

MINUTES OF THE THREE HUNDRED AND FIFTY SECOND PLENARY SESSION  
OF THE UNIVERSITY FACULTY SENATE  
OF THE CITY UNIVERSITY OF NEW YORK  
September 21, 2010

The meeting was called to order by UFS Chair Cooper at 6:30 p.m. in Rooms 9204/05/06 at the Graduate Center. Seventy-two of 120 voting members were present.

**Baruch:** Present – Ellis, Hill, Martell, Remler, Wine, Wymbs, and Alternate Harel. Absent – Bazzoni, Myers, and Nematollahy. **BMCC:** Present – Conway, d’Erizans, Genis, Martinez-Lopez, Persaud, Soto, and Alternate Vozick. Absent: Friedman and Samuel. **Bronx CC:** Present – None. Absent – Bandar, Ismail, Prabhu, and Skinner. **Brooklyn:** Present – Bank-Munoz, Cirasella, Dexter, Florence, Jacobson, and Massood. Absent – Magliozzo, Morrill, Viscusi, and Wills. **CCNY:** Present – Brass, Crain, Dalglish, Raj, and Alternate Kalia. Absent – Jablonsky, Khanbilvardi, Kiely, Lascar, Rinard, and Watkins. **CSI:** Present – Cooper, Klibaner, Talarico, Zimmerman, and Alternate Peters. Absent – Batson and Yousef. **CUNY Law School:** Present – None. Absent – Burton and Goldscheid. **Graduate School:** Present – Baumrin, Burke, Philipp, and Alternate Vora. Absent – Aguirre-Molina, Albrecht, and Weinstein. **Hostos CC:** Present – Ovtcharenko, Pimentel, Sharma, and Alternate August. **Hunter:** Present – Baumann and Grossman. Absent – Ancona, DeMeo, Guzzetta, Kaye, Kuhn-Osius, Spark, and Strayer. **John Jay:** Present – Crossman, Kaplowitz, Katz, and Alternate Tovar. Absent: Browne-Marshall, Dunham, King-Toler, and Kubic. **Kingsborough CC:** Present – Arliss, Barnhart, Hume, Ruoff, Stubin, and Wood, and Alternate Cowan. **LaGuardia CC:** Present – Berke, McCormick, Mettler, and Alternates Albrecht and Lerman. Absent: Kurzyna, Richmond, and Shean. **Lehman:** Present – Alexanderson, Carey, Jervis, Maybee and Alternate Campbell. Absent – Larimer, Marianetti, and Mineka. **Medgar Evers:** Present – Alternate Hope. Absent – Cuffee, Reid, Stewart, and Withers. **NYCCT:** Present – Cermele, Gelman, Horelick, Hounion, and Richardson. Absent: Panayotakis and Woytowich. **Queens:** Present – Bird, Moore, and Savage. Absent – Brody, Gonzalez and Zevin. **Queensborough CC:** Present – Barbanel, Borrachero, Pecorino, Tai, Volchok, and Alternates Lizzul and Meltzer. **York:** Present – Corkery, Lewis, and Mawyer. Absent – Baron.

**Governance Leaders present:** Burke (GC), Cooper (CSI), Hume (Kingsborough), Kaplowitz (John Jay), Martell (Baruch), Parides (NYCCT), Raj (CCNY), and Tai (QCC) attended. Executive Director Phipps, Administrative Assistant Pasela, and Secretary Blanchard were also present.

**Guests:** Jason Young (Hunter), Jay Weiser (Baruch), and Dennis Bakewicz (NYCCT) were guests of the plenary.

I. Approval of the Agenda – The agenda was adopted as proposed.

II. Approval of the Minutes of May 11, 2010 – The minutes were adopted as proposed.

III. Reports (Recorded in Reports & Deliberations)

A. Chair (oral & written)

B. Representatives to Board Committees

C. Budget Advisory Committee Chair Terrence Martell

IV. Invited Guests (Recorded in Reports & Deliberations)

A. Vice Chancellor for Legal Affairs Frederick Schaffer, on E-discovery and other University policies

B. Interim Senior Vice Chancellor for Budget/Finance/Financial Policy Marc Shaw and Associate Vice Chancellor for Budget and Finance Matt Sapienza, on CUNY's Budget

C. Susan O'Malley, President, CUNY Academy

V. Approval of UFS Standing Committee Slate – The slate was unanimously adopted by voice vote.

VI. Old Business –There was none.

VII. New Business

A. Resolution in Memory of Martha J. Bell – The resolution was unanimously approved by voice vote.

### **Resolution in Memory of Martha J. Bell**

The University Faculty Senate expresses its profound sadness at the death of its long time member, Martha Bell, chair of SEEK at Brooklyn College and chair of the SEEK Council in CUNY.

Martha Bell served on the Executive Committee of the University Faculty Senate for many, many years and was a trusted, reliable, intelligent and thoughtful voice. She was an important faculty leader in insuring the consistent support by the legislature of the State of New York for opportunity programs for urban students. Her commitment to these students meant that she provided them with high quality compensatory work that enabled them to succeed in college, graduate school, the professions and their private lives. Her willingness to go to Albany in the worst winter months of each year to campaign for CUNY, for its students and for her colleagues put others to shame.

To many of us she was a dear personal friend, always ready to shoulder responsibility despite her developing illnesses.

The Senate sends its deepest condolences to her family who are left with memories of a warm and vibrant wife, mother, daughter and stepmother.

The Martha J. Bell Memorial Scholarship Fund has been established at Brooklyn College to support SEEK students. Contributions to the fund may be made by sending a check payable to: The Brooklyn College Foundation - In memory of Martha Bell, c/o SEEK Department, Brooklyn College, 2900 Bedford Avenue, Brooklyn, NY 11210.

Published in The New York Times on August 18, 2010:

BELL--Martha. The University Faculty Senate - CUNY mourns the untimely death of its beloved colleague, Martha Bell, chair, SEEK Department, Brooklyn College and longtime member of the Executive Committee. Her devotion to students was unique. We are profoundly saddened for her family, George Shapiro, Isaac Bell-Shapiro and her mother, Shirley Bell. Sandi E. Cooper, Incoming Chair.

B. Resolution on Federal Support of For-Profit Universities – The resolution was unanimously adopted by voice vote.

### **Resolution on Federal Support of For-Profit Universities**

Be It Resolved, that the University Faculty Senate enthusiastically supports Chair Cooper's sentiments expressed in the August 31, 2010 correspondence below to Washington DC officials warning of the dangers and waste of federal support of for-profit colleges:

The Honorable Tom Harkin, Chair  
Committee on Health, Education, Labor, and Pensions  
United States Senate  
731 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Harkin,

The Executive Committee of the University Faculty Senate of the City University of New York wishes to express its support for your investigation into the abuses perpetrated by for-profit educational mills. In particular, given the fact that the City University of New York serves over a quarter of a million urban students who are largely the first in their families to attend college, we are especially concerned over the diversion and misuse of Pell funding.

The enclosed analysis, by the chair of our Legal Affairs Committee, refers to the conditions in the City of New York, but its evidence is appropriate nationally. At a time

when the leadership of the nation insists on the importance of higher education for as many people as possible, to use Federal funding for questionable “academic” programs is profoundly unwise.

Professor Weiser refers to Monroe College in the Bronx (New York) and its default rate of 23.1%. Of the two CUNY colleges in the Bronx, Lehman (a senior college) averaged a default rate of about 3% and the Bronx Community College, a default rate of approximately 5%, in the same period. Students who have obtained a solid education are more likely to find rewarding careers – both financially and personally – than students who have been cheated by the 21st century equivalent of snake oil salesmen.

We thank you for your efforts to curb the misuse of funds by so-called educational institutions which lack the infrastructure and standards of serious higher educational programs.

Sincerely,

Sandi E. Cooper, Chair

cc: Senator Charles Schumer, Senator Kirstin Gillibrand

enclosure:

**For Whom the Pell Tolls: CUNY and the Proposed Federal Student Aid Regulations**  
By Jay Weiser, Chair, CUNY Faculty Senate Legal Affairs Committee

CUNY needs a strong voice in the higher education financing debate unfolding in Washington. The time, literally, is now. As reported in the July 23 edition of Inside Higher Ed, the Federal Department of Education just released proposed regulations on eligibility for student aid for public comment. Today, students at public colleges are under financial strain trying to complete their educations. Yet the proposed regulations let for-profit colleges continue to siphon off massive aid money while loading low-income students with unsustainable debt.

You can see the for-profits’ ads on the subways, offering low-quality degrees at enormous costs, with tuition averaging \$14,000 a year. According to the New York Times, with less than 10% of students, the for-profits get nearly 25% of aid, including \$4.3b in Pell grants in 2008-09. By way of comparison, at the end of July, Congress was deadlocked on how to address a \$5.7 billion Pell shortfall.

Federal subsidies have allowed for-profits to attain operating profit margins that can reach levels of 37% -- among the highest for large American companies. But — despite the strident subway advertisements — the data suggests that students don’t do well. The July 11 New York Post reports that 23.1% of the 2,800 students who have graduated or dropped out of Monroe College since 2007, have defaulted on government-backed loans. The comparable figure at CUNY’s Lehman College: just 6%.

The proposed regulations would only cut off subsidies for the bottom 5% of for-profit programs. Instead, the regulations should turn the spigot off for all the bottom-feeders among the for-profits. Federal subsidies should go to colleges that provide a real education for their students.

CUNY only has until mid-September to comment on the proposed regulations, but historically, it has focused its Washington efforts on research funding. Research is crucial, but our historic core mission has been to provide quality higher education to the children of the poor and working class. If our students can't afford college because the feds funnel tax dollars to for-profit college owners for huge paydays, CUNY must be their advocate. August 5, 2010

C. 2009/2010 Annual Report of the Libraries & Information Technology Committee –  
The report was received.

There being no further business, the meeting was adjourned at 8:30 p.m.

Respectfully submitted,

William Phipps  
Executive Director

REPORTS AND DELIBERATIONS  
OF THE 352th PLENARY SESSION  
OF THE UNIVERSITY FACULTY SENATE  
OF THE CITY UNIVERSITY OF NEW YORK

September 21, 2010

**Chair Cooper**—Welcome, and I hope that the proceedings here don't strike you as being too arcane. If you have got any questions, I will try to answer them. A couple of technical bits of information. When you leave, please remember to return your badges to Vernice, who is sitting outside. We don't give these to you permanently, and we don't want to replace them every month. Secondly, we want to remind you that every delegation to this body should name a liaison member whose job is to get in touch with us if somebody is not coming and tell us who the Alternate is, and to tell the Alternate to show up if that individual is not coming. It is really urgent that we have attendance. Those of you who know about the *Perez* ruling and the Sunshine Law know what I am talking about.

This place would not run were it not for the staff in the office, who in fact are the permanent institutional memory of the faculty. This is Bill Phipps on my far left over there, who is the Executive Director. Stasia Pasela who is in charge of the administration is sitting over there. And Vernice is outside – you have already met her when she forced you to sign your name to some document! Without these people, nothing happens.

I would like to introduce the newly elected officers. Would you please stand, starting with Terrence Martell, the Vice Chair, and tell your college and your field. **Professor Martell** – I always defer to the Chair, particularly in these rare occasions when she is actually older than I am. Actually much older, but we won't go there....**Chair Cooper** – She *looks* much younger. **Professor Martell** – Well, I work harder! I am professor of finance at Baruch College. Thank you. **Professor Kaplowitz** – I am the head of the Faculty Senate at John Jay College of Criminal Justice, and I teach in the English Department, and I am Secretary of the University Faculty Senate. **Chair Cooper** – And our Treasurer is Anne Friedman, who could not be here tonight. Let me ask the rest of the Executive Committee to stand up. **Professor Barnhart** – I'm Michael Barnhart, Philosophy at Kingsborough, and I also represent you on CUNY's Enrollment Management Council. **Professor Baumrin** – Stefan Baumrin. I teach Philosophy at Lehman and at the Graduate School. **Professor Richardson** – Kathryn Richardson. I am the chair of Nursing at City Tech. **Professor Dalglish** -- Campbell Dalglish. I am an associate professor of Communication Arts at City College. **Professor Tai** – Emily Tai, History Department at Queensborough Community College; also chair of the Faculty Steering Committee. **Chair Cooper** – And finally, *ex officio*, we have Manfred Philipp, who many of you have seen for the past four years. **Professor Philipp** – I am chair of the Executive Committee of the Faculty at Lehman College, and immediate past Chair of the UFS.

**Chair Cooper** – Our first guest is here to talk to us about the e-discovery process. This is the Vice Chancellor for Legal Affairs Frederick Schaffer, who has issued a document some time ago on this process, which is available in the back of the room. Given the number of issues and questions that continue to arise, we thought it would be useful to give you a chance to cross-examine the individual himself! **Vice Chancellor Schaffer** – Good evening. I thought I would briefly summarize what was in the e-mail message that I sent out to all of you last spring. There are copies in the back. This pertains to the retention and possible disclosure of information in connection with litigation in which the University is a party. Part of the litigation process involves something which lawyers call discovery, which is the exchange of information between parties in litigation, including the exchange of documents, whether the documents are in hard copy form or electronic form. Parties have the obligation to preserve documents in connection with litigation, and not to destroy them, and where the documents are relevant and non-privileged and have been requested, to turn them over to the other side. The failure to either preserve or, where appropriate, to disclose documents subjects parties to litigation to possible sanctions, which can be quite draconian. The federal courts have issued a set of rules that specifically pertain to electronic discovery, or e-discovery, and they require that once you are on notice of actual or potential litigation – and I’ll come back to that point in a second – a party must suspend the routine purging or overwriting or reusing or deleting or any other destruction of electronic records. This obligation attaches wherever the records may be stored, whether it’s on a laptop, or a flashdrive, or the principal computer in your office. By “you,” I am really referring to CUNY employees generally. I’m speaking obviously to the faculty, but I don’t mean to single you out in this connection. The law views you as an employee of CUNY.

When does this obligation attach? Obviously the most clear evidence that litigation has been commenced or is being anticipated is the filing of a law suit. We have a procedure when law suits are filed to let people on the campuses know of that. I’ll explain that in more detail in a minute. But the obligation to preserve may arise before that. I should add that when the University is in litigation in the vast majority of cases it involves employee complaints. These are complaints of racial or sex discrimination, sexual harassment, and things of that nature. I’m happy to say that we don’t get a huge number of these, but of the cases that land the University in court, the overwhelming number are of that type. In many cases, you get advance notice of that because people have filed complaints with various state and local and federal agencies that have jurisdiction to investigate, whether it is the Equal Employment Opportunity Commission at the federal level, the State Division of Human Rights at the state level, or the City Commission on Human Rights. Once we get a complaint we deem that as likely to go to litigation, and in the same way that we do when we get the actual complaint, we alert the campus that we anticipate litigation and that documents relevant to that complaint must be preserved.

Now how does this process take place at CUNY? This is not new. The electronic piece of this adds a little bit of a wrinkle, but we’ve been dealing for many decades, of course, with litigation that involved the discovery of hard copy documents. The principles are really not different. What is different is that of course there are these new specific rules relating to electronic documents. Let me back up: When we are in litigation, my office

monitors the litigation, and we are represented for the most part by the State Attorney General's Office in court. In the case of community colleges, we are represented by the New York City Corporation Counsel's office, a charming throwback to the days when we actually were a City University. They are the lawyers who appear in court, but my office monitors litigation very closely, and we are the liaison to our in-court lawyers in these cases. In turn, there is a lawyer on each of your campuses who is our liaison for purposes of litigation in order to preserve and collect documents, and also to interview potential witnesses and prepare them for depositions, if it gets to that.

But in connection with electronic discovery, in addition to your normal legal counsel – or perhaps it's the same person, depending on what your president decided to do – we asked each president to designate a sort of technology person, what we call an IT designee, to work with the legal person in order to manage the process of electronic discovery. These people are notified along with the lawyers that a particular matter is in litigation, or is anticipated to head to litigation, and they send out a litigation hold notice to people who might have relevant information. Again, this is usually not hard to determine. Employee X alleges that his or her supervisor Y discriminated in connection with a promotion decision. So X and Y are obviously potential witnesses, and you quickly discover who else was involved in the decision to promote or not to promote, and you are usually able to identify a fairly small group of people who need to be put on notice of the litigation and who need to be told to preserve documents that are connected to the litigation.

Now, because the sanctions are very, very severe if documents are destroyed, even if they are destroyed by individuals inadvertently, that is sort of considered to be the University's responsibility to make sure that that doesn't happen. And so we have developed a process, which is outlined in that e-mail we sent you, to make sure the documents are preserved. What is involved in that is of course to sit with the individuals who you have identified who might have relevant information, and to find out what documents they might have or not have, but in order to make absolutely sure that nothing is destroyed there are actually copies made of hard drives of computers whether they are an office computer, or a University laptop that has been assigned to that person. We are also going to ask whether they have flashdrives that they have relevant documents on. Similarly, it is possible that you might have relevant documents that you took home or stored on a computer at home. But the only thing that gets preserved automatically in this process is the hard drive of your computer. I want to assure you that at this stage, no one is actually looking at it. It's just to make sure that nothing inadvertently – or advertently – gets erased. And similarly with laptops. Once that has happened there will be a further process of interviews with counsel and the potential witnesses to figure out what they have, what they don't have, that is relevant to this case. Did they maintain files by subject matter so that it becomes easier to identify where there might be relevant documents, and witnesses and lawyers don't have to go running all over the place looking in places that would not reveal results. In any event, the copy of the hard drive that has been preserved initially is stored in a secure place and, as I said, initially it is not even reviewed. It is just there to make sure that relevant information has been preserved. Later on in the discovery process you wait and you get requests from the other side for all documents relevant to the promotion decision of Professor X. Then we will go back and

try to figure out what there is that is relevant. In order to do that, we will work with the witnesses involved, but also there are now also fairly sophisticated protocols that you feed in two words. For instance, in this case if Professor X is the plaintiff in the litigation, then obviously that person's name is the most important key word that you would put into the computer to find out what relevant information there might be, usually in the form of e-mails but occasionally in the form of other documents that might be on the computer. But discovery of e-mails, as I'm sure you read in the newspapers in connection with a lot of the Wall Street scandals, frequently reveals very relevant, interesting, damaging information. And so it's the lawyers' obligation to look and to try to gather all of those materials, and if they've been requested, to turn them over.

We understand that you might have confidential information on your computers, and you may have research information. There are a number of legal privileges to protect various kinds of confidential information, and they will not be turned over lightly without a very exhaustive analysis and discussion about whether they are relevant or whether they are privileged. You can rest assured that the fact that this stuff is being preserved does not necessarily mean that it is ever going to be turned over.

The bottom line is that we have devised a process that we are required to have to comply with federal law. It is also consistent with the Computer Use Policy which the University has promulgated. We intend to be, and will be, sensitive to concerns particularly with respect to those of our employees who are faculty members and who may have sensitive or privileged or confidential information on their computers, and we are doing only what is strictly necessary to comply with what the courts expect of us. We are going to do this in a way, and we have walked through the IT, so that everything we do is and remains absolutely secure, including the places where we store any information will be fully encrypted. We intend to meet our obligation under the law without exposing any information you might have to the risk of inadvertent or unnecessary disclosure.

That is probably where I should stop, and I'd be happy to take any questions you might have.

**Chair Cooper** – If you have a question, would you line up at the mike and identify yourself. You have one question, and one quick follow-up, and since we have a huge agenda, we would appreciate your self-restraint. If you can't do that, there will be other forums.

**Professor Philipp** – In some other policies of the University, the Chair of the University Faculty Senate is informed by your office when a faculty computer is being looked at. Does that procedure apply to e-discovery? **VC Schaffer** – I don't remember what the policy says, but if that is it then it applies. In the Computer Use Policy, I think there are six circumstances that we list where there might be the need, and this, I think, is one of the three that would require notification to the Chair of the UFS. By the way, we also, at the end of every year, give a statistical report to the Board of how many instances there have been where under the Policy it was necessary to look at the contents of a faculty members' computer. The number has been very, very low – either zero or one. Maybe

one year we got up to two. Most of the litigation we are in doesn't so much involve faculty members. It tends to involve other employees in the University. But every now and then we have one that does.

**Professor Michael Barnhart** – What is going to be the way you handle damaging information that you come across purely by virtue of this process of search? Suppose you find out that Professor X has downloaded pornography? Maybe you find out he downloaded child pornography on his home computer. It seems to me there is a possibility that information is found that would not have been found except by virtue of this kind of process. **VC Schaffer** – In terms of home computers, we would ordinarily not see a home computer at all. If it's not the University's computer, we might ask individuals if they have anything on your home computer that relates to his matter. If the answer is no, we have no obligation if it's not a University computer. So let's take the example that it's a University laptop which the individual also used at home, and the answer is we are going to search using these protocols for relevant information and that is probably all that anybody is going to look at, but if inadvertently they come across other things, it's available. **Professor Barnhart** – How would you handle that sort of a discovery? **VC Schaffer** – I think we would have a discussion with the HR people on the campuses as to what they thought we ought to do.

**Professor Terrence Martell** – Speaking for Glenn Petersen, a former cooperating witness in a law suit against Baruch College. Just joking about the former, but Glenn is teaching tonight, but he had his hard drive copied, and not surprisingly he had a confidential research project that was also copied. He has two questions. How can we receive guarantees that confidential material that is of no relevance to the case but which has been collected from our computers will be safeguarded? Also, what recourse do I have to insist that these materials be destroyed or protected, and that I can be informed about the custody chain so that if something does leak out, I know who to focus on? **VC Schaffer** – Let me begin with some advice to you as faculty members about what you ought to be doing with confidential research. For one thing, you probably ought to get yourself an external hard drive and not store it on the hard drive of your office computers or laptops. By the way, since I have a captive audience here, let me put in a pitch that is increasingly difficult to understand, but faculty members and other employees download social security numbers with abandon. Then somebody's laptop gets stolen, and it turns out there were social security numbers on it, and at some expense under state or federal law the University has to give notice to all the people whose social security numbers or other identifying information was disclosed. I know you are all too smart to do this, but somehow it happens. I will make the same pitch with confidential research information as social security numbers, which is get yourself an external hard drive, and store it in encrypted form. It is not hard to learn how to encrypt information and make it very, very secure. Avoid the problem to begin with. Now, to answer your question. When it happens, obviously you're going to tell people I've got a lot of stuff on there that is extremely confidential and completely unrelated to the litigation. I want to make sure that this is protected. It is going to be stored in an encrypted form whether you encrypt it or not, which helps to maintain the security of it. You will let the lawyer on your campus and the IT people know, and let me know and I will let my lawyers know, that this has

occurred and it will be protected. We will take steps to make sure this is not turned over. From your example, it is irrelevant to the litigation, and it will be stored. You raised a good point that I hadn't really thought of in any depth, which is what happens when the case is all over. If you inform the appropriate person, whether it's the counsel on your campus, or my office, or the IT people, or all three, about this then we will set up a system to track and make sure that when cases are over, the information is all deleted. That's an excellent idea, and we really had not addressed it in the memo. For all I know, my attorney and the IT people in Brian Cohen's shop have already thought of this and have a protocol in place that I'm not aware of, but I'll make sure that that is the case.

**Professor Martin Burke** – A strict procedural question that I'm sure my colleagues are going to ask here at the next meeting of the Graduate Council: since so many centers and institutes here hire staff through the Research Foundation, even though they are using IT hardware here at the Graduate Center, in the case of these kinds of employees, will they be dealing with the legal counsel through the RF or through here, or some combination thereof? **VC Schaffer** – It gets complicated, but if everybody involved is an RF employee then you will be dealing with the RF. As you know, there are people here who wear more than one hat, and get paid out of more than one payroll, and sometimes the RF and CUNY get dumped together in the litigation. We collaborate very closely with the RF, so it really won't matter.

**Professor Dalglish** – At what point does the seizure of information, and I would relate this to e-mails at City College, take place? Is it at the point when litigation starts, or somebody makes a complaint, and if that is registered against a colleague and I don't know or have anything to do with it, but then because I have e-mailed this colleague then my entire computer is also likely to be seized? Is that right? **VC Schaffer** – It will occur when my office has made a determination that there is a likelihood of litigation. That will be either when the case is actually brought, or there is some fairly formal sort of complaint before one of these administrative agencies that I recited earlier. But it requires a fairly concrete basis to think there is going to be litigation. And, yes, if we go to Professor Y and say there is a complaint and we are going to gather all this stuff, who else did you discuss the promotion of Professor X with? If Campbell Dalglish is one of those people, yes, we are going to come in and copy the hard drive of your computer.

**Professor Dalglish** – What human being is actually reviewing this? Certainly lawyers involved in the case, but who else? Chairs, presidents? **VC Schaffer** – No, our obligation and our goal is simply to make sure, when we get discovery requests in litigation, that we have fully complied with them. The only people who would have any reason or need to look at this will be lawyers from my office, possibly your college counsel but generally not, and then the lawyers from either the Attorney General's Office or Corporation Counsel. When I say lawyers, I don't mean to sound like there is a team of 17 lawyers such as you hear about in these big commercial cases. We are lucky to get one. So it is maybe one lawyer from the AG's office, one lawyer from my office, and possibly the lawyer from your campus would be looking at this -- also a tech person, who will apply the protocol. So they will come up with a list of key words that they want to search for that would indicate relevance. Otherwise, the universe is too big and you waste hundreds of hours. So you put in the key words, and you get 27 e-mails that hit the

key word. Then someone has to go through and see if they are really relevant, and is there any possible claim of privilege. And that would be one of those lawyers, and it's a small number. **Professor Dalglish** – So the mere suspicion of Professor Y could lead to the seizure of Professor X? **VC Schaffer** – It's more than a suspicion; the allegation of a complaint, yes.

**Professor Pecorino** – I am hoping that your language now, which has moderated from the original multi-step process, prevails. But suppose the accused is Professor X, and Professor Y finds out that there is a case against Professor X. Could you please let us know if you have any pertinent documents in your file cabinets or your electronic devices? Professor Y says, well, I might have e-mails on my college machine. I have four other devices that I use to answer e-mail and have some communications on, and I have four or five memory sticks, but I don't think any of that has got anything to do with Professor X. And, oh yeah, thanks to your suggestion I have an external hard drive at home, and I back up everything on my college machine onto there every Friday and then wipe my machine. I think Campbell used the word "seized," and you used the word "request." Which is it, and how do you seize something? **VC Schaffer** – It's both. There is going to be in these cases, and I don't want to mince words, some computer hard drives that are going to be copied, not seized. We aren't taking away your computer, but they will be copied, the entire hard drive. Our right to do so only pertains to University equipment. **Professor Pecorino** – That's good. **VC Schaffer** – It's not your home computer. I don't know exactly what to say about flashdrives, because they are so portable. Most of you to some degree probably buy your own. I doubt we even provide you with flashdrives. No? A few years ago when I taught at the Law School, I was lucky to find a piece of chalk at the blackboard! We are basically talking about your office computer and possibly a laptop if you've been issued one. Beyond that, we will ask you whether there are other places where you might have other relevant information, and we have to rely upon honest answers as to what else there might be. **Professor Pecorino** – So if we back things up, as you suggest, it is better to have our own backup drive, and take it home? **VC Schaffer** – If I were in the situation of doing this, and you said to me I have a University issued external hard drive, and the only thing I keep on that is my research, I would say fine. Let me be frank about this: we can copy your hard drive without even entering your office. That's what we are going to do in almost every case. We are not going to sneak into your office and copy other things. We are going to ask you, is there anything else? We need to make sure we are meeting our obligation, and obviously the speed with which we do it depends a little bit on what the person's role is. You learn about people who might have knowledge as you go along. Some people are peripheral, and some are central, and you act accordingly. We worry about people purging information if they are the ones who are accused of wrongdoing. If you have more peripheral people, we don't worry that much about it.

**Professor Talarico** – Some of the questions that came up had to do with the fact that I regularly get rid of and clean out my e-mail box and delete messages because we all have a finite amount of space. **VC Schaffer** – There is nothing wrong with this. Now with respect to hard copy documents, the University does have a Document Retention Policy. But with respect to your computer and deleting e-mails, we all do it all the time. If you

haven't received a litigation hold notice, and you have a routine practice of purging your e-mail box because who can not do that and remain sane, that is fine.

**Professor Baumrin** – I'm looking over this sheet of paper, and see the expression "if the employee works at home." With all due respect to the drafting abilities of your staff, I don't understand two of the words, "works" and "if." Now the "works" part, I don't get. I assume it isn't my work, it's your work, unless it's any work. Or it's University work. So that's a problem. But "if": does that mean I don't come under this policy? If I don't work, I don't come under the policy, right? Suppose I don't work at home? So I don't come under the policy, right? **VC Schaffer** – No, your home computer doesn't come under any obligation to search. "If the employee works at home" is a qualifier to "even a home computer." **Professor Baumrin** – That's all that is a qualifier. So if I don't have a computer I don't come under the policy, or if I don't work at home on the computer I don't come under the policy. **VC Schaffer** – Your home computer isn't relevant if it doesn't exist, or if you don't work at home. **Professor Baumrin** – You might like to suggest to the faculty who like to be outside the ambit of this policy that they just not work at home. **VC Schaffer** – I'm not suggesting that. **Professor Baumrin** – If this is a quotation from the policy, and not a quotation from the draftsman's explanation of the policy, it leads ineluctably to the conclusion that working at home is a dangerous occupation.

**Professor Mike Vozick** – Adjuncts are particularly nervous about things that affect their careers at this University, as you well know. Would you review briefly and pointedly what protections are available to a faculty member who is accused or involved in a case with regard to exactly what materials will be forwarded, and particularly included in that is what input the faculty member will have, who will make the decisions, will the faculty have advance knowledge or review of what is being transmitted, and how much is this policy in writing so the faculty member is actually protected against what they may feel is decision making behind their backs? **VC Schaffer** – The answer will vary from case to case, but the ultimate decision has to be made by the lawyers because they have the obligation to the court to turn over relevant, unprivileged information. In cases where it's a close call, for example when it is not clear whether a document actually refers to the subject of this dispute or perhaps to something else, a good lawyer will sit with the person whose document it is to understand what the document is. If there is an issue of possible privilege, the lawyer will do the same. So to answer your question, it varies from case to case, but it depends upon the good judgment of the lawyers. If your question is what absolute guarantee is there, then the answer is there is none. **Professor Vozick** – Then your protection depends on the quality of lawyer you have representing you if you're a faculty member, and their ability to tangle with you and other lawyers in the situation to protect your interests? **VC Schaffer** – Let's be clear that the lawyer involved does not represent you. The lawyer involved represents the University, not individual faculty members. Now, in some cases, if you're a named defendant you may also be the client, not really of the CUNY lawyers, but the Attorney General's or Corporation Counsel's lawyers. They will also be representing you individually to the extent that you have potential individual liability. By the way, under federal anti-discrimination laws, there is no individual liability, but under state and local, there is. So,

yes, it is possible that a faculty member could find himself or herself a defendant and have potential liability. But to set the record straight, at the end of the day, you have a right as a state or city employee not only to representation by the Attorney General's or Corporation Counsel's Office, but also indemnification. So I don't want you to stay awake at night worrying about this, but in those cases where the documents are that of an individual named defendant, then the lawyer is YOUR lawyer as well, and in that case I would think as a matter of professional responsibility the lawyer must consult with you.

**Chair Cooper** – Thank you for your time. I'm assuming if anyone comes up with a question after this, you will get in touch with me, and I will have it forwarded and addressed. We have also invited Interim Senior Vice Chancellor for Budget Marc Shaw and Matt Sapienza, the head of the budget process at CUNY, to talk to us about some of the issues we have heard about at committees and other meetings because the future of funding at the University is of course something we are all going to worry about when it becomes a matter of making hard decisions. Would the two of you please come up?

**VC Shaw** – When I came here a few months ago, I tried to paint as dismal a picture as I could, and I was hoping you wouldn't invite me back based on that! You did, so I brought Matt to discuss the real numbers here. As you know, the focus in Albany is these tremendous multi-billion dollar deficits, and the way they plan on handling them for the most part, given the political reality of Albany right now, is to find places to cut, and CUNY is one of their favorite places to cut. We will spend a lot of time to fight it off, but the reality is we need to be prepared for the cuts that are going to come both from the economy, the dysfunction of Albany, and the added ingredient of a new Governor whose first term in office is going to be, as a political animal, let's get the bad news out of the way so let's cut the crap out of government the first year in office. This is combined with the fact that in the beginning of an administration, probably the most powerful group in Albany is the Budget Division. They are the permanent government. There is that joke about the Budget Division is on the first floor and the Governor is on the second floor because they hold the second floor up. In the first year of any administration, whether it's the city government or the state government, the Budget Division has enormous power, in part because it's one of the first real permanent staffs that the Governor has, and also everybody else if new. There may be a new budget director, but the institution is there, and all these other agencies have new commissioners coming on and they are still trying to figure out where the bathroom is while the State Budget Division is cutting the crap out of them. **Professor Martell** – Saving them a trip! **VC Shaw** – I left that part out the last time I was here. So with that, I'll let Matt give you the sobering reality of the budget situation that is coming.

**Associate VC Sapienza** – Thank you all for inviting us here tonight. I will give a recap of the budget very quickly so we can have time left for questions. The state budget was not enacted until the first week in August. The state budget is supposed to be adopted by April 1. It was not. The first week of August they finally came to an agreement. For CUNY's senior colleges we received a reduction of \$84.4 million. That was broken out into two main components. One was about \$64 million that was a straight old cut, and another about \$20 million cut that was tied to workforce savings. The Governor in his

budget proposal had asked for \$250 million from the unions in workforce savings, and CUNY's portion of that was \$20.8 million. When the Governor proposed his Executive Budget in January and called for this \$250 million and in the subsequent months there was a lot of discussion and proposals put forth, there were furloughs, there were payroll lags, and none of that ever had any traction with the unions, so none of them were able to be agreed to, and therefore bring down all of the agencies' workforce savings targets. There is an early retirement incentive that was approved by the State legislature, and that is out there. There may be some saving from that which would help offset the workforce reduction, but for CUNY the ERI savings are going to be very minimal against our \$20 million target. And so our budget has been reduced in the past year by \$84 million.

For the community colleges, there is also a reduction. The Governor in his budget had proposed a state aid reduction of \$285 per FTE, which interestingly enough was also about \$20 million for the community colleges. The Legislature in their budget proposals had fully restored those funds, but the Governor went in and line item vetoed every single legislative add or restoration – 6,900 line item vetoes. So the community colleges are also down \$20 million in terms of year to year funding in the state budget as well.

On tuition, the Board of Trustees had approved a budget year for 2011 that included a 2% tuition increase. However, the state in its budget did not authorize the revenue that is associated with that 2% increase, and if the revenue is not added to the University's budget, we can't spend those funds. Because of that, the University did not go forward with the tuition increase for this fall.

In addition there was a lot of talk about the Public Higher Education Empowerment Act, which would have given SUNY and CUNY more flexibility in terms of setting tuition rates, and in procurement. This was a proposal of the Governor, and something that SUNY was really pushing for, but it went nowhere in terms of the state enacted budget. None of the proposals in the Act were included in the final state budget.

On TAP, again the Governor had proposed reductions to the TAP program. The main one was a \$75 reduction in all TAP awards. Again, the Legislature had restored those cuts, and the Governor went in and lined item vetoed that restoration out, so all TAP awards will be reduced in the current year by \$75. In addition, there were some changes made to the academic progress standards for TAP students, so for next year students are going to have to take 15 credits a semester, not 12, in order to remain eligible. Grad students are no longer eligible for TAP as part of these new regulations. So there are some hurtful things that happened on the financial aid front of the state budget as well.

A few other things on the state budget. One is the child care funds, which were reduced by \$750,000 through the Office of Children and Family Services budget. And the CUNY Leads Program for students with disabilities which provides educational and vocational services to these students, funds had been historically received from the State Education Department for this program, the funds were sunseting in fiscal year 2011, and there were no funds added by the state for that program for this year unfortunately.

So not a pretty picture from the state. What does this all mean for the colleges and the colleges' base budgets specifically? Well, what this \$84 million cut means is that over the last three years we have sustained \$205 million in reductions from the state. For fiscal years 09 and 10, the colleges had to take some cuts but for the most part the senior colleges were able to manage those cuts in such a way as to keep them away from core operations and from the main mission of the University. We had some good budget years the last several years, and some terrific enrollment increases, which allowed colleges to build up reserves and have sufficient revenues to help manage those cuts. But now we are feeling the cumulative effect of these cuts. Having three years of cuts, colleges are starting to feel some pain and have to make some tough decisions in the current year. So the University, when we allocated the budget to the colleges at the beginning of this fiscal year, reduced each senior college budget by 2.5% and we asked colleges to put into reserve an additional 1.25% as a hedge against the continuing uncertainty in the state budget. In addition, we increased all college tuition targets by \$7 million, which is tied to enrollment increases – that's about half of what the predicted enrollment increase was for this year. So, again, colleges have to make some tough decisions, especially those colleges that were ending fiscal year 10 with some fiscal challenges. Now they have some cuts on top of that. Some of the other senior colleges that ended fiscal 10 in a strong position are more able to manage those reductions.

For the community colleges, we had this \$20 million cut from the state, but on the city side the budget was adopted in the last week of June, and we actually did pretty well. All of our mandatory costs were funded. The Mayor added \$7 million for increased costs from our growing enrollment at the community colleges, which was very helpful. The start-up costs for the New Community College were funded, so we did pretty well on the city side. However, today, as you will all be hearing on the news tonight, the Mayor issued a mid-year reduction and a reduction for next year for all city agencies except for the uniformed forces and the Department of Ed the reduction was 5.4% in the current year and 8% for next year. For the DoE and the uniformed forces it was 2.7% this year, and 4% for next year. So CUNY's target in the current year is \$13 million. That is a significant number. However, this is an exercise that the Mayor is doing as part of his financial planning process for this year and next year, so at this point it is just a target. We hope it will be reduced, but we are looking at some mid-year cuts in the current year, so that is unfortunate.

I also wanted to mention about the community colleges, going back to the state budget, that we received about \$187 million in state aid for the community colleges. And \$32 million of that for fiscal 11 is generated from the federal stimulus program. This is a big risk in the state budget going towards next year's budget for fiscal year 12, that if the stimulus program does not continue the state will have to find, we hope, \$32 million of additional funds to backfill that federal stimulus money. That's another thing we will keep our eyes on for the community colleges. In terms of allocating budgets to community colleges for fiscal 11, we allocate to the community colleges based on an allocation model, which is mainly derived from enrollment of FTEs. This year we were able to fund 90% of this aspirational model. You may say 90% sounds pretty good, but you have to realize in recent years, for instance in FY 10, we were able to fund 99%, and

the year before, 98%. So we've been able to fund almost 100% of what this aspirational model calls for. So the community colleges are starting to feel the pinch, and the cumulative effect of these cuts, with a combined \$14 million mid-year cut from the state and the city for the community college last year.

For FY 12, we will present our budget request to the Board of Trustees at the November meeting. So while we are keeping our eye on FY 11 and trying to close up FY 10, we are also planning for FY 12 as well, and we will have discussions soon with our Budget Advisory Committee of the Faculty Senate.

Overall not a pleasant picture, unfortunately, for FY 11 with, as Marc mentioned earlier, the new administration coming in on the state-side, and with the deficits that both the city and the state are looking at, over \$3 billion and the city over \$8 billion, respectively. Next year is not going to be a good budget year as well for us. We have to all work together, and make sure we use our resources efficiently to try to get through this valley that we are in. All of you have been around a long time and watched the budget game, and you know there are peaks and valleys. Hopefully we will be able to get out of this shortly, and get back to not having these bad news presentations and talk about allocating money to the colleges and not reducing. We will take questions now.

**Professor Crain** – When you are speaking with people in Albany, do you ever feel it's right to take the opportunity to raise the broader issue that CUNY basically serves low-income and poor students, and what the government is doing is cutting money from the poor while the wealthy sector of our society is doing just fine while it's screwing up the rest of the economy. There are things they could do, like raise real estate taxes or stock exchange transfer taxes. They won't do them because they say Wall Street will leave the city. **Vice Chancellor Shaw** – In case you ever noticed, Albany is not a place where they discuss the merits of an issue very often. It's a totally political world that they live in. The last thing they want to do is hear from some budget type coming out of the City University telling them how to balance their budget, and what taxes are good for them to raise. Those discussions get nowhere. What we do, though, because we are cognizant of your point, instead to deal with that issue at the end of the day we are going to do our best to beg, borrow, and steal money out of Albany and get our "fair share." So where else do we get money from? The obvious place is tuition discussions. In those discussions, we make the point that from our perspective we can't raise tuition unless the State raises TAP in equal dollars so that we can get money for the budget to make up for some of the cuts, but it doesn't come from poor students because they will continue to fund their education through TAP. That is where we draw the line in fighting for things out of Albany, making the point that we don't want to raise tuition unless the State raise TAP to equal those tuition dollars. **Professor Crain** – A large percentage of our students do not receive TAP. They are too poor to go full-time, and they made that harder. I don't like that approach to raising tuition. **VC Shaw** – Nobody likes raising tuition! **Professor Crain** – They've got you isolated because the people you talk to will not talk about the broader issues. **VC Shaw** – They do to some degree, but they don't want to hear about it from the City University of New York. They think they are making important decisions

about what's the proper allocation of their resources, and we are just like any other agency.

**Professor Kay Conway** – You mentioned TAP and Pell. The change to 15 credits a semester from 12 will be a burden to our student who go part-time. Is there also a change in the amount of remedial coursework that they will pay for, because that has a huge impact on our students – the combination of real credits versus developmental credits. Can you also tell us if anything is going on with the Pell program? **Mr. Sapienza** – There are a slew of changes to TAP. To answer your question, I don't know how the remedial credits are affected. But the one thing about these TAP changes is that they are tied to the state budget for this year, meaning that technically they sunset once the fiscal year is over. However, since these changes are part of the state budget, going forward now this is our starting point. The good thing for the academic progress standards is that we have now a new budget cycle to try to lobby and negotiate with the state and show them how hurtful it is for our students especially to try to get this changed back to 12. It is encouraging that the state legislature agrees with us, because as part of their budget proposal they restored these proposals by the Governor. And, we're going to have a new Governor. We do have some time to try to fix this for next year, and it appears we have legislative support. So we hope this is only an issue for this year. On Pell, that is one of the few bright spots this year. It increased from \$5350 to \$5550. We want this to go to the students for books and other needs, but unfortunately it's going to have to cover some of the shortages in TAP and other financial aid choices like the Vallone Scholarships as well.

**Professor Pimentel** – We are disappointed with Governor Paterson's decision to cut the community colleges. He doesn't have anything to lose because he's not running for anything again. But I am concerned from what I hear from you that to address this situation you want to revive the whole Empowerment Act, apparently. Many faculty and students didn't feel it was the solution to the University's problems -- differential tuition, and so on. We need to take a more creative approach, if possible. Are you willing to go to Albany with us and try to advocate in a stronger way for public higher education? My son started in the fall at CUNY. I am deeply committed to this University, and I would like the people running the University to share that core feeling.

**Professor Philipp** – Recently Joseph Frye of the State Education Department wrote to college presidents saying the TAP rules as passed by the legislature and Governor had a loophole in terms of the remedial students which they could use for the majority of students who had TAP in the previous year, so the 15 credit minimum would not apply to the bulk of students. Has something happened to affect this? **Mr. Sapienza** – Yes. The legislation that was enacted for TAP on academic progress standards technically called for this standard to be effective immediately, and to go back to last spring. Basically we had students who played by the rules last year and took 12 credits, and now they are saying, sorry, we changed it to 15 so now you're not eligible even though you took 12 last spring. So colleges public and private were up in arms about this. CUNY took the lead in terms of lobbying the state to fix this. Working with the State Ed Departments and the State Division of Budget, there were some amendments made so that the SAP

wouldn't be effective until next fall. So students have some time to accumulate the sufficient number of credits, and so colleges have time to communicate and make sure students understand what the new regulations are. **VC Shaw** – It is solved retroactively to not be a problem for this year, but going forward it's still a problem. **Professor Philipp** – The law would have to be reenacted anyway? **VC Shaw** – Right.

**Professor Pecorino** – I heard that when the ERI was passed, there was provision for the backfill at the senior colleges for the full amount but at the community colleges for only 50%. Did you hear anything like that? **Mr. Sapienza** – The state said for all agencies including CUNY the ERI backfill would be at 50%. For most of our positions, especially faculty positions, because of the disparity between the salary of the people who will take the early retirement compared with the salary of the people who will be hired, we would probably be able to hire for every 10 faculty who retire probably 6 or 7. For trades titles where the salary would be very similar, it would be 50%. On the City side the Mayor had the capacity to opt CUNY out of the early retirement program, but we were successful in getting him to let the community colleges participate.

**Professor Cooper** – A former Chair, Susan O'Malley, is here and wishes to ask a question, so I need unanimous consent for her to speak since she is not a senator. Any objections? **Professor O'Malley** – Today the Mayor said there is a hiring freeze. Does that apply to the community colleges? **Mr. Sapienza** – We are not sure yet. We got a memo today but we need to work with the Office of Management and Budget to see which of our titles it applies to.

**Professor August** – Are you aware that the increasing hours add up to a huge financial burden on most of the students because at a community college students are taking more courses than they can actually function with, so they are failing and repeating these courses. By adding more courses, we will kick more students into part-time, and then they will not be eligible for TAP. If there is an exchange, the important thing to fight for is to keep a reasonable credit level. Otherwise, we will have students who take 8 or 9 years to graduate from a two-year college. We lose money either way. **VC Shaw** – Obviously, we're just telling you the bad news. We didn't propose any of this stuff! Yes, they did do it as a budget reduction. They meant to cut kids off of TAP to generate X dollars. Of course we fight it, but the game is over for purposes of this year. We don't want it to happen, and in addition to that, most of the people here are at the City University because they believe in it. We are also aware that it discriminates specifically against CUNY because we have twice the number of part-time students who fall into this category. It's discriminatory against the city, against CUNY, and we will fight it, but we're just talking about the reality of it right now.

**Professor Kaplowitz** – Are enrollment figures lower than we expected? I understand that transfer students into CUNY and new freshmen at the senior colleges are down. Have you done an analysis yet of why they may have happened? **Mr. Sapienza** – The University had expected to grow about 2.5% in FTEs, and the data show we are growing at about 2%. So we weren't too far off, but you are right at certain colleges there was a lower than expected enrollment for the fall, and we are now trying to figure out what it is.

Are the privates responding to CUNY's growing enrollment and maybe changing some of their financial aid packages for students who might come to CUNY, or is it some changes that occurred in CUNY's own policies?

**Professor Angela Crossman** – Assuming that tuition increases are inevitable at some point, what proportion of that gets reallocated to the University? **Mr. Sapienza** – In prior years going back to when tuition was first enacted at CUNY in 1976, 100% of increases went back to the state to fill budget deficits. For the tuition increase that we did for fall 2009, which was 15% at the senior colleges and 12.5% at the community colleges, the Governor proposed that for the first time CUNY would be allowed to keep a portion of that increase for investment. Last year, it was 20%, and it is supposed to go up by 10% each year until in FY 2013 we get to keep 50%. In the 2011 budget, the Governor did keep his word and it went up to 30%. The Compact Initiative that we proposed several years ago, which is still the financing vehicle we are going to use for our Budget Request, calls for 100% of any tuition increase to go towards investment, not towards filling state budget gaps. **Professor Crossman** – In terms of public relations, not pillaging indigent student tuition to pay for state government would be a reasonably good argument, maybe!

**Chair Cooper** -- Thank you both very much. The M & M Show! Now here is former UFS Chair Susan O'Mally, who is now president of the CUNY Academy, one of the children of this body, and we wanted you to be introduced to your offspring.

**Professor O'Malley** – Why you should become part of the CUNY Academy for the Arts and Sciences is that it is the only CUNY organization devoted to enhancing scholarship and research open to all faculty from 2- and 4-year, and graduate and professional programs. You can look at the handouts and see what we did last year, and plan to do in the coming year. We would love to have more people join us. You heard about the Stewart Travel Awards – 42 young faculty members got travel grants last year. Not bad. The Feliks Gross Award is for new faculty who show outstanding promise in research. We had two last year, who got money and a plaque and a ceremony. Some money was left by Professor Eisenstadt for an annual lecture on American History. Last year Wendy Wall of Queens College in Canada gave the talk. But the heart of the Academy is the seminars, and that's where I would love it if people became more involved. I did the Higher Ed Seminary with Henry Wasser. If you have any ideas, or would like to come, if you join you will get a notice. Jonathan Cole, the past provost of Columbia, is speaking on Friday about his new book *The Great American University*. Then there is a Greek seminar, if that interests you. It's quite lively, with about 75 people who come. The next one is in December, on medieval chant tradition. There is a new seminar in Urban Ethnography by a retired professor from Brooklyn. If there is a seminar you would like to sponsor to get people together, you can use the Academy to do so. We are not rich, but we do have rooms and money for coffee. We also sponsor conferences. In the spring there will be an election for new officers and board members. That's one way of getting involved. Currently there are 80 members, which we would like to get up to 100 or more. There is an office at the Graduate Center. We need new members! Some of them are aging! Thank you.

### **IIIA. Report of the Chair**

**Chair Cooper** – Now, the United States Department of Education has begun investigating some of the for-profit colleges and universities, and the most recent evidence of this investigation in the last month, and this is just yesterday's *Times*, has been these ads that the for-profits have been taking out in order to try to derail the potential new regulations that the U.S. Department of Education wants to introduce. If you paid any attention to these hearings, you will see that investigators from the Department went into the offices of some of the for-profits pretending to be students, and were told of all the aid they could apply for and how much Pell money and federal grants they could get. So there were these incredible tapes taken, basically of fraud. The problem with for-profits, unlike us, is that there is no regulation because they are national and cross state lines, and they wish to remain that way. There are also corporations which sell stock on Wall Street with a great deal of capital invested in these activities. If it were not for Jay Weiser, our legal advisor from Baruch, I might not have recognized the importance of this for us. It is important for us and other respectable universities, beside the moral issues, because a great deal of public funding is going into the way these corporations are increasing their bottom lines. They are dependent on Pell and other public funds. Those funds are threatened to be cut from everybody, including our students. So we undertook a minor letter-writing campaign, and you have copies of a letter that I sent to Senator Tom Harkin, and we're going to ask you to endorse a resolution that we prepared.

Also with Professor Weiser's help, we have begun to examine the governance document being prepared for the new community college, and also to examine a policy statement being pushed at 80<sup>th</sup> Street, I believe, as a result of provosts' pressure – to change the Multiple Position policy. It isn't clear what faculty's views of this are. Some of your campuses have discussed this, and others have never heard of it. The intent on the part of provosts seems to be – and this is supposition -- to increase the statistical number of full-time faculty teaching courses on their campuses, which will improve the PMP ratings. What this does to the ability of especially senior faculty to provide service on their campuses is a question that I have. And in part, it's a reaction to the fact that a number of adjuncts are being restricted in how many courses they can cover. I don't know exactly, but I do know the provosts at the Council of Academic Officers have been pushing for this. I have shared the proposal to a number of people, and I'm waiting for their reactions and also for Jay Weiser's very thoughtful analyses. If anyone wants to introduce a debate on this, I think we would like to hear everybody's opinions.

### **IIIB . Report from Representatives on Board Committee**

**Professor Martell** – There is a written report. Please read it. I would encourage you to go to the CUNY website, find the August 30 Fiscal Affairs Committee meeting, fast forward through about 2/3rds of it, and watch Benno Schmidt's reaction to earlier budget remarks. It is worth the effort. It's truly riveting. I believe it was spontaneous. What he basically said is that the traditional way we have been funding this – and it wasn't particularly clear whether he was talking about state funding in general or the Compact in

particular, or what – is simply not working for CUNY, and more things have got to be put on the table. Think about what possible things they could be talking about in terms of restructuring or cost cutting or tuition increases, or some combination thereof. It was an extraordinary session, and worth hearing just to get a sense of the man's frustration at having to deal with an ever-shrinking pot of resources to fund an ever-increasing number of students and expectations about what those students are going to be able to achieve.

### **IIIC. UFS Budget Advisory Committee**

**Professor Martell** – The Budget Advisory Committee of the UFS, which I also chair, is also considering what if any position it should take and recommend to the Executive Committee, and then to the Plenary on some of these issues. I would encourage everyone here to take an active role now, this semester, in regard to budget decisions on your campus. If you don't pay attention, you're going to find the train has left the station without any faculty input. I see significant problems at John Jay, and I know there are significant problems at Baruch, and I assume there are budget problems at many other places. Please make the effort to find out what is going on at your campus, and make sure through your governance channels that the faculty's thoughts are part of the process as the process is being developed. **Professor Baumrin** – To be prepared on your own campus you have to have a retrenchment committee in hand before the administration decides what it's going to do. There has to be a faculty-driven way of looking at the budget limitations as they affect your campus. You just have to have all the relevant bodies or persons in place so that the administration has to deal with a faculty body. That's how you forestall their deciding one afternoon over a cup of coffee how to handle everybody's life. **Chair Cooper** – The Chancellor has promised publicly more than once that retrenchment will not occur. **Professor Kaplowitz** – It think it's regrettable that Professor Baumrin called for faculty to make sure there are retrenchment committees on campuses. Retrenchment is only after the Board of Trustees declares a state of fiscal exigency at the university, and that triggers the formation of retrenchment committees on campuses. There is no indication that retrenchment is in sight. Retrenchment is breaking tenure. Professor Martell just mentioned that John Jay and Baruch are in particular difficulty. John Jay has a \$4 million deficit, and Baruch a \$6 million deficit. We have a fiscal plan to address the John Jay deficit, and there is no contemplation of firing any full-time faculty or staff according to a memo from the president. This is not to say it is not a difficult management. Every campus should have a faculty budget committee, where the faculty are really consulted and get all the numbers on the budget, both soft money and tax levy money, and where faculty insist on having meetings and calling the administration to account. That's our role. If we do that well, then with the more respected university we have today and a very talented and effective Chancellor and chancellery on board, I don't think there is any serious contemplation of retrenchment, and I hope there never is again. It devastated the University when it happened last.

**Professor Crain** – Could the Senate collect data on the growth of administration, and security, and the faculty so we have the statistics? **Chair Cooper** – This really has to be done on the campuses. You have to take a survey of the size of the administration in the past two years. I would recommend that people start collecting this information.

**Professor Vozick** – You mentioned that adjuncts were being cut back. They are a majority of the faculty at the community colleges.. **Chair Cooper** – I meant to say they were being restricted in the number of courses they could teach each semester. **Professor Vozick** – I would like to point out that that fraction of adjuncts that is most committed to the University that is earning their main income is sorely hurt by this process. They bring to the University and the full-time faculty a set of skills that may be of considerable value in reducing the onerous overload that many full-time faculty experience in areas like advising and observations where adjuncts could be helpful. I would like to ask the Executive Committee to put its mind to it, and see if there is a way we could look at this intelligently and perhaps address it. **Chair Cooper** – I would point out that the business of the adjunct workload is a union contract matter, and this body has no authority to address that subject. I mentioned it as a way of explaining the potential reasons for the multiple position policy change; I was careful about not asserting anything as fact.

**Professor Jacobson** – I would like to remind Faculty Governance Leaders that the Committee on the Status of Faculty has requested that you go through the Faculty Experience Survey and if you have had some reports that are not too favorable, see that there is some change on your campus, and that your campus has taken note of them. We have asked you to report back by the end of October so please get your faculties to do that. Thank you.

**Professor Talarico** – Given the budget crisis that looms, could we get reports back about budgetary information from all the campuses, hiring patterns, what all the different situations are out there, and what is working? **Professor Martell** – There is information on staffing on the CUNY website about colleges that will give you a good sense on a annual basis of what is happening with broad categories. **Professor Cooper** – I urge people to start making a study of their administrations. It's one of the best ways to fight back when budget cuts start to come.

#### **VIIA. Resolution in Memory of Martha J. Bell**

**Chair Cooper** – We are asking you to support a resolution in memory of one of our most honored and treasured members, Martha J. Bell, who died suddenly at the end of August, and who has spent a good quarter of a century involved in this organization, as well as at Brooklyn College, giving her all. The resolution has been distributed to you. We had an obituary in *The New York Times*. Can I have a motion for the acceptance of this resolution? This motion is voted by acclamation. We will send copies to her survivors. You can see in the resolution that a fund has been set up in her memory, which would welcome contributions. Let us have a moment of silence.