



# FORDHAM UNIVERSITY

THE JESUIT UNIVERSITY OF NEW YORK

## Faculty Senate

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Dr. Leonard Nissim/FCLC (ext. 8-6331) [nissim@fordham.edu](mailto:nissim@fordham.edu)

Meeting: O'Hare Special Collections Room, Walsh Library, Rose Hill Campus

Guests: Dr. Stephen Freedman, Provost

Dr. Nicola Pitchford, Associate Vice President for the Provost

Dr. Andrew H. Clark, Chair of the Salary & Benefits Committee of the Faculty Senate

Dr. J. Andrew Foster, Chair of the Library Committee

Excused: Senators Tracy Higgins, Eve Keller and Harry Nasuti

1. **Call to Order:** The meeting was called to order at 12:50 by President Grace Vernon.

2. **Invocation:** was offered by Senator Cohen.

3. **Matters Presented by Dr. Stephen Freedman, Provost:**

**Law School Dean Search:** The search is now in its final phases with a short list of candidates being considered. On campus interviews will be set up this month.

**Center for Teaching Excellence:** Provost Freedman complimented Ann Mannion for the great work she has done in developing and advancing the work of the Center for Teaching Excellence to date. Drs. Freedman and Pitchford see the CTE as an important element in the faculty development initiative, and want to see the CTE becoming a more visible actor and resource in the work of teaching among both junior and senior faculty. Dr. Freedman announced that Dr. Erick Kelemen, who is visiting assistant professor in English and Medieval Studies, has been appointed interim Director of the CTE when Dr. Mannion steps down this spring. A permanent appointment will be made later in the summer.

**Budget Fora:** Faculty are urged to attend the upcoming Budget Fora. At these events Dr. Freedman will explain how the new budget process unfolded, review the phases of decision-making, and end with giving the results of this year concerning distributions of monies, followed by a Q and A.

**Restructuring of Provost's Office:** A restructuring of the Provost's office and its procedures is underway in light of this year's accomplishments and some areas for improved effectiveness that have been uncovered. Further announcements will be made later in April.

**International Programs:** Currently, Provost's office is recruiting an Assistant Vice President for International Programs, as Susan Ray is returning to the faculty. This has provided an opportunity to rethink and restructure how the Provost's office works with other sectors of the university on the internationalization of Fordham's academic programs. Dr. Freedman has traveled a good deal in the past few months in the interest of further developing Fordham's international connections and programs, including to Peking

University and to India. Next week GBA Dean David Gautschi is hosting a major gathering in Turkey. Amid many great opportunities, we need to be coordinated, focused, and strategic in our use of resources for international program planning.

**Middle States:** Dr. Freedman reported encouraging news in the University's effort to respond to the requirements and deadlines set by Middle States Commission on Higher Education for reporting Fordham's progress on university-wide assessment plans. Middle States has been pleased with our efforts to respond so far, and the PRR will reflect this. Dr. Freedman thanked Dr. Jeannine Pinto, who has been overseeing Fordham's efforts.

**Accounts Payable Delays:** In response to questions from several Senators concerning severe delays in reimbursements being sent from the University for travel expenses incurred by job candidates, speakers, etc., Dr. Freedman indicated that this issue was being addressed at the highest levels of the institution. Accounts Payable has been adjusting to a new software program and process for reimbursement, in addition to being short-staffed during the transition. The Provost emphasized that budget managers can assist by taking extra care to make sure that budget numbers on the paperwork they submit are accurate. There was a major effort to catch up on reimbursements last month; this has been a challenge across the university.

Dr. Freedman also noted that delays in office-to-office paperwork within the Provost's office are being reviewed and steps taken to ameliorate.

#### **4. Report from the Task Force on Research Competitiveness by Dr. Joel Reidenberg**

Dr. Reidenberg reported to the Senate on the background to the task force, its membership, charge, and the current stage of their work.

**Background:** The UTFRC was initiated by the Provost in the fall semester partly in response to the NRC (National Research Council) rankings of doctoral programs; where Fordham programs did not rank as strongly as desired. In discussions with Provost Freedman, Dean Busch, and others, the question arose concerning how Fordham could improve the culture of research, looking at both qualitative and quantitative aspects, across the university (rather than taking a purely program-specific view.)

**Membership:** Work began in January with members representing a broad cross-section of faculty and administrators, plus one graduate-school representative, and Amy Tuininga serving as Rapporteur.

**Charge to the Task Force:** To formulate and make recommendations in five areas:

1. Identify broad goals for University research programs
2. Identify strategies to attain these
3. Identify metrics for assessing progress toward those goals
4. Align University resources with research goals
5. Identify and develop new funding sources for research

**Task Force's work thus far:** The UTFRC has held two faculty fora soliciting suggestions for each element of charge. Meeting biweekly, the UTFRC is in the midst of developing strategic recommendations for each of the five areas. Between 15-20 recommendations have been developed so far, and the group expects to complete the goals and strategies by semester's end. Work on metrics will be more challenging. It's clear that assess metrics will be very assessment-oriented, and the task force wants to look carefully for the best metric tools for assessing doctoral programs. Gathering the data and materials for putting together useful metrics is also a big job; they are trying to get a complete picture and accurate data sets.

**Current timetable:** Part I, report on Goals and Strategies by June; do background work on metrics over the summer; Part II completed by end of fall term. Questions, comments, suggestions re: topics to put on the Task Force's radar are encouraged and appreciated.

Dr. Reidenberg then responded to **questions and comments from the Senators.**

Q: Are your recommendations to date up on blackboard? Response: Not yet; we want to wait till we get the whole set complete.

Suggestion: There is quite a large literature on research outcomes and assessing these in various fields. The RCTF may want to access this literature.

Q: Why is the task force entitled "Research Competitiveness"? Does competitiveness have only to do with numbers of publications? Response: Probably because the genesis of the task force was concern, in light of the NRC rankings, that we were falling behind other schools.

Comment: NRC metrics address only GSAS. Currently, Fordham is fostering research at the undergraduate level as well.

Q: Competitiveness is comparison. Other goals for other branches of the university are not based on comparison; are there non-comparative/competitive ways of addressing research goals? Respons: We've had discussions about where we are and how we advance ourselves, non-comparatively. Then, we've looked as well at peer and aspirants. We are trying to look at this from both perspectives.

Comment/Question. First, thanks to the Task Force for it's work. While you are doing this at a university level, schools are having their own discussions on research competitiveness in terms of their strategic plans. In the way the Task Force goals are going to be worked out, will there be room for differentials in goals depending on that school's goals? Response: Yes. With regard to goals, we've written them at the "30,000 foot, bird's-eye" view. Terminology has been chosen explicitly to acknowledge that individual schools will have their own views on how to interpret and operationalize. To take one example: What does "research impact" mean? This may have quite different meanings in different schools and fields. This has to be defined more at the local level. So, our goals and recommendations will frame things in a general way: schools will specify and enact these goals/recommendations in their own contexts

Follow up Question: How will the Task Force ensure that there is a meshing of the university-level and school goals, as well as ensure feasibility/attainability based on resources. Where is the decision-making structure that will allow for these differential analyses of impact, different operationalization, but also deal with resources. Response (from Dr. Freedman): The Task Force's results will have to be reported to the Chief Research Officer, Dean Busch, and she will be in continuing conversation with the Task Force in order to get at exactly these issues.

President Vernon thanked Dr. Reidenberg and the Task Force for its work so far, and noted that this conversation with the Senate will definitely continue in the fall, given the high interest and stakes in the outcomes of the task force's work.

##### **5. Student Life Committee Report; Dr. Mary Procidano, Chair**

Senator Procidano summarized activities of the Faculty Senate Student Life Committee, which functions as an independent committee, and also collaborates with members of Student Affairs as a Working Group. The Working Group recently completed the last 2 of 4 planned guides for faculty, dealing with students' mental-health issues. (The first, "Responding to Mental Health Emergencies," was recently e-mailed to faculty jointly by Dr. Stephen Freedman, University Provost, and Jeffrey Gray, Vice President for Student Affairs; and also is available online on Fordham's website and on Banner. The second, "Responding to a Student's Threatening Behavior," will be distributed shortly). The Working Group also completed a review of Fordham's Judicial Process.

**Concerning the Mental-Health Guides:** Drafts of two guides, "**Responding to Students in Emotional Distress,**" and "**Responding to Students' Alcohol and Drug Abuse,**" were distributed and discussed. Discussion focused on several themes:

-Ways to get this information to all students, faculty, adjuncts, and teaching fellows. A pithy 'magnet' type summary with the relevant phone numbers—something that would be easily and visibly at hand-- was encouraged. However well information is disseminated, though, many faculty tend to access or seek it only when a crisis arises.

-The proper role of faculty in situations of student crisis, and that role's parameters. Some senators commented that faculty have limited skills in these areas; faculty role is to know the resources and to be able to connect the student to them.

-Concerns about staffing of the Counseling Center, in light of the increasing prevalence (nationally) of mental-health issues among college students. Need for Counseling Center staffing will increase as attentive faculty make more referrals.

-Faculty with concerns about students also may contact the relevant Dean of Students or Academic (Class) Dean.

**Concerning the review of Fordham's Judicial Process:** In response to a faculty petition submitted to the Faculty Senate in April 2010, the Senate directed the Student Life Committee to review Fordham's judicial process, in light of current best practices, in collaboration with Student Affairs. We designed a comprehensive approach consisting of a) extensive discussion of Fordham's judicial process; b) examination of an adequate ( $N = 30$ ) other universities' judicial processes; and c) examination of recent literature representing current best practices in university student conduct practice. At the end of this process, the Working Group prepared a report (See Appendix), which was distributed to Senators and discussed.

Issues and questions raised by the Senators included:

-Questions about the appeals process, including whether a faculty member can accompany a student to an appeal hearing? Response: Students can appeal the outcome of a judicial hearing; the appeal is heard by a judicial counsel composed of faculty, students, and one student-affairs member. A faculty member can accompany student at his/her request but may not participate directly in the proceeding (consistent with other universities).

-What accountabilities and protections for students are worked into 'due process'? Response: Public and private universities have different definitions of 'due process.' In private universities, the law defines due process as following the established procedures. Fordham's judicial process is described in detail in the Student Handbook.

-How well are administrative hearings actually handled? Response: The procedure is described in detail in the report.

-What recommendations does the SLC report make? Response: The report recommends that the Senate establish a standing Student Conduct Appeals Committee, modeled on the Tenure and Reappointment Appeals Committee, from which faculty members would be selected for participation in judicial counsels. This would provide a body of individuals informed about the appeal process. The report also recommends that the judicial process be included in the Faculty Handbook as well as the Student Handbook.

President Vernon thanked the SLC for its work and reports, and noted that the Senate will be revisiting these reports at an early fall meeting.

**6. Salary & Benefits Report: Dr. Andrew Clark, Chair**

**-LDA Benefits:** Updated appendices indicating the inclusion of legally-domiciled adults in faculty benefits have been posted to the Human Resources website. Thanks to Mr. Tom DeJulio and to Human Resources for their timely work on this matter.

**-Compression:** The committee will next meet on April 14<sup>th</sup>. A representative from the Schools of Business will be invited to that meeting in order to assure that the particular circumstances surrounding compression in the business school can be adequately addressed.

**-Audit:** of the salary figures sent to the AAUP over the past several years has been moving forward. Salary and Benefits expects to receive a preliminary report by April 29<sup>th</sup> concerning the assistant professors' salaries.

**-S & B Website:** A draft version of the new Salary & Benefits website has been submitted to the Provost's office for approval. The website should be up by the end of the spring semester.

**-Child and Dependent Care:** The Salary & Benefits Committee has approved for presentation to the senate the following resolution, which was moved and seconded (Gyug/Mannion).

DRAFT Resolution of the Faculty Senate  
April 1, 2011

Whereas Fordham University has made it a central strategic goal to recruit and retain a faculty of the highest distinction, as exemplified in the third initiative of the University's *Toward 2016* integrated strategic planning document; and

Whereas several surveys of the University's full-time faculty have identified the lack of benefits, monetary or otherwise, to aid members of the faculty in caring for their dependent children and elderly family members, such surveys also indicating that faculty members feel the lack of benefits in this area all the more acutely as a result of the high cost of living in the New York metropolitan area and the University's lack of official housing, rental, or mortgage benefits; and

Whereas the Faculty Senate is aware of cases where faculty members sought after by the University declined offers of employment in part because of its lack of child- and elder-care benefits, and likewise is aware of cases where graduate students and faculty members find it difficult to remain affiliated with Fordham as a result of the high cost and practical difficulties of arranging for child- and/or elder-care in New York; and

Whereas Fordham is now the only major Jesuit university in the United States not to provide benefits for child- and/or elder-care; and

Whereas the Faculty Senate, at its meeting of March 4, 2011, has identified the enhancement of child- and elder-care

benefits as a key goal in upcoming rounds of salary and benefits of negotiations;

Therefore, the Senate resolves:

- (a) **To instruct the President of the Senate to convey to the President of the University the Senate's grave concern that Fordham's lack of benefits for child- and elder-care puts the University at a steep competitive disadvantage in recruiting and retaining many faculty members, graduate students, and some undergraduates; and**
- (b) **To request that, on or before April 15, 2011, the Executive Director of Human Resources inform the President of the Senate and the Chair of the Faculty Salary and Benefits Committee of his office's willingness to work closely, efficiently, and forthrightly with members of the Faculty Salary and Benefits Committee in constructing a detailed proposal to implement child- and elder-care benefits at Fordham, including on-site child-care centers at each of the University's three campuses as well as a referral services and subsidies for faculty members who are seeking elder care and/or are unable or unwilling to utilize the University's child-care centers; and**
- (c) **As an alternative to request that the President of the University hire an external expert consultant to work with members of the Faculty Salary and Benefits Committee to construct such a proposal.**

Discussion ensued. Concerns and questions were aired concerning possible benefits, costs, priority of this effort in relationship to others. At this stage, only some of the cost is anticipated being borne by the university. Benefits of this initiative can go beyond the individuals who might directly use it; getting up to speed with other peer universities in this area will increase Fordham's hiring competitiveness, among other positives. It was noted that the current proposal is simply to get senate approval to develop a substantive proposal; all further, specific questions will need to be addressed in the formulating of that proposal and subsequent senate deliberations.

Resolution passed unanimously: 21/0/0.

**-Retirement:** In light of numerous problems reported by pre-retired and retired faculty in getting timely, transparent, consistent and reliable information and assistance, Salary & Benefits has asked the Senate to consider recommending the appointment of a Transition Officer in the office of the Provost. The Transition Officer would assist current and retired faculty in gaining needed information and help on questions relating to a) retirement, b) pre-retirement and c) individual problems related to a) and b).

Dr. Clark thanked Dr. Leonard Nissim and the Retirement subcommittee for its excellent work; including the generation of a useful description of retirement benefits that will be posted on the S & B website. Dr. Nissim noted that a brief questionnaire will be sent to pre-retirement and retired faculty in an effort to get more systematic picture of what is going on concerning health care and other benefits among the 160 retired faculty members. Dr. Nissim noted that the summary of retirement benefits created by the subcommittee surfaced a number of issues, including questions concerning medicare and faculty who are over 65 but still working; and large, complicated prescription co-pay plans. Finally, he noted that Sr. Monica, who is the liaison for retired faculty, will attend future meetings of the retirement subcommittee.

**2011-12 Salary Negotiations:** Dr. Clark reported that the Salary & Benefits Committee will meet the week of April 4<sup>th</sup> to review the salary figures in *Academe*, and determine the criteria and numbers for this year's salary negotiations, to be brought to the Senate for approval at its April 29<sup>th</sup> meeting. Unions on campus will receive a 3.5% raise next year. Getting approval of the new Workload Relief policy will also be a proposed part of the negotiations this year.

**7. Library Committee Report:** Dr. J. Andrew Foster, Chair

President Vernon began by thanking Dr. Foster and his committee for its substantial work this year. Dr. Foster shared the following highlights from the Library Committee's work during the current academic year.

**-Lost Materials/Adjunct Privileges:** About \$20,000 of library materials are lost per year due to adjuncts who disappear from the system without having returned checked-out books. Because new federal guidelines require that names be attached to staff-taught courses within two weeks of posting, this might provide an avenue for more efficient tracking of adjuncts and library materials.

**-Research Repository:** The library keeps an electronic repository of research and original scholarship that is created here at Fordham; keeping this repository updated with new faculty publications is important as Fordham aspires to become members of the Association of Research Libraries. It is in our interest to be part of this Association as we aspire to raise

Fordham's profile as a research institution. Chairs, program directors and faculty are urged to be attentive to getting faculty research into the library's research repository (see <http://fordham.bpress.com/>).

**-Shared Budgeting/Planning:** As one result of the university's shared budgeting/planning initiative, the library and Information Technologies are starting to develop a closer working relationship in terms of purchasing, acquisitions, and other areas of collaboration.

**-Sirsi DynixEnterprise:** (<http://www.sirsidynix.com/products/enterprise>) The library is working to get this program up and running over the summer. It will allow departments and programs to create "rooms" with boutique-type research protocols that can connect to the library catalogue and into the larger research world. The program assists in developing the elements of one's particular "research room" in order to tailor it to your project's specific needs. (Carnegie Mellon just implemented this upgrade.) This program has many potential benefits for faculty and the university; faculty collaboration will be essential to leveraging these benefits.

**-Library Strategic Plan Update:** The Library Committee has collaborated in on the update to the library's Strategic Plan with representatives of the library, Michael Wares, Assistant Director of Technical Services at Walsh Library, and Linda Loshiavo, Director of Quinn Library. After working through several drafts, the update was sent to the Provost's office; Linda met with Ellen Fahey Smith of the Provost's office to discuss it on March 31. (Minutes of these meetings are on myfiles and accessible via Dr. Foster [foster@fordham.edu](mailto:foster@fordham.edu)).

One key element of the updated strategic plan is **developing better working relationships between Fordham libraries and academic departments and programs**. Currently, Fordham libraries do not have area acquisitions librarians. Faculty or department input into acquisitions take the form of a link on the webpage for requesting the purchase of individual books. From a macro, collections standpoint this state of affairs has distinct drawbacks.

To address these drawbacks, the committee drafted a proposal to create within departments a formal position of **library liaison**, to be held either by a junior faculty member or an advanced graduate student. The position would have specific job descriptions, and include orientation and training. These departmental library liaisons could work to survey department area holdings, learn what department needs are, etc. Departments would be asked to present coherent purchase and on-approval acquisitions plans, and the Library Committee could help by vetting these to prevent overlap buying.

The Library Committee recognizes that such a plan is an effort to ameliorate or 'patch' problems of under-resourcing of the library (e.g., lack of area acquisitions librarians) through faculty/departmental liaisons, and collaboration between the Library Committee and library Acquisitions. Regular on-approval buying subscriptions for the library were suspended during the financial crisis, and this has left a "donut hole" in library collections that needs to be remedied. The present structure permits and fosters under-spending, and it is crucial that this aspect of library procedures be addressed.

**-ARL, RLG Membership:** Another key (longterm) strategic goal is to gain membership for Fordham libraries in two important associations, the **ARL (Associated Research Libraries)** and the **RLG (Research Libraries Group)**.

"ARL is a nonprofit membership organization of 126 research libraries in North America. The Association operates as a forum for the exchange of ideas and as an agent for collective action. Membership in ARL is institutional." ([www.arl.org](http://www.arl.org))

RLG: "For libraries and other research institutions who want to invest money and staff in collaboratively designing their future services, the RLG Partnership is a global alliance of like-minded institutions that focuses on making operational processes more efficient and shaping new scholarly services by directly engaging senior managers. The RLG Partnership is supported by the full capacities of OCLC [Online Computer Library Center] Research, informed by an international, system-wide perspective and connected to the broad array of OCLC products and services." <http://www.oclc.org/research/partnership/default.htm>

Since aggregation and syndication are obvious trends, ARL makes sens. It will take several years to meet the ARL membership criteria, which requires, among other things, a dedicated development protocol for the libraries. Fordham applied in 2004, and was turned down, but provided with a roadmap for meeting the necessary criteria. RLG carries benefits to faculty wishing to use other research libraries, and the cost has come down in recent years. Pursuing these memberships will reap benefits for Fordham faculty and students, and increase the quality and strategic positioning of Fordham libraries.

## **8. Old Business: The Race and Gender Equity Taskforce - Dr. Chaya Piotrkowski**

On Dec 12 2008 the Faculty Senate created a Race and Gender Equity Taskforce, and charged it with gathering comprehensive information concerning the status and circumstances of women and underrepresented racial-ethnic groups among faculty.

The work of this Taskforce was hampered and slowed by problems in coming to an agreement with administrators on a plan to gain access to confidential salary data. This problem has never been satisfactorily resolved; but in light of the long tenure of the Taskforce, it was decided that a final report should be compiled nonetheless. This report will be presented to the Senate for approval at the April 29<sup>th</sup> meeting. At President Vernon's request, Dr. Piotrkowski summarized briefly some aspects of the forthcoming report (it will present a range of information gathered, identify best practices, and underscore areas for improvement) and put before the Senate for discussion and approval **two resolutions** that the Taskforce has proposed in light of its work.

Dr. Piotrkowski provided background and context for the two resolutions.

For resolution #1: Currently there is a large literature on gender equity and diversity initiatives. Further, universities are appointing high level administrators, including Vice Presidents, to oversee diversity initiatives. (For instance, while Boston College has an Office for Institutional Diversity in the Office of the Vice President for Human Resources Columbia University has a Vice President for Diversity Initiatives.) Strong diversity, initiatives go well beyond regulatory compliance and reporting issues to more broadly address organizational climate and other issues as well as initiating proactive strategies. Among the many responsibilities VP for Diversity would be to help extend the pool of qualified applicants for all faculty positions. Diversity goes hand-in-hand with equity, and equity is about more than salary and benefits.

Not including international and administrative faculty, in the 2008-2009 academic year, Fordham's faculty consisted of 51% white males; 35% white females, 7% racial/ethnic minority males, and 7% racial/ethnic minority females. The ratios differ between schools and programs. There is a special paucity of racial/ethnic minority full professors, in particular women.

One important need is to develop a data base that tracks diversity and equity issues well beyond compliance in terms of numbers, while including the numbers. This data needs to be held in one place and accessible by the Provost. Efforts at ensuring equity for faculty should be recommended on the basis of sound data and measurable outcomes.

Re: resolution #2: This resolution aims to incorporate the goal of a diverse faculty as a key strategic goal of the University. University of Notre Dame, for instance has made achieving a diverse faculty one of their four major strategic goals. Making gender and racial/ethnic diversity and equity an explicit aim in the University's Strategic Plan will provide support for investing resources and integrating this commitment into all parts of Fordham's institutional life.

After discussion, the following was moved and seconded (Piotrkowski/Bolgatz):

1. The Senate strongly endorses this proposal of the Race & Gender Equity Task Force:

**“That the University Administration demonstrate its dedication to diversity and equity among the faculty by creating an Office of Diversity and Equity within the Office of the Provost. We recommend that this Office be headed by a person holding a dedicated, senior position.”**

Motion passed unanimously (19/0/0).

The following was then moved and seconded: (Piotrkowski/Flavin):

2. The Senate strongly endorses this proposal of the Race & Gender Equity Task Force:

**“That the University Administration include the dual goals of**  
**a) increasing the gender and racial-ethnic diversity of the faculty**  
**b) insuring gender and racial/ethnic equity for all faculty**  
**in the University's Strategic Plan.”**

Motion passed unanimously (19/0/0).

**8. New Business:** None brought forward.

**9. Research Council Nominations:** Postponed till April 29<sup>th</sup> meeting.

**10. Reading and Approval of the Minutes of the March 4, 2011 meeting of the Faculty Senate:**

With some small changes to be inserted, the minutes were approved (Keitel/Acevedo, 14/0/1).

**11. Adjournment:** Meeting was adjourned at 3:45 pm.

*APPENDIX I*

Review of Fordham University's Judicial Process

March 29, 2011

Faculty Senate Student Life Committee/Student Affairs Working Group  
Jeannine Hill Fletcher, James MacDonall, Astrid O'Brien, Mary Procidano (chair),  
Elizabeth Stone/

Michele Burris (Associate Vice President for Student Affairs), Keith Eldredge (Dean of Students, Lincoln Center), Gregory Pappas (Assistant VP Student Affairs/Dean Student Services, Christopher Rodgers (Dean of Students, Rose Hill)

In April 2010, the Faculty Senate directed the Student Life Committee (SLC) to review Fordham's Judicial Process, in light of current best practices, in collaboration with Student Affairs (SA). This report summarizes that review.

Method

The SLC examined a) Fordham's Judicial Process (found in the Rose Hill and Lincoln Center Student handbooks, available at <http://www.fordham.edu/studenthandbooks>), b) others universities'<sup>1</sup> judicial practices, and c) limited recent literature intended to reflect "best" student-conduct practice (Lancaster & Waryold, 2008; Schrage & Giacomini, 2009; both sources endorsed by the Association of Student Conduct Administration). The SLC/SA Working Group engaged in extensive conversation about Fordham's Judicial Process, with particular attention to a) its similarities to and differences from others universities' practices, b) points raised by the Maguire Petition (which was cosigned by 47 faculty members and which set the occasion for this review), and c) questions raised by SLC members during the conversation.

Findings

Universities' student judicial/conduct processes consist of 3 steps: an alleged incident/incident report, adjudication, and possible appeal.

The incident. Fordham's definition of an "incident" (i.e., a complaint that a student's behavior is inconsistent with the established Code of Conduct), composition of a written incident report (usually by a Resident Assistant; RA), and the process by which the Dean of Students or Resident Director (RD) determines whether and how judicial action should be taken, appear comparable to those of our comparison institutions. No incident-related questions were raised in the Petition, and the SLC had no concerns about the identification and reporting of incidents. At Rose Hill, 1434 students were adjudicated in 2009-2010 including 300 students who had their charges dropped. At LC, 226 students were adjudicated in 2009-2010 including 49 dropped charges.

Adjudication. Alleged student behaviors that are inconsistent with a University's Code of Conduct prompt responses from the University's Student Affairs professionals. In theory, possible responses fall on a continuum ranging from highly informal to highly formal. Relatively informal responses include no conflict management, dialogue/debate/discussion, coaching students in dealing with conflict, facilitated dialogue between students, mediation, and restorative practices (in which a student who accepts responsibility makes amends to those who were hurt); and formal responses include different types of hearings (Schrage & Thompson, 2009). In practice (as reflected in the student handbooks of our comparison-university sample), adjudication is accomplished through either mediation (relatively informal) or some type of hearing (formal). At Fordham and elsewhere, mediation is used in relatively simple matters such as roommate disputes. Many universities' student handbooks explicitly mention mediation as a type of response to a student-conduct complaint; however this information is listed in Fordham's Office of Residential Life Handbook but not directly referenced in Fordham's Student Handbook.

Hearings can be conducted either by individual hearing officers (an RD, Residential Life administrator or Dean of Students; this type of hearing is called an "administrative hearing"), or by hearing boards. Hearing boards vary by composition, and include all-student hearing boards or, more commonly, hearing boards composed of some combination of student affairs professionals, academic administrators, faculty members, and students. Many institutions use some

combination of these. Typically the Vice President for Student Affairs (VPSA) decides which type of hearing will be used for particular cases. The choice is sometimes based on the type or severity of the offense; and a small number of universities' student handbooks contain lists of conduct-code violations and corresponding hearing approaches. However in most universities' student handbooks, the basis of referral of a case to one type of hearing versus another is not clear.

Fordham's hearing process differs from that of some universities' in that Fordham uses administrative hearings only. Either an RD, Residential Life administrator or the Dean of Students conducts these hearings. At Rose Hill, 1434 students were adjudicated in 2009-2010 including 300 students who had their charges dropped. At LC, 226 students were adjudicated in 2009-2010 including 49 dropped charges. The Maguire Petition raised several concerns about Fordham's hearing process: a) the hearing is conducted, and sanction imposed, by only one person; b) there is only one meeting without a requirement for additional meetings; c) a student may not face his or her complainant;<sup>2</sup> d) a student may not call witnesses; e) notes taken by the hearing officer are not kept in the student's disciplinary file and therefore not available for examination, as seemingly required by FERPA. The Working Group discussed each of these concerns, as well as questions of f) why Fordham does not keep a complete record of the hearing to be made available to the student, and g) why Fordham uses only administrative hearings rather than hearing boards, as many other universities do. The paragraphs immediately below summarize these conversations and information we gathered regarding other universities. Particular attention is given to the final issue (g).

a) Hearing conducted/sanction imposed by only one person: The Student Affairs members of the working group (SA) explained that although individual hearing officers conduct hearings and communicate the sanctions to students, the Division of Student Affairs engages in regular and ongoing consultation and review of conduct (and other) cases. Therefore decisions are based on consensus of multiple professionals and do not reflect only one individual's judgment.

b) Only one meeting required: SA indicated that frequently all relevant data are reviewed in single meetings and additional meetings would not be necessary for either the hearing officer or the student. In more serious and complicated situations, the hearing officer often has multiple meetings with the student in order to gather all pertinent information. Once the investigation has concluded in serious cases, the Dean of Students always meets with the sanctioned student in order to explain why the student is being held responsible, to explain the sanction(s), to assure that the emotional impact on the student can be assessed and appropriate referrals can be made, and to answer questions about the case and the appeal process. In addition, students may ask for additional meetings with the hearing officer, and such requests are granted. The process is not rushed, nor are decisions made in haste or before all relevant information has been reviewed.

c) Student may not face complainant: At Fordham and elsewhere, mediation by definition involves facing the complainant. At universities where hearing boards are used, accused students almost always can face their complainants, except when the complainant may choose not to appear, as in cases of sexual assault. In administrative hearings at Fordham and elsewhere, accused students typically do not face their complainants. Thus at Fordham, accused students do not face their complainants, since the individual hearing is the only hearing model used.

d) Student may not call witnesses: At some other universities, hearing boards function somewhat more like courts; and in those contexts students may call witnesses and hear their testimony. In administrative hearings at Fordham and elsewhere, accused students may recommend other informants ("witnesses"), i.e., persons with relevant knowledge of the alleged incident; however they do not hear the informants' interviews. Essentially, all institutions appear to allow accused students to suggest informative witnesses, but not "character witnesses" (this is explicitly prohibited in many universities' student handbooks).

e) Notes taken by the hearing officer are not available for subsequent examination: SA explained that at the conclusion of a hearing, the Hearing Officer prepares a letter, in which the bases of the decision are elaborated. We found no evidence that other universities provide hearing officers' notes to accused students.

f) Why no record of hearing? At Fordham no written, audio, or video recordings of administrative hearings are kept. At Fordham (and one would assume elsewhere too), students are allowed to take notes during their hearings. In universities where decisions are made by hearing boards, hearings typically are recorded. However, the recordings are explicitly the University's property, and they are destroyed when cases are over. They are not made available to students; rather, they are used exclusively by the individuals who conduct appeals (see below).

g) Why not have hearing boards as well as administrative hearings? SA explained that the Division of Student Affairs has discussed extensively various hearing options and deliberately decided to use administrative hearings exclusively. Their rationale is that compared to hearings before hearing boards, administrative hearings optimize the educational value of the process for students; and therefore this model is most consistent with Fordham's commitment to *cura personalis*. The one-to-one hearing process is meant to allow staff to better understand and care for the individual student and allows for open and direct conversation between the hearing officer and the student that a more public hearing would make difficult. This conversation often leads to a greater understanding and exploration of the sometimes very personal issues and concerns behind the policy violation and ultimately results in a more educational and productive process. SA administrators at Fordham strongly believe that a hearing board process is more adversarial and less educational.

Some SLC members expressed a preference to make hearing boards a possible option at Fordham, since they provide greater community involvement at the initial stages of an incident's resolution, might facilitate wider understanding and sense of transparency of the judicial process among faculty, and might be better suited to particular types of transgressions than administrative hearings. SA indicated that faculty with questions about a particular administrative hearing are encouraged to contact the Dean of Students who, within appropriate limits of confidentiality, will explain the process. If faculty members still have questions about a judicial hearing process, they may also contact the Associate Vice President for Student Affairs and/or the Vice President for Student Affairs. When this discussion ended, the SLC had not identified specific types of transgressions for which hearing boards might be fundamentally better suited than administrative hearings; and the Working Group had not reached full consensus as to whether hearing boards should be used at Fordham in addition to administrative hearings. The reader should note that this decision lies fully under the jurisdiction of the Division of Student Affairs.

Administrative hearings versus hearing boards have several relative advantages and disadvantages. Zdziarski and Wood (2008) present these as follows: Administrative hearings allow the hearing officer to "get a general overview of the student relatively quickly and to set the student at ease;" to view the student holistically rather than solely in terms of a negative behavior; to focus "on how the institution can assist the student to accept responsibility for the behavior" (p. 100), and to gain insight into the behavior's possible consequences for others and for the student's own future; to make necessary referrals expeditiously; to demonstrate interest in the student and his or her potential, rather than solely as a perpetrator of a violation; "to bring a high degree of consistency over time," thereby enhancing equity in the judicial process; "to manage the work flow more efficiently and [to] move more cases through...more quickly than when cases must be heard in a board format;" (p. 101); and finally to preserve a student's privacy, as cannot be done by a hearing board, particularly one that includes fellow students. On the other hand, administrative hearings are limited in that "because there is no other community involvement, the hearing officer may be vulnerable to accusations of bias," (p. 101). Administrative hearings also can lead to hearing officers' burnout.

The use of hearing boards, in contrast, "is appealing because it resonates with our American sense of justice and fairness...[Having] one's fate determined by an impartial jury...[who] review the facts of the situation, judge those facts based on a set of community standards, and determine a reasonable and appropriate response to one's behavior...[is consistent with] what most Americans have come to expect as fair and just." Also, hearing boards can provide educational experiences for all board members by "communicating community standards of acceptable behavior within the campus environment" (p. 102). It also has been noted that participation in hearing boards is one of many possible ways in which faculty and student-affairs professionals might collaborate in educating students (Dublon, 2008). On the other hand, hearing boards, like administrative hearings, also are vulnerable to allegations of bias (Lowery, 2008); and have the potential disadvantage of taking the form of "quasi-courtroom proceedings in the name of due process (something the model code's authors never intended)..." (Giacomini & Schrage, 2009, p. 7). Thus in sum, current "best practices" does not provide a clear preference regarding the use of administrative hearings and hearing boards, both of which are considered "formal" adjudication approaches (Schrage & Thompson, 2009).

The appeal. Some universities do not allow any appeal of the disposition of hearings; however most do. At Fordham, students may appeal the following decisions: the sanction of University Disciplinary Probation can be appealed to the Dean of Students when it is issued by someone other than the Dean of Students. The sanctions of suspension or expulsion from the University can be appealed to the University Judicial Council. When students have questions or concerns regarding all other judicial decisions, they are encouraged to speak directly to the hearing officer who handled their case and/or that person's supervisor. Universities' appeal processes vary with respect to who decides whether criteria for an appeal have been met, and the nature of the appeal format itself.

Across universities, acceptable bases for judicial appeals vary, and typically include violation of the prescribed hearing process, emergence of new evidence after the conclusion of the hearing, and harshness of the sanction imposed. In some institutions harshness of sanction is not an accepted basis for an appeal. At Fordham, **the appeal must be based on a question of process, i.e. failure of the University to notify the student of alleged violation, or failure of the University to provide a hearing; or a claim of an excessively harsh sanction.** (Emergence of new information returns the case to the hearing process.)

Appeals processes also vary. In some institutions the case is referred back to the original hearing officer, in others the appeal is referred to the VPSA or the University President. A common model is for appeals of decisions rendered by hearing boards to be determined by single administrators (using the recording or transcript of the hearing, as noted earlier). Another common model is for appeals to be heard by an appeals board with members appointed by Student Affairs, the Faculty Senate, and the Student Government. However equally often, university student handbooks make no reference to any appeal, or the appeal process is not clear. At Fordham, the appeals board is called a University Judicial Council (UJC), and composed of 7 members: 3 faculty members appointed by the President of the Faculty Senate, one of whom is

chosen as chairperson before the proceeding begins; one administrator appointed by the Vice President for Student Affairs; and 3 students appointed by the President of the United Student Government (USG). (When the accused is a graduate student, the students on the UJC are appointed by the Dean of the particular graduate school.)

At RH, there have been an average of 3 appeals in a semester; there have been 3 expulsions in 20 years and all 3 expulsions were upheld. At LC, there have been very few appeals, only one in the past few years.

The Maguire Petition raised several concerns about Fordham's appeal process: a) the limited role of the advisor/lack of access to "representation;" b) that the student cannot hear others' testimony or face complainants; c) that the accused student cannot call witnesses; d) that the presence of a Student Affairs professional on the UJC might intimidate student members, resulting in biased outcomes; e) limitations of the UJC's power to call informants; f) limitations of the UJC's power to overturn the original decision; and g) marked differences from U.S. courts of law, inconsistencies from US Supreme Court Decisions, and divergence from the US Constitution and from the Magna Carta. The Working Group discussed each of these concerns, and also noted that h) Fordham faculty lack understanding of our judicial process, including the appeal process. The paragraphs immediately below summarize these conversations and information we collected from other universities.

a) Limited role of advisor: At Fordham, a student may be accompanied to the appeal by a faculty advisor or student of his or her choice from the college in which the student is enrolled, and may speak privately to that advisor during the appeal process; however the advisor may not participate in the proceedings.

As noted previously, at many institutions, individual administrators handle judicial appeals. Advisors are irrelevant in that model. Among universities in which appeal boards are used, some do not provide sufficient detail in their student handbooks for a reader to infer whether an advisor might be present. However it appears that most universities allow advisors to be present. We found no university at which advisors are allowed to participate in the proceeding.

b) Facing complainants: Fordham's appeal process does not allow students to face their complainants. Among universities for which relevant information is available, approximately half allow students to face their complainants.

c) Calling witnesses: At Fordham, students are not allowed to call witnesses at their appeals. In universities in general, accused students' calling witnesses at appeals appears to be rare.

d) The presence of student affairs members who might intimidate student members of the UJC: Potential bias in a UJC is a serious issue because the outcome of an appeal is determined by majority vote. The Working Group discussed the possibility that a particular UJC student member, nominated by the USG president, might have a working relationship with a Student Affairs UJC member. SA explained that Student Affairs members do not influence important outcomes for students, and in any case would not use their relationships with students to exert undue influence. It was noted that UJC student members also might have current (or anticipated future) relationships with UJC faculty members who, arguably, influence important outcomes for students. A possible solution to this problem is raised below.

e) The UJC cannot call witnesses: This is not accurate; the UJC may call witnesses. Per the Student Handbook: When and if the UJC decides by majority vote that it needs more information in order to reach its decision, it may call witnesses or request information to the extent it requires.

f) The UJC cannot overturn decision of the original hearing officer: According to the Student Handbook, "The UJC shall have the power: to uphold the decision of the Dean of Students; uphold his or her decision but change the sanction; or remand the case back to the Dean for further hearing. The decisions and sanctions of the UJC are determined by majority vote, and are final and not appealable." A case would be remanded back to the Dean of Students if new information emerged during the appeal, and this would reopen the hearing process.

g) Divergence from US Court, Constitution, Magna Carta, etc: We did not identify any university whose judicial practice emulates or refers in any way to US Courts, the US Constitution, or the Magna Carta. Some student handbooks state explicitly that their purpose is educational and therefore differs from the U.S. legal system. The literature that we examined prescribed that student-conduct approaches be informed by social-justice and developmental theory (Schrage & Giacomini, 2009) and by "educational values, as opposed to legal standards" (Dublon, 2008, p. 41).

h) Fordham faculty members do not understand the judicial process: The Working Group observed that Fordham faculty members are essentially unfamiliar with our judicial process (in which their involvement, it was noted, occurs only during the appeal). We discussed the actual practice by which UJC faculty members are identified: the main criterion often is availability on short notice, rather than prior experience or relevant knowledge. This means that UJC faculty members often arrive without orientation (it was noted that occasionally, faculty members have appeared for an appeal anticipating that it would be related to an academic-integrity violation); do not "absorb" all the relevant procedural information during their participation; and may never be called on again.

The Working Group discussed the possible utility of a Student-Conduct Appeals Committee, modeled after the Tenure and Reappointment Appeals Committee, in which faculty members<sup>3</sup> volunteer/are elected and serve terms, so that collective knowledge might be accumulated and maintained over time. This committee should be large enough to allow for some members to be recused if they have relationships with "accused" students. A similar student committee might be developed. Both these committees functioning together might eliminate problems with bias associated with student-faculty or student-administrator relationships as discussed above.

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## Notes

<sup>1</sup>Colleges and Universities whose judicial processes were examined include Boston College, Boston University, Canisius College, Creighton University, Fairfield University, Georgetown University, Gonzaga University, John Carroll University, LeMoyne College, Loyola College-Maryland, Loyola-Marymount University, Loyola University of Chicago, Loyola University-New Orleans, Marquette University, New York University, Regis University, Rockhurst College, Saint Louis University, Santa Clara University, Seattle University, Spring Hill College, St. Joseph's University, St. Peter's College, University of Detroit-Mercy, University of San Francisco, University of Scranton, Wheeling Jesuit University, and Jesuit University.

<sup>2</sup>The Petition used the term "accuser," however current literature reflects a preference for the term "complainant;" and the term "complainant" is used in this report.

<sup>3</sup>Possibly excluding graduate professional-school faculty, since their students are virtually never involved in student-conduct appeals.