

Minutes of the Faculty Council Meeting on February 19, 2015

Members: S. Davis, A. McInerney, I. Mirsky, J. Molina, H.P Kavalis, M. Pita, N. Reynoso, J. Sanabria, R. Shane, H. Skinner, S. Utakis, H. Clapman, F. Moore, D. Gonsher, F. Blanchard (alternate for R.Bass), L. Brenner, S. Khan, D. Matsoukas, J. Athanasourelis, E. Hardman (alternate seated for W. J. Lambert), D. Genova, L. Lawton, I. Petrovic, A. Lamazares, A. Ortiz, A. Lal, P.Kolozi, M. Fein, O. Littlehawk, R. Gouraige, A. Durante

Alternates: Two alternates attending the meeting were seated for regular members.

Guests: K. R. Williams, R. Lupo, L.Broughton, S. Atamturktur, L. Rosario, V. Rodriguez

- 1) The meeting was called to order by F. Moore.
- 2) Alternates for R. Bass and W. J. Lambert were seated
- 3) The agenda was approved by unanimous voice vote.
- 4) The approval of the minutes of March 13, 2014, November 13, 2014, and February 15, 2015 were approved as amended by unanimous voice vote.

5) Old Business

a) Faculty Representation on the Presidential Search Committee

- F. Moore gave a brief overview of F C. Jan 15th 2015 meeting's proceedings. "The election that took place on January 15, 2015 has been challenged. After consultation with the CUNY Office of General Counsel, the matter is coming back to the Faculty Council. The Faculty Council will be asked to consider a Motion to Ratify the Selections of Faculty members of the Search Committee made by the Faculty Council at its meeting on January 15, 2015. At that meeting, the Faculty Counsel elected, LaRoi Lawton, Nelson Reynoso and Franklin Moore to represent the faculty on the Search Committee. Obviously the Faculty Council is empowered to refuse to ratify the prior vote and should it so choose, take other appropriate actions. These other actions include, but are not limited to reopening nominations. Should the Faculty Council choose to reopen nominations, all full time faculty members who do not hold executive titles and who have had their third reappointment, or greater, are eligible to serve. The definition of "faculty" includes those with titles of Professor, Associate Professor, Assistant Professor, Lecturer, and Instructor. Per instructions from counsel, votes on this matter at the Faculty Council shall be conducted in accordance with Perez and the Faculty Council, as required by that opinion, will operate as a "public body" in accordance with New York law. Additionally, the General Counsel has insisted that, in accordance with the CUNY Manual of General Policy, only those who are eligible to serve on the Committee will be allowed to

vote. Thus certain members of the Faculty Council will be barred from voting. These include any person who has not had their third reappointment or higher, Adjunct Professors, those in the HEO series, CLTs and any person holding executive titles (President, VPs etc.).” Total voting members present at the meeting were 33. Any motion will need 22 votes to pass.

- F. More added that the Faculty Council will operate under Perez only for this particular meeting. He also suggested that we should proceed with ratification of Jan 15th, 2015 vote. He added that General council has conflicting views about this situation. Three people elected at Jan 15th meeting will not serve on the actual Presidential Search Committee, but will continue to attend this committee’s meeting until the matter is resolved.
- D. Gonsler presented other side of the information, stating that she had brought up at Dec 14 Senate Executive Committee, the issue of whether Faculty Council was the appropriate body for an advisory role, such as this one. Since the Governance Plan makes one body (Senate) more appropriate than the other. The decision to conduct this election in F.C was due to time constraint, but there is a procedure that needs to be followed and there is enough time to re-elect the members of Presidential Search Committee.
- F. Morre stated that CUNY General Council has no purview to challenge the ruling of this body and that the Jan 15th vote should prevail since there was nothing wrong procedurally in that election. Same procedures were followed that are always followed to elect the positions in F.C
- L. Brenner added that there are advantages to follow Robert’s rule, like when people see where the votes are it allows them to reconsider their vote.
- S. Davis said that according to CUNY Bylaws Manual of General Policy it is clear that Faculty Council is the body to elect faculty members of the Presidential Search Committee.
- At this point a motion to ratify the previous election was proposed and suggested that if that ratification fails then we discuss the other options.
- F. Moore asked K.R Williams to present college’s opinion on the matter.
- (Note that this text is derived from the message she sent out via email, since her statement at F.C meeting was based on this). She stated that some members of this body have requested an advisory opinion from CUNY General Counsel. She spoke with CUNY General Counsel and Senior Vice Chancellor for Legal Affairs, Rick Schaffer, to request an advisory opinion on the concerns raised by some members of F.C. Specifically, she inquired: 1) whether the *Perez* ruling applied to the Faculty Council and 2) whether the three individuals elected to serve on the current presidential search were validly elected.

Senior Vice Chancellor Schaffer did not issue a ruling or opinion on the power of the Faculty Council, nor on the procedures which apply to the Faculty Council generally. His advisory opinion extends only to the meeting of the Faculty Council for the purposes of selecting three faculty members from the college to serve on the search committee for the current presidential search. Senior Vice Chancellor Schaffer advised that Board of Trustee Bylaws of the City University of New York require that three faculty members be selected from the college and elected as determined by the appropriate faculty governance body of the college. While the Bronx Community College Governance Plan is not clear, it is clear enough for these purposes. The BCC Governance Plan provides that the Senate shall have advisory responsibilities including, but not limited, to participating in the search for and appointment of the President of the College, as requested by the CUNY Board of Trustees. It is the Senate that elects the faculty representatives, not the Faculty Council. While the Faculty Council may have the authority to select and appointment faculty to other committees, for the purposes of a presidential search, it is the BCC Senate who retains this authority. However, **the CUNY Manual of General Policy, Article II “Board of Trustees”, Policy 2.12 “Presidential Searches” does restrict those allowed to vote in the election for faculty representatives to faculty (as defined in the Board Bylaws).** Those faculty voting for faculty representatives on the search committee are still acting in their capacity as members of the Senate. **Because they are acting as members of the Senate, rather than members of the Faculty Council, Perez does apply for this specific purpose. This decision requires the application of the New York State Open Meetings Law and a two-thirds majority vote would be needed to pass a motion.**

Following this email, Dr. Marti spoke with both Senior Vice Chancellor Schaffer and Robert Ptachik. Together, they agreed that the three representatives originally chosen could serve on a pro temp basis, pending the ratification of their election or the election of new faculty representatives.

- D. Gonsher said that why we pick and choose the things we follow, we follow the College’ G.P to elect Departmental Chairs, why not use the same for Presidential Search Committee. Why F.C is the only body that does not follow Perez. F. Moore responded that F.C is not under Perez since it is only an advisory body. Since there are certain people who are allowed to vote for this search, it will be impossible to conduct this election in Senate.
- S. Davis suggested that we proceed with the motion to ratify the elections from Jan 15th, 2015 under Perez, following suggestion of CUNY General Counsel.
- F. Moore as chair of F.C ruled that we will vote to ratify the motion to accept Jan 15th elections following Perez rule. If this vote fails we go to other alternatives.

- I. Mirsky inquired that why we can't have a new election. M Pita responded that we need to vote on the previous motion first.
- D. Gonsher mentioned that someone not eligible to vote casted a vote in previous election.
- F. Moore asked to move for a paper ballot to proceed to vote on the motion to ratify previous elections. The motion failed (Y=21, N=6, A=2)
- I. Mirsky proposed the motion to reopen nominations and conduct elections following Perez. Discussion followed.
- A. McInerney commented that we should vote no to this motion since this is disrespect to the F.C chair, and not to give in to the bullying of a minority group.
- L. Brenner commented that the purpose of democracy is to protect the minorities and that their voice should be heard. It is no one's intent to disrespect the F.C chair, and that we should be mindful of the language in our discussions.
- Simon Davis added that we should dismiss this motion.
- M. Pita called the question ("to cut off the debate"). Based on F. Moore's ruling the question was called unanimously.
- Votes were casted using paper ballots. Motion failed (Y=6, N=22, A=1)
- At this point J. Molina called a motion to reopen the first motion (ratification of Jan 15th vote).
- Votes were casted using paper ballots twice, due to some ballot count errors. Eventually motion passes by a little over 2/3rd of votes (Y=23, N=5, A=1).
- F. Moore announced that he will communicate the results with CUNY Central. He also added that he will refer this election's events to Governance and Elections Committee and seek recommendations to change the Governance Plan.

6) There was not enough time left for New Business.

Adjournment: Meeting Adjourned at 1:45.

Respectfully submitted by:

Shazia Khan (Biological Science Department)