FORDHAM UNIVERSITY
THE JESUIT UNIVERSITY OF NEW YORK

Faculty Senate

Ombuds Committee: Dr. Gregory Acevedo/GSSS (ext. 8-6644) gracevedo@fordham.edu
Dr. Diana Bray/FCRH (ext. 1-4433) bray@fordham.edu
Dr. Berish Rubin/FCRH (ext. 1-3637) rubin@fordham.edu
Dr. Leonard Nissim/FCLC (ext. 8-6331) nissim@fordham.edu

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

Guests: Dr. Stephen Freedman, Provost
Dr. Jonathan Crystal, Associate Vice-President and Associate Chief Academic Officer
Debra Osofsky, Esq., Special Counsel Consultant at AAUP –UMDNJ
Steven Thel, Esq., Professor of Law and Chairperson of the Fordham Law School Bargaining Unit

Excused: Senators Gregory Acevedo, Richard Gyug, Tracy Higgins, Margo Jackson, Jude Jones, Mary Procidano, Aditya Saharia, Henry Schwalbenberg

Call to Order

At 12:50 pm Senate President Grace Vernon called the meeting to order in the Walsh Library Special Collections, 4th Floor, on the Rose Hill Campus.

2. **Invocation**

Senator Harry Nasuti offered the invocation.

3. **Salary and Benefits Report**

Dr. Berish Rubin, Chairperson of The Salary & Benefits Committee, presented a report from the Salary & Benefits Committee. The Senate had asked the Committee to work on the development of a long-term model for appropriate compensation for faculty. Dr. Rubin prefaced his presentation by requesting input from Senators.

Dr. Rubin presented a series of slides illustrating a) that salary raises over the past 7 years have shown no improvement in purchasing power; and showing b) different ways to project average salary increases that would improve the purchasing power of individual faculty members over a 30 year period.

A review of the across-the-board raises provided to faculty during the period of 2005-2012 reveals that there has been no real increase in faculty members' purchasing power. This raises the question: What are reasonable and just salary increases? What kind of expectations should faculty have?

Analyses reveal that the difference in purchasing power between Assistant and Full Professors (as presented by the University to the AAUP) is $53,600 [average salary of Assistant Professor = $91,000; average salary of Full Professor = $144,600]. To achieve such an increase in purchasing power over one's career at Fordham (to get from $91,000 to $144,600), faculty must receive salary increases that are in excess of the CPI. It should be noted that, at present, the awarding of merit increments has little impact on the increase in purchasing power. Based on this difference between the current salaries of the Assistant and Full Professors over the course of an individual career, one should reasonably anticipate an increase of approximately 60% in purchasing power over the course of their career at Fordham.

Sample scenarios using the current approach to salary increases were presented:

1) An Assistant Professor starts her/his career at Fordham with a salary of $90,000 and receives merit increments every other year as well as the promotion increments associated with promotion to associate and full professor (resulting in $4000 and $6000 raises, respectively). Removing salary increases equal to the CPI out of the equation (as these increases do not increase purchasing power), over a period of 30 years this person's purchasing power will move from

$90,000 to $115,000 which represents a 27% increase in purchasing power.

2) If one was hired as an Associate Professor at a salary of $100,000, the situation is far worse. Over a 30 year period (assuming a merit increment is received every other year and a salary increase of $6000 when promoted to full professor), the faculty member would have only a 21% increase in purchasing power (from $100,000 to $121,000).

3) If one is hired as a Full Professor at a salary of $125,000 and receives a merit increment every other year, over a 30 year period, this faculty member's salary would increase 12.5%, from $120,000 to $135,000.

To achieve increases in purchasing power, one clearly needs salary increases that are in excess of the CPI!

The Salary and Benefits Committee posed the following question: For those earning $91,000 today, what should their purchasing power be in 30 years? Here, the Salary and Benefits Committee is looking for feedback from the Senate to decide what sort of benchmarks to set for projecting appropriate salary increases.

To provide the Senate with some guidance, survey analyses of Category 1 institutions, as presented by the AAUP, were performed by the Salary and Benefits Committee and reveal a purchasing power differential between Assistant and Full professors ranging from 73 to 82%. The same analysis performed on Category 1 institutions in the New York area reveals a purchasing power differential between an Assistant professor and a Full professor of between 59% and 100%.

Clearly, to achieve an increase in purchasing power, salary increases need to be given to the faculty that are in excess of the increases in CPI. The funds that are in excess of the CPI could be called Purchasing Power Increases (PPI). The Senate will have to decide how these funds would be distributed. Suggestions made by the Salary and Benefits committee included: 1) the PPI be distributed as across-the-board raises; 2) the PPI be added to the present merit pool; 3) these funds be used to generate a second merit pool which would acknowledge and reward areas of service and/or teaching that generally and presently are given a lower priority in the merit process; or 4) any combinations of proposals 1-3.

After examining the data, Senator Nissim pointed out that, given the way merit is distributed (to half of the faculty), by definition, at least half of the faculty is doing at least as bad or worse than the figures projected. ["The median can be no better and might be worse."]

Responses to the report

Thanking Senator Rubin for his presentation and for the work of the Salary & Benefits Committee, Senators offered a number of comments and questions. There was some discussion of other university models. There was some discussion of whether benefits should be included in this discussion of salary increase (with the response that, for now, the question of benefits had reached a compromise that was likely not worth re-opening with the administration).

It was pointed out that the use of average salary data would always present problems in negotiating salary, since that data is skewed so much by disparities (e.g. especially between the Business School and other areas). In addition to the disparities across schools, there remains the serious problem of compression. Senator Rubin noted that were we to move to a regular percentage increase for purchasing power, compression might be alleviated for incoming Assistant Professors going forward, but that there remains a major serious problem of compression, especially for Associate Professors, as a result of past practice that has insufficiently been addressed by recent measures. Both of these issues—disparities skewing reported average salaries; and compression—still need to be examined and addressed by the Salary & Benefits Committee.

The key issue emerging from the report was the question of developing, in principle, a strategy for dealing with salary negotiations. One Senator characterized this in terms of shifting the rhetorical emphasis of negotiations away from the benchmark of the 80th percentile and toward a benchmark for increase in purchasing power. Another Senator focused on two tactical features of this shift: 1) explaining what CPI is based on [i.e. New York CPI]; and 2) ensuring that the merit pool is protected.

The Senate expressed support for the Salary & Benefits Committee's efforts and applauded Senator Rubin for his report.

4. **Collective Bargaining Panel & Discussion**:

Senate President Vernon introduced two guests invited to share their views on the question of collective bargaining raised in response to inquiries brought to and in the Senate and to field questions from Senators: Debra Osofsky, Esq., Special Counsel Consultant at AAUP–UMDNJ, and Steven Thel, Esq., Professor of Law and Chairperson of the Fordham Law School Bargaining Unit.

Senate President Vernon explained that the question of collective bargaining has been raised twice before at Fordham, but this was before the 1980 Supreme Court Yeshiva decision that ruled faculty at Yeshiva ineligible to form a union because they were considered to occupy a “managerial” position in the institution. She indicated that there were several different models of collective bargaining for faculty at private institutions of higher education, including AFTA, AAUP, and the Law School, which formed itself as a bargaining unit at a time when the Faculty Senate was considering unionization.

Debra Osofsky explained that she has worked with faculty at UMDNJ (which has about 1500 faculty members) in their merger with Rutgers University. The question as to whether it makes sense for Fordham faculty to consider forming a union is obviously something to consider. If the Faculty Senate has faced more and more difficulties in coming to salary agreement with the Administration, a collective bargaining agreement might improve leverage in negotiations, since that would legally compel the Administration to bargain in good faith. The Yeshiva decision of 1980 needs to be considered. There, it was determined that faculty were not entitled to form a collective bargaining unit (union) because they were considered managerial employees based on the level of activity and the power faculty were said to exercise. Although this decision led to a belief that universities in the private sector can’t be unionized, this is not in fact true. Rather, the key question is what level of managerial authority faculty do have. So, if there is interest in forming a collective bargaining unit at Fordham, the one thing that should be done is to have a knowledgeable person give an assessment of what level of managerial involvement Fordham faculty have. For faculty at UMDNJ right now, facing integration into Rutgers, find that unionization protects their status, secures a guarantee that their titles and seniority and tenure would transfer with them from UMDNJ to Rutgers. Therefore they are happy. They also got a guarantee of no lay offs, no reduction in faculty, for at least a year. So, the fact is that having a labor union can be extremely useful both on small, prosaic and also on bigger issues like due process and protection of tenure. There is a range of choices of Union—for example, AFT, AUUP (collective bargaining conference), or simply an independent Union.

Discussion.

Thanking Debra Osofsky for the presentation, one senator asked, then, given the benefits outlined, why should one *not* do this? Debra Osofsky noted some of the potential objections, including the fact that dues need to be paid (for office, newsletters, holding meetings; for grievance procedures); and including social or philosophical objections to unionization.

Steve Thel noted that Fordham Law School union dues are $50 a year (used mostly for presents to the staff); that there are people who are anti-union, some who feel they want a meritocracy (although this is largely solved). What might be more of a problem—caused by the historical precedent of Yeshiva—is that there’s worry about losing their status as a certified bargaining unit; and this causes faculty members to oppose involvement in budgeting process. If the desire to protect union has undercut governance, over time this has ceased to be a problem.

Debra Osofsky noted that, although this is not a problem in the public sector, in the private sector there is a question about how much faculty are involved in governance. But the threshold issue facing Fordham seems to be this: what does a qualified labor lawyer consider the chances of Fordham being certified as unionizable. Finding that information is the key thing; otherwise it is not worth spending time discussing the issue.

One senator asked how, as a unionized body, Fordham might have more power in salary negotiations. In response, Debra Osofsky noted that the Administration could not simply ignore a collective bargaining unit; that it would be their legal duty to bargain in good faith; that, in addition, the unit would have the right to take collective action with the protection of individuals for taking such action.

One Senator asked how unionization might affect Fordham’s treatment of course reductions and stipends for administrative and other duties—would these be viewed as compensation? In response, Debra Osofsky noted that collective bargaining negotiates a minimum for everyone; that a union is not meant to limit people’s compensation; that provisions allow people to get paid for additional work. Under AAUP contracts allow for extra compensation for extra services.

One senator asked about the scale of managerial involvement of faculty in, for example, budget decisions, noting that, if we’re talking about involvement on the Budget Committee, there is currently no faculty involvement to speak of in managerial decisions at Fordham; but if we’re talking about Department Chairs handling their departmental budget that's a different matter. Debra Osofsky noted in response that she was not qualified to say whether current faculty involvement was sufficient to qualify Fordham for collective bargaining status. Someone would have to do an outside assessment.

Debra Osofsky further noted some differences amongst different kinds of collective bargaining organizations: the AFT tends to have a lot of legislative involvement (so if you want legislative involvement, that's positive); AAUP is focused on universities: on education, defense of tenure, due process, governance issues; there are models of joint affiliations—joint affiliations cost more [1K a year for UMDNJ]—what would it cost you? Besides cost, there's also a lot of work going into forming a union: cards need to be signed; you need signatures from at least 50% of bargaining unit for the National Labor Review Board. The Administration could make counterclaims about who represents the faculty; it can be years from initiating a collective bargaining to the point where you reach the negotiating table as a certified bargaining unit. It's possible, though, that the Administration could choose to voluntarily recognize the bargaining unit.

One Senator asked: how are bargaining units defined? In response, Debra Osofsky noted that Administrators—and those who hire and fire—are not in a bargaining unit. There's also a basic question—where is the community of interest? Is it all Arts & Sciences faculty? Does it include the Business School, the Law School? Those would be discussions to expect. Administrations often choose a unit that is harder to bring together, either by adding people without interests in common, or by dividing up people with common interests.

Senate President Vernon noted information on bargaining units at universities such as Fairfield, St. Joseph's, St. John's, and Scranton.

Debra Osofsky encouraged looking at units similar to Fordham, noting again that it is possible that there might be a voluntary agreement between faculty and administration.

Discussion of Law School's arrangement

Steve Thel addressed the Law School decision to form an independent collective bargaining unit, underscoring a combination of factors: 1) the sense of conflict within the university over the interests of Law School—the decision came at time when the Law School feared it might lose accreditation, combined with the sense that if there was to be a union, the Law School wanted to separate; 2) the Law School unit does not bargain over benefits; it bargains only over salary. The most powerful tool is this: if the Administration claims there is no money in the budget to make an agreement over salary, then the Administration is obliged to disclose its financial books. The leverage is the Administration's obligation to disclose financial information if they say they cannot afford salary increases.

There was further discussion about the differences between the Law School's bargaining arrangement and the Faculty Senate's role, with some attention paid to two points: 1) the irony that the Law School's union was an anti-union move to offset potential unionization of Fordham faculty; and 2) the fact that salary negotiations for the Law School and for the rest of Fordham, though separate, are repeatedly cited as being linked in the Senate's negotiations over faculty salary.

In response to questions about what would happen to current grievance procedures (notably TRAC) under collective bargaining, Debra Osofsky noted that a union can be as much or as little as its members wish it to be: it could be mostly about negotiating salary; it could include due process issues. The economics of a union varies quite a bit, also, and this is something to consider. The bottom line, though, is that one would need a threshold determination on whether Fordham faculty could form a bargaining unit of any scope.

Senate President Vernon thanked the visitors.

Following further discussion on the points noted above (including questions from visitors), especially on the differences between the Law School and the rest of Fordham (and including discussion of the possibilities of the Business School, or other units, seeking separate status with two senators indicating that the Business School would love to have the arrangement that the Law School currently has), Senators turned to the question of assessing eligibility as a collective bargaining unit.

It was moved that the Senate set up a committee to assess eligibility for forming a collective bargaining unit.

Discussion of the motion focused on the proper role of the Senate in seeking an assessment on eligibility to unionize. Some Senators argued that unionization should proceed from the bottom up and should not come from a body such as the Senate, constituted by the university's current institutional structure. Some Senators argued that this issue had already emerged from outside the Senate (notably, in the form of the petition presented to the University President two meetings ago). Some Senators sought a compromise that would signal the Senate's support for exploring further the question of collective bargaining.

The question was called (15-1-0).

The Senate approved the following motion (DeLuca/Clark, 10-6-0):

As a consequence of the petition addressed to the Senate and the collective bargaining panel discussion, the Faculty Senate will set up a committee comprised of Senators and faculty from units across the university to assess the eligibility of forming (a) collective bargaining unit(s) under existing law.

8. **Reading and Approval of the Minutes**

Approval of the Minutes of the January 25, 2013 meeting of the Faculty Senate. (15-0-0)

5. **Matters Presented by Dr. Stephen Freedman, Provost**

1. Stephen Freedman noted that this was a challenging time for the university with regard to budgets and financial planning; and that there would be further, greater challenges in the months and years ahead. It will take difficult decisions as to what we choose to do. The Provost would like to communicate more actively with faculty. Declining to go into details, the Provost noted that faculty would hear more through the Budget Planning Committee, through the Deans and through Academic administrators.

2. Lincoln Center planning. The Provost reported good progress; thanked Senate President Vernon for agreeing to setting up opportunities for dialogue with Gabelli and Lincoln Center faculty; and expressed encouragement at seeing more significant conversations about curricular clusters at LC, noting we were moving into a marketing phase.

3. Graduate School of Arts & Sciences. There has been recent serious reflection, given the nationwide shift in graduate education. Dean Busch began a conversation with Associate Deans that has led to suspending admissions in 6 programs for 1 year. Discussion on this issue at the recent Graduate Council meeting went relatively well. There is uncertainty ahead, but the Provost urged caution in evaluating feedback and recommended allowing faculty to make good decisions.

Discussion:

One Senator asked what criteria were used for deciding to suspend admissions for one year for six GSAS programs. The Provost responded that Dean Busch, working with Associate Dean Eva Badowska, and in close consultation with the Provost's office, made these decisions in light of a three-month process that entailed careful review of enrollment projections for Fall 2013, looking at both quality and yield of classes expected.

Some senators voiced concerns about whether faculty were adequately incorporated into the decision-making process. The move seems to many faculty to be against faculty interests and faculty self-determination. It is easily perceived as being directly due to the budget crunch. One Senator noted that, given these widespread perceptions, as much attention has to be paid to how the decisions are to be presented and disseminated as to how they are arrived at. Some noted that a larger conversation about faculty input into such program decisions would be useful.

Jonathan Crystal emphasized that Graduate Director stipends for the affected programs are being continued. The suspension of admissions is not for the purpose of cost-cutting, but rather to create space for reassessment, and, where needed, to redesign program curricula, marketing, etc. in ways that address current conditions and trends in higher education. The hope is that these programs may come back stronger and more sustainable after this reassessment period.

One Senator wanted to know the reasons for making this particular move (suspending admissions for one year), noting that in many cases the suspension has had an immediate financial impact on graduate departments. (In English, for example, the suspension involved the loss of two graduate assistantships.) Other senators raised concerns that the admission suspensions pose a potential public relations problem, as this move can create the perception both inside and outside Fordham that these programs are dying, thereby depressing admissions pools even further.

The Provost responded that Dean Busch would be able to describe in more detail the process she followed. In some departments discussion was intense and the faculty was not all of one mind about how to address issues concerning the affected programs. Nonetheless, the Provost and GSAS deans concurred in the need to enact the admission suspensions, so that units could take this year as an opportunity to address some tough questions (e.g. why applicant pools are so small, etc.) and then make some important changes and/or some difficult decisions about how to proceed with these programs.

The Provost acknowledged that this particular move (one-year-admissions-suspension) did have its risks. This route was chosen over other alternatives (do nothing, close outright, suspend for a longer period) because the risks involved were judged to be fewer than the risks involved in other options. In order to move forward fruitfully, the Provost underscored that there is a need to continue to work to build good faith, good communications, and good process. He stated that he would welcome a larger conversation concerning faculty input into these kinds of decisions and processes.

Further discussion and comments ensued. One Senator noted that the need to re-examine programs is going to come up in many corners of the university, raising difficult questions of how to proceed. Given this, first, it seems increasingly important for the Provost and academic heads to get back to the strategic planning process; this can provide the larger picture within which we can better see the criteria for making difficult decisions about where and how to direct resources for programs. Second, can clear "performance expectation criteria" be formulated for programs? If there are clear criteria, this can lower the feeling of arbitrary action being taken. There are also questions to be clarified about whose prerogative it is to initiate or close programs. All this needs a longer discussion amongst and between administration and faculty.

Other points raised included that multiplying and expanding programs can in fact lead to poor results. One Senator, noting this is clearly a challenging time financially, argued that the Provost's office is having to make difficult decisions; and, in light of that, taking the intermediate step of suspending admissions but keeping on faculty makes sense. Another Senator noted that a larger decision seems to have been made by the Board to plow excess revenue into the endowment; now that the Law School enrollment is down, other units may be pressed further to contribute to revenue targets. As far as faculty or departmental determination as to where revenue being generated is targeted, the concern was expressed that faculty have minimal to no input.

One Senator asked the Provost to spell out more fully why the next few years are looking so difficult financially. In response, the Provost noted the following: First, the shortfall in the current entering Law School class will have a financial effect over the next three years or more. Second, GSAS is facing longer-term challenges having to do with changes being felt across the country in enrollment in both Ph.D. and Master's programs. The questions this raises include, how do we provide the appropriate amount of financial aid to assure the viability of strong programs? Do we continue to increase the amount of aid? Doing the latter will become even more of a challenge in FY 2015 and beyond, due to changes in the larger landscape of U.S. higher education; it is anticipated that tuition increases are not going to be able to go up 4-5% yearly as has been the case in the recent past. In sum: we face significant risks and uncertainties, but Fordham remains a strong institution, especially compared to some others.

Senate President Vernon, noting that one of the six programs under review is Urban Studies (even as NYU has received a $40 million gift to enhance the focus on urban issues across the university), emphasized the need to find ways to continue forward-looking planning and creativity in program development and sustenance, especially in mission-linked areas for Fordham.

Meeting was adjourned at 4:00 pm.

Minutes submitted by Drs. Christopher GoGwilt.