitted for review. The graduate student groups will receive their award notifications on February 10th. A call has been issued to fill the MCAA position which we hope to have in place by the end of February. In the meant time the executive board has and will continue to work together to provide both MCAA sponsored events and monies (i.e. this past weekend we sponsored and participated in the Indian Republic Day at the Hindu Cultural Center as well as an upcoming International Dinner). Our next Assembly Meeting will be held on February 3rd (more to report then!).

*Thomas Devlin provided reported in Ms. Nicholls absence. The GSO continues to address problems with the Bylaws. The GSO has held a number of successful events.*

### **SA (Student Association) – Bryant Barksdale, Student Association President Designee**

Nothing new to report.

## **COUNCIL/COMMITTEE REPORTS**

### **CAA (Council on Academic Assessment) – Adrian Masters, Chair**

At its meeting on 12 December the CAA approved the program review reports for LACS, Educational Psychology and Counseling Psychology.

*Chair Masters reported that CAA approved final reports for the Music Department and African Studies.*

### **CAFFECoR (Committee on Academic Freedom, Freedom of Expression, and Community Responsibility) – Aran Mull, Chair**

Three training sessions were held with the Department of Residential Life staff addressing First Amendment and Academic Freedom issues in the residential hall environment.

### **CERS (Committee on Ethics in Research and Scholarship) – Carolyn MacDonald, Chair**

The CERS chair met with the senate chair, university counsel, the VPR and the chief of staff to discuss changes in the misconduct policy. Some compromises were proposed to be brought to the president. CERS is awaiting a reply.

### **COR (Council on Research) – James Castracane, Chair**

The Council on Research met on December 12<sup>th</sup> and considered multiple agenda items:

Associate VP Bob Webster reported on the status of the Research Working Group participating in the implementation of the University's Strategic Plan. He also reported on the University's receipt of approximately \$3M from the State's first economic development grant. The funds were targeted on the RNA Institute and East Campus for core biotechnology initiatives.

The Benevolent Awards review sub-committee recommended 8 applicants for funding totaling \$3,500 and the Conference/Journal Support Award sub-committee will provide \$2,500 to its lone applicant.

The FRAP-A sub-committee will meet January 19<sup>th</sup> to review its 15 applications. Recommendations will be discussed at the next (2/2/12) COR meeting.

The Excellence in Research and Creative Activities sub-committee forwarded 3 recommendations to VPR Dias.

*Chair Castracane reported that 11 out of 15 proposals submitted for the FRAP A awards were approved for funding. The number of proposals submitted has significantly decreased.*

### **CPCA (Council on Promotions and Continuing Appointments) – Christine Wagner, Chair**

CPCA has completed the review of fifteen cases during the fall semester. Provost Phillips attended the December 12<sup>th</sup> meeting during which general issues pertaining to the preparation and evaluation of promotion and continuing appointment cases were discussed. The first meeting of the spring semester will occur February 3<sup>rd</sup>, 2012.

*Chair Wagner reported the Council has reviewed one case this semester.*

### **GAC (Graduate Academic Council) – Tim Groves, Chair**

The GAC met on December 16, 2011. The Committee on Appeals and Academic Standing presented its findings on three appeals cases. Following discussion of the details, the GAC voted to approve all three sets of findings. There are presently no further cases pending. The GAC currently has no bills to bring before the Senate.

*Chair Groves said minutes from today's meeting would be forthcoming.*

### **GOV (Governance Council) – Andi Lyons, Chair**

During the GOV Council's last meeting in December, we decided in principle that the proposal for a Charter Amendment on the formation of a new Senate Council was almost ready to move forward. Subsequently, through email, the Council voted to approve the proposed Charter Amendment and related guidelines, and moved that they be sent for inclusion as an agenda item at the next SEC meeting. On January 23, the Chair and members of the Committee on Administrative Assessment attended the SEC meeting to present the proposed Charter Amendment and Guidelines, and to answer any SEC questions regarding this matter. The SEC voted in favor of moving the proposed Charter Amendment and Guidelines to the full Senate for consideration. In keeping with the required three weeks advance notice for any proposed Charter change, the materials will be sent out to the full Senate for consideration at the March 5 meeting.

*Chair Lyons reported the Council will meet next Monday.*

### **LISC (Council on Libraries, Information Systems, and Computing) – Nancy Newman, Chair**

On Dec. 12, LISC established a schedule to address several Information Technology issues. The IT subcommittee will meet on Jan. 17 to discuss the CIO's revision of the "Responsible Use" policy with Chris Haile and Lisa Trubitt. We have asked Counsel John Reilly to discuss UAlbany's protocol for handling FOIL requests of faculty email and other issues raised by Steve Worona at UFS at our Feb. 6 meeting. Dean Casserly gave an overview of the Library's users' survey. The results showed a desire for expansion of the collections and other resources and more graduate student orientation sessions. The Strategic Plan Working Group on Emerging Technology will share salient items from its idea list with LISC later this spring through Chris Haile (Chair) and our liaison, Bruce Dudek.

Members of IT met Jan. 17 and 25 to discuss revisions to the "Responsible Use" policy. Chris and Lisa will present a penultimate draft to the subcommittee in early February.

### **UAC (Undergraduate Academic Council) – JoAnne Malatesta, Chair**

The Undergraduate Academic Council met on both December 12<sup>th</sup> and December 15<sup>th</sup> to review the general education proposal from the General Education Committee. After discussion and agreement to slight revisions, the UAC voted to approve the proposal with one member abstaining. The Chairs of UAC and the General Education Committee are now working on the final version of the proposal. The proposal will be forwarded to UPPC no later than early February with the goal of bringing the proposal to the Senate as soon as possible this semester.

*Chair Malatesta reported that several new proposals were reviewed and approved. She expects to be forwarding those approved to the SEC.*

### **ULC (University Life Council) – Yenisel Gulatee, Chair**

ULC is currently in the process of planning the Spring 2012 meetings.

*Chair Gulatee reported that ULC met on February 2 and reviewed a proposal to form a task force to address the smoking policy issue. Chair Gulatee was asked if an alternate smoking section had been discussed. She said in the past this has not worked very well. She said it's not ULC's responsibility to implement the policy which is the reason they are recommending a task force.*

### **UPPC (University Planning and Policy Council) – Eric Lifshin, Chair**

UPPC met on 1/27/12.

We developed an initial draft of a campus impact form to arrive with any bill forwarded to UPPC for comment from SEC. This form will be further studied by UPPC members and then presented to SEC for further discussion.

## **NEW BUSINESS**

### **Approval of Changes to Council Memberships**

Secretary Leonard reviewed several change in the council rosters. Many of the changes involve faculty who are on sabbatical or away from Albany for the semester. All the councils are properly constituted according to the Charter. Some of the council chairs are attempting to fill vacant positions and will consult the remaining list from last spring for potential members. Changes in the membership were approved by a vote with the following results: Approved: 57; Opposed: 2; Abstained: 1

### **Elections of Teaching Faculty for the Presidential Search Committee**

Chair Fessler reviewed the SUNY Board of Trustees guidelines calling on governance to elect six members of the teaching faculty to serve on the Presidential Search Committee. A call was sent to voting faculty for nominations and the 19 names on the ballot are the result. Senator who are full time teaching faculty should have received a ballot when they signed in. Chair Fessler asked if there were any questions concerning the procedure. She provided a clarification that ballots would be collected today and tallied by the Senate Secretary and parliamentarian. The final list will be reviewed by the Senate Executive Committee at a special meeting on Wednesday and finalized according to the BOT requirements calling for a broad range of representation. In its deliberations, the SEC decided not to distribute the final tally for nominees. A quorum check was conducted confirming that a quorum was present to proceed with the election. The ballots were then filled out and collected by Secretary Leonard.

Chair Fessler was asked if the ballot was sent to all faculty. She said it was only sent to faculty members who would be voting to avoid any assumption that everyone would be voting. She said the ballot is not confidential. GOV Chair Lyons added the nominees were not vetted in any way but asked if they were willing to serve and were nominated. The final list will be made public.

### **Charter Amendment 1112-03A: Creation of Council on Administrative Review and Evaluation: CARE (GOV)**

Chair Fessler informed the Senate the amendment is the result of the work of the Committee on Administrative Evaluation (CAE), a subcommittee of GOV. No action will be taken today other than to debate the amendment. Chair Fessler received feedback from President Philip and said she would read his memo at the end of the discussion. She referred the discussion to Senator Stefl-Mabry who chaired CAE. Senator Stefl-Mabry said the proposal is for a new council for administrative review and evaluation and is a reflection of shared governance. She thanked members of the committee who worked with her on the proposal during the fall semester: Cynthia Fox, Patrick Nold and John Schmidt. Their work also includes establishing a set of procedures, representing a process to strengthen the work being done at the University and to set benchmarks used to guide that work. CAE discussed what other schools have done in terms of administrative review but ultimately felt the process on this campus needed to be organic and fit UAlbany.

Vice Provost for Undergraduate Education Sue Faerman referred to the discussion that led to approval of the resolution on faculty evaluation in April of 2010. Specifically, she referenced the part of the discussion to differentiate between evaluation of administrators and administrative units. She said it appears confusion about that still exists and requested clarification. Senator Schmidt responded that CAE decided a unit could not be fully evaluated without evaluating the head of the unit. The administrator is

not the focus but shapes the performance of the unit as well as past changes in administration. The evaluations are scheduled to be done every five years, making it predictable

Vice Provost Faerman referred to Section X11.2.3 of the amendment which states “The Council shall oversee the formation of Evaluation Committees for each of the individual administrative units (see the CARE: *Guidelines and Procedures* document for a complete listing)”. She questioned whether the Council would have separate evaluation committees for the administrators. Senator Schmidt replied the Guidelines provide for a set of criteria to be established for each unit separately. These would be developed in year zero with the evaluation cycle being year one through five. Before the process begins, administrators would be asked to provide a set of goals and criteria for their unit. Several streams of information for each unit will be sent to the individual evaluation committees and these will be compiled and forwarded to the administrator for review and final comments.

Senator Lifshin inquired about sharing of the information from an evaluation. Senate Stefl-Mabry responded that the guidelines calls for the report to be sent to the Senate Executive Committee and then to the Senate and then made available to the full faculty.

At the end of the discussion, Chair Fessler read a memo she received from President Philip in which he stated his reasons for not supporting the measure. The complete memo appears at the end of these minutes. Chair Fessler said the President intended to meet with CAE but was unable to do. She believed the meeting will take place in the future.

A discussion ensued in response to the President’s memo. Senator Lanford said he disagreed with the tone of the memo. He said these evaluations used to be conducted and has been supported by past chancellors and the SUNY-wide Senate, as well as being SUNY policy. He supported moving forward with the process as it would be good for the institution. Senator Merbler agreed with her colleague. She did not support the President’s effort to obstruct the effort after all of the work that has been done.

Senator Lifshin said the Senate’s role is primarily an advisory one in most matters and he was not sure the Senate would want to take the authority to make final decisions. He said he would like to see a liaison committee follow up with the President to resolve the matter. Senator Lifshin supported approaching the administration about those matters we are not comfortable with and thinks the proposal would do that in a constructive manner.

Vice Provost Faerman referred to quotes from the Middle States report and the Presidents statements concerning the differences in evaluation administrative units and administrators and they are two different types of evaluation. She said there are many type of reports that could provide a framework on how to accomplish this and thought the proposal being discussed today is very different from what is called for in the Middle States report.

Senator Stefl-Mabry said if a unit is self-identified as being weak then information needs to be provided on the strengths as well as the weaknesses. Year zero will be an important step in assembling materials for an evaluation and should include shared governance without being in an adversarial position. She viewed this as a win-win situation for everyone and an opportunity for all entities to share information about the work they are doing. She said it’s possible that some units are duplicating work and it would be an opportunity to review duties and consolidate. She said the spirit of the amendment is not to point fingers. Senator Stefl-Mabry hopes CAE will meet with President Philip in the coming weeks. Senator Wills supported standing by our principles and approving the powers given to the Senate. Chair Fessler said the conversation would continue in the coming months.

## **Senate Bill 1112-08: “Principles for a Just Community” Statement—Removal from University Documents (CAFFECOR)**

CAFFECOR Mull discussed the bill and provided background information. In 2010 CAFFECOR proposed that Principles of Just Community (PJC) be removed from the Community Rights and Responsibilities (CRR). President Philip declined to sign the bill but asked that reconsideration be given to remove PJC be removed from all University documents. PJC was removed from CRR at the time. The bill being presented today addresses the concerns of the President. There was not further discussion. The bill was put to a vote and approved with the following results: Approved: 39; Opposed: 14; Abstained: 7

### **Senate Resolutions Introduced by Senator David Wills:**

**Senate Resolution 1112-03R: Resolution to Investigate Violations of Governance Procedures in the Matter of the 2010 Program Deactivations**

**Senate Resolution 1112-04R: Resolution to Institute Specific Consultation Procedures Before Enaction of Deactivations**

**Senate Resolution 1r 3.112-05R: Resolution to Determine Offerings in European Languages and Classical Studies in Accordance with UAlbany’s Mission and Strategic Plan**

Chair Fessler asked Senator David Wills to introduce the resolutions and he read the following prepared statement:

The three resolutions you have before you call upon the Senate to take the initiative in repairing the damage caused by the administration’s ill-advised deactivation of programs in October 2010. I am introducing them because the Faculty By-Laws require “effective consultation” between the faculty and the University President and administrators, and I believe that effective consultation has not taken place. It is the responsibility of the Senate, on behalf of the Faculty, to pursue these matters. The Senate Charter states (III.i) that “the Senate shall interpret the extent of the powers and responsibilities specified to itself in Article I Section 2.3 of the *Faculty Bylaws*. Unless otherwise specifically directed by the Faculty, the Senate shall construe its charge in the broadest possible sense.” *The broadest possible sense*. That means that the Senate should not feel in any way that its charge is limited to opportunities for consultation offered to it by the administration, nor should it read the terms of By-Law 2.4.1 (on Formal Consultation)—which explicitly refers to a minimum--as constituting the only possible avenues for such consultation. Effective consultation is not servile or quiescent consultation. Effective consultation does not begin and end with a single utterance such as a resolution; effective consultation involves inquiring, repeating, insisting, cajoling, remonstrating, protesting, even censuring.

A university is not, need I remind you, an army or a church. It does not function according to the strict hierarchical principle of obedience. Nor is it a business enterprise: it does not respond to the imperative of mercantilism and profit, which is not the same as saying it doesn’t have its own economic logic. Nor even does a university function like a government: it has a very different sense of time required for reflection and discussion. No, a university is a special and privileged space for intellectual exchange, and more particularly, for this is what concerns us here, for argument and debate. We should remain hypersensitive, hypersensitive, to any limitations that are placed on such exchange, argument and debate.

The resolutions I am proposing deal with the Deactivation of 5 programs (Classics, French, Italian, Russian, Theatre) announced by the President on October 1<sup>st</sup>, 2010, and with the Senate response to those deactivations. That response came in the form of a series of resolutions, especially 1011-01 and 1011-02, which rejected the administration’s initiative in clear and explicit terms. Yet never did the administration



respond to the Faculty Senate, nor did this body see any need to follow up. The first matter I wish to draw attention to is that lack of follow-up, because, I would argue, the failure of governance bodies that began following last year's resolutions is one good reason why the whole question of the deactivations continues to fester more than a year later. That failure reflects badly on the administration and on the university, and of course on the Faculty and on this Senate to which oversight of the institution's functioning is entrusted. When the administration ignores the good advice of the Senate and instead embarks with supposed executive privilege upon a ruinous course of action, then it is even more incumbent upon this body to pursue the matter in the most vigorous and most rigorous manner, and even more imperative that the administration be held to account.

The first resolution calls for an investigation into violations of governance procedures, and the second asks for specific steps to be followed to prevent such violations in the future. In my judgment the President and administration violated Faculty By-Law 2.2.2 by failing to inform the Faculty "at the earliest possible stages in their formulation" the proposal to deactivate 5 programs. Making a public announcement--as the President did on 10/1/10--of a *fait accompli*, presenting it as a *fait accompli* to the faculty concerned, to the point of advising them to seek employment elsewhere, then asking the Senate to "comment," does not amount to informing the faculty and giving us the opportunity to discuss the proposal "at the earliest possible stages in its formulation." In my view the President and administration violated Faculty By-Law 2.4.1 by failing to provide a "written response to final Faculty recommendations, indicating what decisions were made and the basis for such decisions; this should be particularly detailed in instances where faculty recommendations are not followed."

The matter of the deactivations has been, from the start, and continues to be, a bungled mess. That mess began with the selection of programs, which was, absent convincing evidence to the contrary, capricious and arbitrary. The BAGs did not recommend programs for deactivation, and no consultation regarding the proposed deactivations took place following the conclusion of the BAG deliberations. The public justification concerning low enrolments was vague and imprecise and did not withstand scrutiny. The President did not respond in writing, as required, to the Senate's "comment," let alone to the firm terms of its resolutions. Nearly six months later there was another public announcement, at which point the deactivations of majors were supposedly remedied by retaining the minor in each case. Except that it took until last month, more than fifteen months after the 10/1/10 announcement, for all the Minors to be formally reinstated. During all that time, and to this day, faculty such as myself, a member of one of the deactivated programs, have received a lone and single piece of formal correspondence concerning their status, namely a letter from July 19, 2011 that invited us to state our qualifications for other positions in accordance with the articles of Retrenchment of the Agreement. Now, retrenchment means not just deactivation, but discontinuance. But did the administration consult with this body before reverting to the possibility of discontinuance and retrenchment of faculty? No. Shouldn't it have? Yes. And, to this day, my colleagues and I have never received any other formal response to the responses that we duly submitted to the administration's July letter, which effectively means that discontinuance and retrenchment are still formally on the table. In fact they are the only questions that have been formally placed on the table from the point of view of the affected faculty. That is a far far cry from respecting By-Law 2.2.2, which states, let me repeat "The Faculty shall be informed and given opportunity to discuss at the *earliest possible* stages in their formulation, and shall review and provide formal consultation on, *prior to adoption*, all proposals regarding: (a) Creation, renaming, major re-organization, or dissolution of academic units and programs."

Bad decisions made by an administration are made, in the final analysis, on the backs of the students and faculty. For that reason responsibility for determining the curriculum devolves not upon the administration but on the faculty. Faculty know—they stood up and said so loud and clear in October 2010—that the

wholesale decimation of programs in one particular area of the curriculum has serious consequences for many other disciplines. It is students and faculty who have had to deal with the subsequent downgrading of the university's academic standing, its loss of reputation, its ridiculing in the press, and so on. Not to mention the hemorrhaging of faculty, for example in English, or the drop-off in graduate student numbers. UAlbany cannot afford to remain so far out of the ballpark in respect of its programs in European languages and literatures and Classical Studies as it now appears in comparison with peer institutions, as shown in the table I provided (none of UAlbany's peers has fewer than 3 such programs, UAlbany will henceforth have only one). It cannot simply neglect an important part of its curriculum and expect to remain competitive, or fulfill its own mission as clearly articulated through its Strategic Plan. My third resolution therefore calls for the faculty to take the initiative in determining, according to sound academic criteria, what programs in the deactivated disciplines should be reactivated, retained or developed.

I thank you for your consideration of these matters—and I especially thank all those who have expressed support for these initiatives, including the large majority who supported having the questions introduced at the last Senate meeting. I now welcome your discussion of them.

Chair Fessler recommended dividing the resolution into three bodies and opened the floor to questions. She instructed that questions concerning wording of the resolutions would be answered by Senator Wills and comments would alternate from pro and con positions. She further instructed that the resolutions be voted on individually and not as a group. Chair Fessler made comments concerning statements in two of the resolutions. The last "Be it resolved" of Resolution 1112-03R makes a call for "the Senate chair call on the President to reverse any administrative decisions that are determined to have been in violation of 2.2.2 of the Faculty By-Laws." Chair Fessler clarified that she does not have the power to force the president to follow advice but can convey the information. Resolution 1112-04R resolves "that UAlbany institute a procedure whereby the President and Provost are required to consult with department members and chair, the college dean, the Senate and in particular UAC, GAC, and UPPC, as well as other affected departmental or program faculty, staff and governance units before making a decision to deactivate or discontinue any program." She said if left with the current language, the proposed amendment would require a change to the Bylaws.

UPPC Chair Lifshin believed it would be difficult to separate the discussion of the three resolutions and he appreciated the Chairs statements. He said he was not sure how useful passage of the resolutions would be and referred to the President's statement read by Chair Fessler concerning the CARE amendment. Senator Lifshin said this was a strong statement by the administration in opposition of the faculty. He said everyone will need to agree on how to obtain the desired results. Senator Wills responded that the point is to maintain the pressure on the administration and make clear that the President did not respond according to the Bylaws and essentially rejected the Senate's advice. Senator Wills said that being advisory does not begin and end with a resolution but the Senate should remain active in the process. Senator Lifshin did not agree that identifying violation would help obtain the desired results and thought that Resolution 1112-05R would garner the most results.

Senator Lewis said if we consider actions against the administration our word should have standing if it can be documented that something was done wrong. Senator Masters asked for clarification concerning the extent to which the President is bound to the Bylaws. Chair Fessler said the Board of Trustees policies lay out the process for the campus and it is her understanding that she is under obligation to follow those policies.

A discussion occurred concerning the number of combined faculty positions lost during budget discussions and there were 51 in total according to Senator Merbler. Chair Fessler reminded everyone

that the resolutions being discussed did not refer to all programs deactivated but were specific to Languages, Literatures and Cultures, and Classics. Senator Wills said Resolution 1112-05R was specific to Russian and Eastern European studies.

GOV Chair Lyons referred to Resolution 1112-03R which calls for the Senate “to identify specific actions that were in violation of procedures outlined in the Faculty By-Laws”, and to charge GOV “to create a set of guidelines that more clearly determine how the Council on Governance will respond to similar administrative actions in the future”. Chair Lyons pointed out there is a lot of evidence that consultation occurred. She said the Senate responded to the President’s memo of October 1, 2010, with all of the Senate councils weighing in as well as individual faculty. That information was forwarded by the Senate to the President. In March of 2010, the President took advice to restore minors in the affected programs. Chair Lyons did not believe there was any “smoking gun” indicating that proper consultation did not occur or that proper procedures did not occur since there is a paper trail to the contrary. Because the desired result was not achieved does not mean effective consultation did not take place. Senator Wills disagreed and asked to have GOV investigate the consultation process which led to the deactivation of programs. Chair Fessler read Section 2.4.1 of the Faculty Bylaws:

**2.4.1 Formal Consultation.** The Faculty shall engage in formal consultation with the President and the administration, as outlined and limited by the Policies of the Board of Trustees, and further characterized by the Chancellor’s Statement on Governance [Faculty Handbook, Section III, p. 1]. Formal consultation is required for matters covered by Article 1, Section 2.2.2. Either the President or the Faculty shall be able to request formal consultation on other matters.

Except where precluded by contractual or other legal restrictions, minimally, formal consultation with the faculty on these proposals shall entail consultation between administration and University governance bodies. Formal consultation shall require communication, preferably in writing, specifying the area or issue for which recommendations are being solicited and accompanied by sufficient information as necessary for an informed recommendation. Formal consultation should occur as soon as issues needing resolution are identified. The faculty shall be given adequate time to respond. A written response to final Faculty recommendations shall be provided, indicating what decisions were made and the basis for such decisions; this should be particularly detailed in instances where faculty recommendations are not followed.

LISC Chair Newman referred to the memo dated October 1, 2010 to then Senate Chair Lifshin inviting comment from the Senate on his financial plan and emergency directive suspending admissions to selected programs. She then referred to the memo sent by the President to announce his retirement in which he indicated success is fund raising, and Chair Newman asked if we are still in a state of financial emergency. Chair Fessler said she was not in a position to answer that and said it did not relate to the resolutions being presented.

Senator Merbler spoke in her capacity as UUP President at the University. She said managements actions were a result of directions from SUNY Central and was a precursory move to avoid retrenchments. An attempt was made to obtain the qualification from faculty in affected areas so they could be moved to other areas, and added that it was a legal matter. Senator Wills said it should have been part of the discussion during consultation.

SUNY Senator Shahedipour-Sandvik referred to a discussion during the September SEC in which Vincent Delio from the President’s Office provided and update on the NYSUNY 2020 legislation. At that Mr.

Delio was asked if the money from SUNY 2020 could be used to hire new faculty. He said yes it could but when asked if there was a plan to hire new faculty in the deactivated areas he said no.

Senator Dieffenbach from said the issue concern academic freedom and that faculty should be able to work on whatever they like and not what's approved by the president. *Susanna, I'm not sure how the matter digressed or how he came to say the things that got him expelled.*

At this point Chair Fessler asked for a motion to extend the meeting to 4:45 pm. The motion as seconded and approved by a vote with the following result: Approved: 40; Opposed: 11; Abstained: 1

There were no further questions and the floor was opened for a comment period.

Professor Eloise Briere reminded the Senate of the address given to the Senate by Kenneth O'Brien where he indicated that whenever there is a perception of violation of governance and it is not resolved, it festers and pits faculty against faculty, departments against departments, faculty against administration, and this is why we need to clear the air.

Professor Jean-Francoise Briere referred to letters sent to faculty members in affected areas asking if they could teach in another department or another language. He said most cannot and this was known by the administration in advance. Professor Briere continued saying many could teach in other department such as Women's Studies or History but this was not allowed. He said they would only be allowed to teach in programs in LLC. Professor Briere said that letter led to the resignation and retirement of SUNY faculty.

Marybeth ? said the Senate is the faculty and other opportunities do not exist to express how feel and this. She encouraged the Senate to approve the resolutions and called for the administration to respect the Bylaws. She said the consultation process reflects what happened in the case of LLC and asked the Senate to take a stand.

Susan ? said faculty members in affected areas were told that the administration is free to define academic units as it wishes in terms of size of the unit. She said her unit was told they would have one full time faculty member and the rest would be adjuncts. She said this allowed the administration to lay off faculty and pressure older faculty members to retired. She added there was no academic freedom, only administrative freedom.

Senator Nowell questioned what power the Senate had as a consultative body. He said he would like to see on measure approved per meeting.

Professor Sarah Cohen from the Art Department thanked Senator Wills for opening the discussion and said it was important to those in the Arts and Humanities. She said it was important for everyone at UAlbany and urged the Senate to pass the resolutions. She referred to faculty in the Theatre Department who are in mid careers and in precarious situations and does not feel they have any support here. She also referred to a successful endeavor to close down the Classics Department and faculty were moved to other departments.

GAC Chair Groves said that was as senators as the voice of the faculty and our record should reflect what we feel about issues. He complemented Senator Wills for stating such in an eloquent manner. Chair Groves said the Senate needs to figure out a way to engage the administration in a productive way and hoped the resolution would lead to that.

UPPC Chair Lifshin said the most important decision will be associated with the Presidential Search Committee. The committee will need to identify the desires of the faculty and look for a long term administration to realize the goals of the organization. Chair Lifshin said he did not want to see a strategic plan that was not consistent or unique to this university. He said he also did not want to see a situation where a measure is passed in the Senate but goes no further. Chair Lifshin said the University will need a president who will be understanding and sympathetic to this situation or the same discussions would occur year after year.

Professor Timothy Sergay from LLC said there was no mention of Project Renaissance and called for a friendly amendment to include them in the resolution.

Secretary Leonard called the questions and Chair Fessler called for a motion to vote on the resolutions. The motion was approved by the following vote: Approved: 45; Opposed: 7; Abstained: 1  
The three resolutions were noted on individually with the following results:

Senate Resolution 1112-03R: Resolution to Investigate Violations of Governance Procedures in the Matter of the 2010 Program Deactivations  
Approved: 39; Opposed: 13; Abstained: 2

Senate Resolution 1112-04R: Resolution to Institute Specific Consultation Procedures Before Enaction of Deactivations  
Approved: 44; Opposed: 9; Abstained: 1

Senate Resolution 1r 3.112-05R: Resolution to Determine Offerings in European Languages and Classical Studies in Accordance with UAlbany's Mission and Strategic Plan  
Approved: 40; Opposed: 12; Abstained: 1

**ADJOURNMENT: 4:48**

The meeting adjourned at 4:48 pm

Respectfully submitted by  
Gail Cameron, Recorder

**MEMORANDUM**

**TO:** Susanna Fessler, Chair, University Senate  
President, University at Albany

**FROM:** George M. Philip,

**SUBJECT:** Council on Administrative Review and Evaluation (CARE)

**DATE:** February 6, 2012

While unable to attend Monday's University Senate meeting, I want to inform you of my position and views regarding the proposed charter amendment entitled, the Council on Administrative Review and Evaluation (CARE).

I do not support, and will not approve, the proposed charter amendment. My reasons are outlined below.

First, the proposed charter amendment establishes a Council that would evaluate individual employees (those who have administrative positions), regardless of the terms and conditions of employment that may be in place across the negotiating units representing those employees. Equally important, the Council and its evaluation activities are proposed despite the University Senate not having the authority to undertake the evaluation of administrative staff. Pursuant to Article X of the Policies of The Board of Trustees, the faculty of a State-operated institution of State University of New York (in this case, the University at Albany) has the responsibility "to participate significantly in the initiation, development and implementation of the educational program." A plain reading of the faculty's responsibilities cannot reasonably be construed to include the evaluation of administrative staff in this responsibility.

Second, the University's institutional responsibility to review its effectiveness clearly resides with the University President. Such authority is vested in the University President under Article IX of the Policies where the President (as the Chief Administrative Officer) is authorized to administer the institution and promote its development and effectiveness. To this end, the President, among other things, is charged with the responsibility to appoint and supervise members of the professional staff of the University and to assign them such powers, duties and responsibilities as appropriate for the administration of the institution; and evaluation is a fundamental component of supervision.

Although the University Senate is not vested with the authority to conduct the evaluation of the University's administrative staff nor of administrative effectiveness, I will seek and welcome the University Senate's advice as we address the recommendations in our Middle States self study to "enhance the processes associated with academic assessment while increasing efforts towards more systemic and sustained assessment processes for administrative

units." Guided by the comments of the Middle States site visit team to address this through the implementation of the strategic plan, this work is already in development, with the past, present, and next Senate chair serving on the Strategic Plan Implementation Steering Committee. Our work will be conducted in a manner consistent with the provisions of the Middle States standards. In this regard, it is important to be clear that the comments of the site visit team affirmed that UAlbany fully meets the accreditation standards of Institutional Assessment. Their report (which, is available on the wiki at: <https://wiki.albany.edu/display/middlestates/Home>) also provided a number of helpful perspectives on the matter, including a specific statement about the role of faculty.

In addition, I want to take this opportunity to address several issues raised by the proposal of a new charter amendment. Whether called bylaws or a charter, the faculty under the Policies of The Board of Trustees is authorized to prepare and adopt internal rules governing its conduct which shall contain: "(1) Provisions for committees and their responsibilities; (2) Procedures for the calling and conduct of faculty meetings and elections; and (3) Provisions for such other matters of organization and procedure as may be necessary for the performance of their responsibilities." Recognizing the University faculty has neither the responsibility nor the authority under the Policies of the Board to administer the institution or appoint or supervise members of the professional staff, it cannot merely confer that authority upon itself through the adoption of provisions of its internal governance documents.

While not all provisions of the internal governance documents require the approval of the University President, those concerning consultation with the faculty do. Those requiring the allocation of staff or non-staff resources would also require specific approval. Furthermore, all actions taken by the faculty under their internal governance documents are merely advisory upon the President in recognition of the President's legal authority to administer the institution.

Finally, I believe that it would be in the shared interests of both administration and faculty to initiate conversations regarding issues such as administrative evaluation at the earliest possible point. When such issues arise in the future, it would be in our collective interests to engage in an interactive dialogue at the beginning of the policy development process as opposed to its middle or end.

I look forward to continuing the discussion regarding these matters in the days and weeks ahead.