Speaker Barbara Knuth: “I would like to call to order this meeting of the Faculty Senate. We are still waiting for a quorum to arrive, but we have a number of reports and a question and answer period, so we will move forward with our meeting. Just the usual announcements to begin; please remember that no photos or tape recorders are allowed during the meeting. Please make sure that your cell phones are turned off and when you speak, please stand so that everybody can hear you and please identify yourself and the unit you are with. We have no Good and Welfare speakers that have identified themselves, so we are going to take the ten minutes that had been allocated to that and reallocate to our first agenda item, which is Provost Martin. So I will move on to our first item of business, which is to hear from the Provost. I believe you have a report to give and then also we will take some questions, is that correct? You will have a total of twenty-five minutes.

Provost Biddy Martin: “I want to give you a faculty salary update. In fact this is the final faculty salary update. The good news is that our faculty salary program is successful, and the bad news is we are not having any more salary increases.

All right, you remember what the goals were, which we set in 2001 and 2002. We set some before, that but that’s when we started our program. We wanted to reach the average of our peers in the endowed and contract colleges, and there we are. We reached the average of our peers (Appendix 1). This includes the period for which we set the goals. Here are the endowed salary results (Appendix 2). Our five-year average change is 5.2% for all faculty for the purposes of the survey, and for continuing faculty the five-year average change for salary is 6.4% on the endowed side.

Now some of you have heard many times the difference between these two graphs. Do you need hear it again? Would it be helpful? You don’t know. Well, I’ll give a little info. On the left, your left, are the survey results for all faculty, that’s the group of faculty that we can submit for the purposes of this particular survey. And that’s all faculty who have an effort greater than 50%, who are not in administrative positions, and not on leave. That’s for the purposes of the survey. It can change quite significantly from year to year, more than you might imagine. For example, in the fall of 2005 (this is not on the slide, by the way), we had 28 fewer full Professors on the endowed side of the University than we had in the fall of 2004. We had four additional Associate Professors and 19 new Assistant Professors, for the purposes of the survey. You can see that the net of minus five faculty, and the fact that there were more salaries on the lower end of the scale, meant that we did less well in the survey than we actually did on continuing faculty salaries. Is that clear? Let me say that continuing faculty is not continuing faculty from year one through year five. This is from one year to the
next. The composition of the faculty changes so it is not the same group, the same composition, through the entire five years. It is the best approximation for what our actual faculty salary pool was in a given year. The 5.0% for 2005/2006 is the more accurate indicator, not the 3.6%.

“This is the contract college salary result (Appendix 3) and you will see here that the numbers 5.7 and 5.9 percent are much closer, and that’s because the change in the composition of the faculty on the contract side was not as significant from 2004 to 2005 as it was on the endowed side. Any questions on these two tables? You can see the five-year average increase for the contract college faculty was 6% for the purposes of the survey and 6.5% for continuing faculty.

“The faculty survey results (Appendix 4) compared to our peers for all faculty, we now stand at 98% on the endowed side; 98.9% of the peer average. We started back in 1998/99. When we first discussed this, we were at 89% of the peer average. We have made quite a leap. Full Professors still lag more significantly than Associate Professors and Assistant Professors. We have put ourselves in a very good position to be very competitive at the entry level and at the promotion to associate level, but lag a little bit on full Professors.

“Contract college same table (Appendix 5). On the contract college faculty salary you can see we have exceeded the goal on that side.

“This is going to be impossible for you to see unless you are in the front but basically it shows you the salaries for the endowed side for us and our peers and then gives the peer average over time (Appendix 6). The peer average for the period of the survey and our program is 3.4% and you can barely see it but Cornell endowed is in bold at 5.2%. So the average over the period of time we implemented our program for the peers was 3.4% and for us, 5.2%.

“Now for the contract colleges faculty salaries (Appendix 7) you see that the average over the five year period for our peers was 3.2%, and for Cornell 6%. You might want to look at the peer list a little longer. You see this graphically (Appendix 8). This is average faculty salaries and how they have risen over time. This starts obviously before the advent of the program and shows you what has occurred on the Ithaca campus and then in comparison to our peers. Contract colleges salaries, by the way, for the purposes of these comparisons were converted to nine-month salaries.

“I just want to show you a little information about nine month versus twelve month total pay (Appendix 9). In what you see here, we have taken the roughly 55% of contract college faculty who are on twelve month salary and converted them to nine month salaries for the purposes of these calculations. You see that the contract college
faculty’s nine-month pay is 87.3% of total pay and the endowed, 90%. Are there any questions?

Professor David Levitsky, Nutritional Sciences: “Where did the definition of the peer universities come from?”

Provost Martin: “I didn’t give you that again. I have to remember that there is always rotation in the Senate. It came from the Financial Policies Committee of the Senate. The peers were set, on the endowed side, based on National Research Council rankings of faculty quality in peers. For the contract side, the peers were chosen by the Deans, together with members of the Financial Policies Committee of the Senate. We, basically the Administration, agreed with the peer group that the FPC suggested.

“This next slide shows (Appendix 10) the faculty grew by 57 over the course of this period and that’s significant, I think, for the purposes of the discussion today, only because you might wonder whether there was a decrease in the total number of faculty and whether that accounted for the increase in the average faculty salaries, or if that’s the way we managed to invest money into the salary program. In fact there was an increase as defined by the survey. So you wouldn’t be able to mount this precisely on what we would say in our various colleges the actual increase was. But, we know for example, that the Arts college grew by 21 faculty and engineering by 19 at least based on the measures used in the survey. We used 9.7 million dollars in each of the five years to fund these salary increases. The faculty salaries now account for 13.5% of the Ithaca campus operating budget; that is compared to 12.7% when we started. You see how we funded these increases from a mix of sources. During this period that we added 35 new endowed professorships to the University, so that’s University-wide. Those obviously helped with budget relief in faculty salary programs.

“So what will we do going forward (Appendix 11), now that we have come to the end of this five year program? Well, we obviously want to continue to evaluate things and keep our eyes on the salaries to ensure that we are staying level with our peers. I’ll also continue to do the gender equity study that we do each year with each of the Deans to ensure that we have no problems on that front. The individual college targets will now vary more than they have, I’m guessing, during the period of this program. But, the individual salary increases will continue to be based on department and college evaluations of merit.

“And that concludes my presentation of the good news at Cornell University. I hope it’s good news. I would be happy to answer questions about the faculty salary program or about anything else that’s on your minds.”

Professor Peter Stein, Physics: “That was good news but I wonder why in the forward outlook that the goal, meeting the goal, namely the average of that peer group, was not
one of the goals. It was not; it was almost achieved but not quite. It’s still one percent below and I wondered why you have not decided to add another year to this successful program with the goal of making it equal to the average of the peers and then committed yourself at least in the long run, to continue that position of the average of the peer group.”

Provost Martin: “Well that’s a good question and I’ll say a number of things in response to it. One is, I think we should have as a goal to reach and stay at the average of our peers. Whether it should be the same kind of concerted university-wide goal that it has been over the past five years, I don’t know. I think what I would like to do is hear what the Financial Policies Committee thinks, and what the deans of the colleges think. We had not only deans but some of you in this room, faculty, who actually felt we were spending too much of the discretionary funds we have on faculty salary increases compared to other things over the course of this five-year period. Having this program and this goal allowed us to use our discipline to keep all of us on track. We made a commitment and we wanted to stick to it. Whether we should have the same amount of discipline and whether we should invest differentially, if that’s what it would come to, in faculty salary increases over the next five years, I don’t know. I think it’s worthy of discussion.”

Professor Hal Bierman, Johnson Graduate School of Management. “Editorial suggestion. You had a bullet there that said that the funding was drawn from investment income, tuition, and so on. You left out gifts. You didn’t mean to because the next bullet says endowed professorships. If you are going to give this presentation anywhere else, I would recommend you add gifts to that one line.”

Provost Martin: “I think that would be fine. Of course the income we get is payout from the endowment equivalent of what present benefit we derive from the endowed professorships. But I know what you are saying. Yes. I think that’s a good idea.”

Professor Kathleen Rasmussen, Nutritional Sciences: “You can predict my question, probably.”

Provost Martin: “Actually, I can’t. What about the difference between endowed and contract?”

Professor Rasmussen: “That’s it.”

Provost Martin: “All right. My powers of prediction are still okay. That has been discussed, as you know, by the faculty on the Financial Policies Committee. It has been discussed over and over again in our offices, that is, in Carolyn Ainslie’s office and mine. I don’t think there is agreement about how to do that, or whether to make that salient in the way that you have been trying to make it salient. The reason for that is
because of the mix of disciplines, which by the way this survey doesn’t correct for. That is, the survey does correct the peers to meet our rank distribution but not the discipline mix.”

Professor Rasmussen: “Would you be able to bring us information that would allow us to see whether in areas where we have parallel fields of study, whether we are as far apart as those two sets of numbers for endowed versus contract make it appear, because it is possible that the distribution of disciplines accounts for some substantial portion of that. It would be useful for us, I think, to see that.”

Provost Martin: “I think the distribution of disciplines does account for a significant amount of it. But, could one or would it be conceivable, would it be plausible to do that? Yes. I want the Financial Policies Committee, however, to think hard again if that’s what the Senate wants your committee to do about whether it’s wise. And the reason that it might not be wise, is because the mere fact that people have degrees in the same domain, that is, say our economists, does not mean that the market for all the departments in which we have economists will be the same. I think people are worried about false comparisons -- about generating a certain amount of anxiety and ill will on the basis of faulty as opposed to accurate (which would be a more worthy reason to generate anxiety than faulty) comparisons. I think that until the faculty feels it can actually come to terms with what the basis of comparison should be beyond faculty with Ph.D.s, in economics for example, and what the market pressures are for the different domains and different colleges, I don’t know it’s a good idea. But could we do it, yes. We could do some semblance of what you have asked us to do. I think the composition of the data on that is more complicated than it sounds, when you say, couldn’t we just take people in similar disciplines in various colleges and compare their salaries. It actually isn’t as simple as it sounds. I would rather take guidance on that from the Financials Policy Committee, because I think it’s complicated and potentially has more downsides than upsides to do that.

Professor Chuck Greene, Earth and Atmospheric Sciences: “There’s a better comparison. There are several mixed departments that have statutory and endowed faculty in the same department. I think you can take a look in those departments and see pretty large discrepancies.”

Provost Martin: “Pretty large discrepancies?”

Professor Greene: “Yes.”

Provost Martin: “Well that’s interesting. I actually don’t know off the top of my head. Are you thinking of the biology departments, in particular, where there are faculty in multiple colleges?”
Professor Greene: “I’m thinking of my own department, as well as biology.”

Provost Martin: “We will have to look. It was my impression, when I was still in the college office, that we were trying very hard, that is Dean to Dean, to equalize the salaries of faculty in cross-college lines in basic biology, for example. But whether they are actually equitable or reasonably similar across those lines, I can’t say with one hundred percent confidence right now. That would be worth looking at, and in fact the Deans have discussed looking at that. It’s conceivable to me that Susan Henry, Kent Fuchs, and Peter Lepage have already started at least looking at those shared biology departments to see what the salary differentials might be. I’ll make sure that they are, but I believe they had already undertaken doing this. That, of course, does work better I think than some of the other domains in which people could want to see comparisons between and among colleges.”

Professor David Levitsky, Nutritional Sciences: “I think it’s notable that we reached the mean or the median of the other institutions, but is there any dream that we might go above the median?”

Provost Martin: “Do I think we should try to go beyond the median if we can? Yes, absolutely. Why not? It is just there are trade-offs. Therein is the problem. That would lead me to want to talk to you all about how the campaign is going, what I think the budget pressures are going to be over the next few years, what it’s going to mean to try and solve them if the campaign doesn’t bring in funding immediately for the areas in which we most need it, and that’s a long discussion, which I think we are having with various ones of you, primarily with Financial Policies, and maybe on the UFC, and will have more of in the future. But, do I think it’s sort of bureaucratic, I don’t know – dull witted – just to say we almost reached the peer average and now we should stop trying? Yes. I mean I really think what we should always be shooting for us to be above the peers in every way, including salaries. Do we have enough funding to do that and keep up right now with the cost of financial aid, and fund the lab start-ups, and the research funds that we are trying to cover? I think that’s the problem. But do I think it’s a noble goal, yes.”

Speaker Knuth: “There’s time for one more question.”

Provost Martin: “Maybe I can make a quick announcement then, and that is I know many of you are interested in the Bailey Plaza Project. We talked about that the last time I was here, which was not last month because I was sick and I’m sorry I wasn’t here. But now there is on the Provost’s website a set of pictures of the Bailey Plaza design, and also information about an e-mail address to use if you want to send in comments or questions and other information that you might like to see about that project. The three task force reports - you remember the three faculty task forces on Life in the Age of Genome, Sustainability in the Age of Development, and Wisdom in the
Age of Digital Information - they have completed their reports and those reports are also available on my website. They are very interesting reports and we aim to try to begin small while thinking big about all three of them. If you would like to see the reports, just go to the website. Thank you.”

Speaker Knuth: “We are still short a few members for the quorum. If there’s anybody who is a Senate member and who has not yet signed in, or you don’t remember if you signed in, please come down and sign in now. That would be quite helpful. Thank you.

“I’ll now call on Dean Charles Walcott for brief remarks.”

Charles Walcott, Dean of Faculty: “And brief is the operative word. First off, I want to say thank you to those of you whose term is ending and this is their last Senate meeting. We are grateful for your input, and thank you so much. Most particularly, I want to say thank you to somebody whose term is ending at the end of June, who has been enormously helpful in many of the affairs of faculty governance, particularly of running the Nominations and Elections Committee, and I mean my colleague Cynthia Farina, who is retiring from the position of Associate Dean and Secretary of the University Faculty, at the end of June and I hope you will join me in saying thanks to Cynthia.”

(Applause)

Speaker Knuth: “Thank you Dean Walcott. Do we have a quorum yet? We are short two. So what I am going to do is skip ahead because there are some items that require approval by vote of the Senators. We don’t yet have a quorum to do those items. The next item that is a report only, is for me to call on Professor Peter Stein, Chair of the Committee on Academic Freedom and Professional Status of the Faculty. Peter will give us a report on the revised policy on job-related faculty misconduct. Peter, do you need the overhead?”

Professor Peter Stein, Physics and Chair of Committee on Academic Freedom and Professional Status of the Faculty: “No. This is all so also pleasant to report. We, the AFPS Committee, you will remember, just to bring you up-to-date that approximately a year ago, we completed a three-year effort that was started by Bob Cooke to make a uniform policy by which faculty members could be suspended at the University. We concluded that about a year ago, and the Senate overwhelmingly passed the document, which we sent then to the Provost. In this discussion, I’ll refer to that as the ‘Senate approved document,’ which was done in April of 2005. Then two months ago I believe, there was what I will refer to as the ‘Provost’s document,’ I don’t know quite what else to call it, but the Provost’s document, and we discussed that at the last Senate meeting, I believe there were some significant concerns
raised about the ways in which the Provost’s document differed from the Senator approved document.

The AFPS Committee met several times. They wrote a rather lengthy letter to the Provost listing their concerns. We met with Vice Provost John Siliciano. We worked together with him and after a relatively short series of meetings and discussions we came to a document, which we think is mutually agreeable (Appendix 12). That document was e-mailed to you and there are copies of it down here. I only have ten minutes but I want to just relate quickly what are the major changes in that document from the Senate approved document of a year ago.

“Number one. There was the non-controversial issue of the fact that the Senate approved document failed to exclude the Weill Medical College faculty. That was put into the Trustee-approved document but drafted more carefully because – not the Trustee’s but the Provost’s document, all these high offices, I get them mixed up. We put that into the Senate document but in the drafting of the Provost document somehow also excluded was the Geneva faculty from the suspension policy and I am sure that was not intended, so we have made that change.

“A second change which was relatively non-controversial was the exclusion of short-term, i.e., six month appointments, faculty with six month appointments would not be covered by this policy, and other groups of faculty. The Provost’s document said that honorary faculty were not covered by it but it wasn’t clear what honorary meant. So, after a discussion with Susan, we changed that to courtesy, which then does not exclude adjunct faculty. So adjunct faculty are now covered by this document.

“A third issue was that the Deans felt it was important to put in a statement saying that a reduction in salary to a faculty member done at the ordinary time for making adjustments with salaries was not to be interpreted as a suspension. We agreed with that. You may not like reductions at normal raise time but whatever else they are, I think they are not a suspension. And so we put that in as excluding that from the suspension policy.

“There was the issue of the exclusion of the faculty in veterinary medicine from the suspension of privileges in the animal hospital. That was the source of a great deal of concern by a faculty member, not surprisingly those faculty members who practice at the Cornell University Hospital for Animals, and the Vice Provost agreed to take that exclusion out. They are now fully covered. All those faculty members are fully covered from all suspensions.

“There are two other issues that we put in. One, there was a concern that a unit – let me explain the way a suspension works. Both the Provost’s document and the Senate approved document started with a Dean saying ‘I want to suspend, you.’ That
was the trigger for this whole policy. Somehow it was felt that the issue of how it was that a Dean of a particular College went about deciding whether or not to suspend somebody, that decision, which we never anticipated that this document would cover, that that decision was covered by this document. We have added another section saying that nothing in this document would preclude the right of a College to develop its own procedures by which a Dean cameomes to the decision to suspend a faculty member. Is that clear?

“The last thing was the following issue that got raised. The Senate approved document had a very lengthy guarantee of due process and judgment by your peers for all suspensions. The question came up what would happen if indeed a College had decided, or if indeed there were a previous hearing, like for instance one that went on at CUHA, [the Cornell University Hospital for Animals] which came to the expert opinion that a faculty member there was not competent to practice in the hospital and therefore was suspended. How would that feed into this process? It was clear that the local group was probably better constituted to make that decision than a group of ad hoc people. Now, in the Provost’s document it stated that the Provost had the authority to decide that such a local hearing board made already an appropriate decision, and that the hearing board that was referred to in the Senate approved document would then not have jurisdiction in the matter of findings of fact. Is that clear? There was a lot of concern about that. We realized the problem. The problem was that you don’t want to completely forget about an expert hearing that went on beforehand. On the other hand, people were not comfortable with the Provost unilaterally making that decision of whether that hearing had been fair.

And so we changed that to say that the suspension hearing board itself could make that decision as to whether the previous findings of fact were sufficiently fair, and sufficiently had provisions for the faculty member’s ability to rebut the charges against him, to know what the charges were, and so on and so forth, whether all of that had been carried out. Then they were at liberty to take those findings of fact as part of their deliberations, rather than repeat it. But the decision was to be made by the suspension hearing board itself based on whether the rights of the faculty member had been observed in the previous local hearing.

I think that is the last change other than a few commas and plurals changed to singuals and vice versa.

“I would have hoped to be able to bring that to you as something for you to approve, and to replace your approvement of the previous document. That was impossible because we didn’t get it done until three days ago. It seemed to me the right thing to do was to ask you to read it, and see if you had any problems with this document.
The AFPS is perfectly happy with this document and we recommend it to the Provost for adoption and then to be brought to the Trustees to make it official University policy. If anyone has any concerns with that document, this is the time and place to raise them.

So I probably used up fifteen of my ten minutes. But please say something, or if you don’t say it here, send me an e-mail saying that you have a concern.”

Speaker Knuth: “We do have time for one question.”

Associate Professor Ted Clark, Microbiology/Immunology: “The hearing board that you are referring to is that the same as the College Grievance Committee?”

Professor Stein: “No. The hearing board that we are referring to is a hearing board that was invented for this process, following the same procedure by which hearing boards are assembled to hear grievance appeals for people who are denied tenure. That’s the usual grievance appeal-type board where the appellant picks two, the Dean picks two and then they pick a fifth. It’s a little bit more complicated than that but that’s the general model is that both sides are equally represented in the choosing of this five-person board.”

Speaker Knuth: “Okay, thank you Peter. Thank you very much. I would encourage you to send comments to Peter and may we anticipate that this would come for a vote before this body in the fall. Is that the plan?”

Professor Stein: “Well, I would think so. I would hope that would happen. If I hear nothing from you, we will send it to the Provost with the imprimatur of the Senate. I will assume that no comments means people have no problem with it.”

Speaker Knuth: “Okay, note on the official watch. I am using mine, which indicates that this clock is about three minutes fast.”

Provost Martin: “Barbara, can I ask for clarification? So it’s coming back to the Senate before we take it to the Board, or it’s not?”

Professor Stein: “Well I think you will have to ask the Dean of the Faculty.”

Provost Martin: “It would be good to know.”

Professor Stein: I’m the Chairman of this Committee so I don’t know what the faculty governance structure is going to do with it.”
Dean Walcott: “My impression is that there will be further discussion, probably University Counsel will want to look at this policy, and that it will be brought back to this body in the fall for formal approval.”

Speaker Knuth: “I’ll now move on to calling on Professor Risa Lieberwitz, Chair of the Committee to Review Faculty Governance for a report and we have fifteen minutes for that.”

Associate Professor Risa Lieberwitz, ILR and Chair of the Committee to Review Faculty Governance: “Thank you for the time to report as the Chair of the Committee to Review Faculty Governance. I have some overheads. The first one is to remind you of the background of the resolution to review faculty governance (Appendix 13). As you all know, this committee was put together by the Senate at the end of the fall 2005 semester. The Committee has been working this spring semester. We were instructed to come back to report to you in May of 2006; so here we are. Just in terms of a bit of a reminder about the background - we were instructed to review Faculty Governance both in terms of the history that’s occurred during the last ten years of the Faculty Senate, and then also to look toward the future to make recommendations for strengthening the influence of faculty on decisions by the Administration and the Board of Trustees. We were also instructed in the resolution to look at peer institutions.

“What I would like to do is to give you some overview. There isn’t too much time today so I would like to just spend some time doing some overview points and then hopefully we’ll have some time for questions. I know there are committee members here as well who may be able to answer questions. (Appendix 14).

“The first point on the overview deals with what we have been doing. This spring semester, 2006, we have been at work in three areas. First defining the issues of faculty governance, which takes some time and that’s an emerging process, an ongoing process. Of course you also have all received the progress report or at least the link to the progress report from the Committee. Hopefully you have all had a chance to read that. In my presentation I’ll just give some of the highlights for you. We’ve been defining the issues; we’ve been gathering research and secondary sources and we have been conducting interviews. In the next transparency (Appendix 15) I’ll show you the people that we have interviewed and those coming up. As you also know we have been seeking input from the Faculty Senate. We’ve asked department chairs for input as well as the general faculty. I know you have all received an e-mail recently on this. Because we are still in the process of gathering information, we would love to have your further input on the progress report as well as other issues you would like to raise, and suggestions.

“We’ll be working this summer as well as doing some additional interviews. We also will have some research done on the questions of alternative models in other
institutions on shared governance. Then we will be continuing to evaluate as we go through the material. And then looking ahead to the fall 2006, we plan to have some faculty forums on specific issues, where people can come and share and discuss the issues to be dealt with, to provide more input, continue our evaluation, collection of information, and then we are looking forward to hopefully having a draft of a report with recommendations for you next semester. The anticipation is that any final report will initially provide a draft so that we can get your reactions and input before calling it a final report.

"To give you a sense of who we have been talking to in addition to getting input in other ways, we have been talking with Trustees and officers of the Corporation, (the Charter refers to the University as a Corporation), and past presidents. We haven’t yet been able to talk with President Rhodes because of his schedule. We talked to Provost Martin. We talked to various Deans of Faculty, (current and former), Associate Deans of the Faculty (current and former), and Phil Lewis as a former Dean of the College of Arts and Sciences. We have more interviews scheduled. Actually this Monday, we will be speaking with our newest upcoming President, David Skorton, and then Professor Ron Ehrenberg. Ron has fulfilled various roles in the University, including his expertise on higher education as well as his role as Vice President in the University. We will be speaking with him and then Professor Dominic LaCapra, who I am sure a lot of you know who was for many years the Director of the Society for the Humanities. We will be talking to additional people as well, but this gives you a sense of the scope of the people we have been talking to.

"This is the wordy part (Appendix 16) but I’m not going to do much except to highlight some pieces here. One of the first things that we thought was important to look at is this question of how is authority described in the University By-laws and other documents that might be important, to see how authority is described on paper and then there’s also the question in practice. We refer to these sections in the progress report but just to highlight some of the actual language: In the By-laws the Trustees are referred to as having supreme control over the University with the President as one of the main officers, one of the main people in central administration to carry out those functions. And of course, it refers to the Provost as having a very specific role. The By-laws also include the role of the University Faculty, as well as the college faculty. Since we have what we usually refer to as some system of shared governance, even on paper we see the division of function between the central administration and the University faculty as well as the college faculty with the University faculty being represented by the Senate. The Senate has the function of looking at general educational policy issues and questions across colleges, the core academic issues being at the college level. But then also, since we have a shared governance process, one of the important things to look at here is the Organization and Procedures of the University Faculty (OPLF) (Appendix 17). Some of the important language here that I have highlighted in the progress report, and I wanted to highlight here too, is the question of how University
leadership should function. If you are talking about a shared governance process, that University leadership best functions when it respects the kind of shared governance that we have in the University, where the University faculty consultation is very important and there’s a view as the language says ‘full consideration of faculty views thereby building a faculty-administration partnership that will serve as a firm foundation for effective leadership.’ This language of shared governance is very important to highlight.

“This slide (Appendix 18) has the highlights from the progress report, of what is labeled here as emerging issues, again to remind us that as we gather information the issues will be refined. We will add to them and we want your input on that as well. Just to highlight those - there were certain issues as we were talking to people in interviews, as we were gathering input that continued to come to the fore, as we were looking at this question of how to find issues. The first one being the need to improve the timeliness, content and quality of consultation between the faculty and the Cornell Administration, as well as between the faculty and the Cornell Board of Trustees. And so it’s really the quality of that interaction in those various aspects that we saw continuing to come up.

“Also, secondly is the need to improve the effectiveness of the Faculty Senate in representing the views of the faculty. This is an issue that we felt continued to come and that we needed to look at. How do we improve the faculty governance body itself?

“Third, the effectiveness of the faculty voice in and influence on the Board of Trustee decisions, as well as the influence on the decisions of the Administration. I actually should have put that in there under number three. So please read Board of Trustee as also including the central Administration, because even though there are certainly instances that we saw where it appeared that there was significant influence and very good functioning of the Faculty Senate committees as well as the influence issue, there have been other instances that have come up where there was a feeling that this kind of influence was not strong enough.

The final point is about the need to increase the flow of information from the Administration and the Board of Trustees to the faculty.

“Now I have other information, but rather than go into any more detail on these issues, which are all outlined in the progress report, in the three minutes I have left, I think it might be best to see if there are people who wanted to ask questions or respond in some way.”

Professor Susan Suarez, Biomedical Sciences: “On your issue of shared leadership and partnership, I wonder how the Faculty Senate could be taken seriously if they close up shop for the summer, as we just did with regard to the Suspension Policy.”
Professor Lieberwitz: “I can’t really answer that question, of course. But what I think that your question identifies is an important point. We would welcome your input, not only here, but please also send comments to the Committee. That reminds me to remind you all that there is on the University Faculty website a page just for the Committee to Review Faculty Governance. There is a link on that page where you can e-mail the entire Committee. We have already gotten input; very thoughtful points have been raised that were really useful. I can tell you that everything that comes in we are planning on considering really carefully. Back to Susan, that’s the kind of point that we really welcome. I think it’s a very good question.”

Professor Richard Schuler, Economics, Civil and Environmental Engineering: “Being involved in an organization outside of Cornell that uses the words of shared governance, have you given thought to the question of, ‘if there is shared governance with that always comes obligations.’ That’s got to be a two-way street, if the voice of the faculty is to be considered in the long run. We are beginning to tread on more difficult ground because that’s getting to change, as it were, the By-laws of the institution because I don’t believe outside the area of academics we have an explicit obligation. The only question I wanted to raise is, have you pursued how a meaningful extension of faculty governance in the sphere of governing the University as a whole, what kinds of steps that would require in terms of changing the overall charter and legal documents supporting the institution?”

Professor Lieberwitz: “That’s a good question. These are the kinds of issues, of course, that we have been discussing. It’s not a question of what do the By-laws say, but are there restrictions in the By-laws that prevent us from making recommendations as the By-laws state the authority structure right now? Or, can we have a situation where the By-laws and the written materials together with practice and tradition enable us to make recommendations that will be useful and effective in terms of the influence of faculty on administrative decisions, as well as the decisions of the Board of Trustees? This concept of shared governance has different meanings at different institutions, and that’s why I think it’s going to be very important to look at other peer institutions to see how they handle it. But, just for the moment, looking at how we have structured ourselves, I think that one of the things that has come out as a consensus of all the people that we have talked to, whether it’s the Trustees or University Counsel, or Deans of Faculty, or the President, is that there is a recognition that there’s something unique about a University, and that we have in writing these statements that the Trustees are the supreme authority. There’s also the recognition that the academic core functions within the college are very much within the University faculty’s purview, and that’s of course in the By-laws. But in addition in stating that University faculty also have a position in terms of this consultative role with regard to educational policy across colleges, this in practice as well is one that really does open up a significant amount of consultation, as a kind of sharing through consultation, meaningful consultation to the faculty. There are all sorts of things that might even
appear to be non-academic that have an effect on the academic. That’s one of the issues that we highlighted in the progress report, that as the Administration changes, and for example, has more active “non academic” offices like housing, that will have an impact on educational matters and academic matters. Thus far, I think, we have at least concluded that there’s a significant amount we can do within the wording as it stands now. It may be that in the future we’ll have to look at that question of whether to recommend changes in the By-laws.”

Speaker Knuth: “Thank you. That’s what we have time for. I would encourage you to e-mail comments to Professor Lieberwitz.”

Professor Lieberwitz: “Yes. Please take a look at the progress report if you haven’t, and if you have, look at it again. We really welcome your comments and suggestions.”

Speaker Knuth: “I’m going to move back in the agenda for a moment and call on Associate Dean Cynthia Farina to give an informational report on elections results from the Nominations and Elections Committee.”

Professor Cynthia Farina, Law School, Associate Dean and Secretary of the University Faculty: “This was not ready for you when you got the packet, and so I’m happy to now report to you the result of the University-wide faculty election. We were fortunate to have very strong slates and so we have some great results. Brad Anton will be taking over as Associate Dean. Ron Ehrenberg will be our Faculty Trustee taking over for Lisa Earle. Abby Cohn, Rod Dietert and Andre Kessler will be joining us in the fall as Senators-at-Large. Elizabeth Adkins-Regan and Kerry Cook will be coming on to Nominations and Elections, and coming on to UFC is Fred Gouldin, Ellis Loew, and Kathryn March. Thank you so much to the people who were not successful for being willing to run, giving us great choices and congratulations to the winners. We look forward to seeing you all in the fall. You all are officially elected.”

Speaker Knuth: “Let’s congratulate those who were voted on.

“I’m going to move on now through the agenda and ask those who were presenting resolutions, we cannot vote on a resolution, but just ask if you want to speak briefly about it and see if there’s brief questions.

“First I’ll ask Brad Anton if there is anything you wish to say about your resolution.”

Professor Anton: “I want to ask you a question. What will happen now?”

Speaker Knuth: “We can’t vote on it now, so you can bring it to the first meeting in the fall, if you would like.”
Professor Anton: “I think I’ll do that.”

Professor J. Robert Cooke, Biological and Environmental Engineering: “This is the third resolution (Appendix 19) from the Faculty Library Board in a few years. We have been dealing with some fairly substantial issues having to do with access to scholarship, which affects the library, but it also affects everyone here if the library is unable to survive because it doesn’t have the resources to do the work.

“Another set of issues have now taken prominence and I would like to share that. Since we cannot vote and the resolution is one that is not obligatory, but carries, hopefully, some moral persuasion with your colleagues, I would ask that perhaps that the Dean and the UFC consider having a referendum rather than waiting until September, because the issue is a pressing one. Let me describe the situation.

“History (Appendix 20). Only recently have the Trustees officially conferred to the faculty the ownership of their intellectual output. It’s dated 1990. There’s a we site address. I have a number of URLs and these will be associated with the minutes so I am not expecting you to copy them down but so that you will know that they have been gathered.

“There was another resolution in December 2003, in which this body had a discussion of the pressure on access cost per subscriptions, especially to the scientific journals and the sciences, in particular. The library has been under enormous pressure, as you well know. There was some discussion of that, and you in effect said to the library administration, you have our permission to begin negotiating rather aggressively with the publishers who were causing us the difficulty.

“A year ago last May there was another resolution from the Library Board in which it urged non-cooperation of faculty as editors and submitters to journals that have become excessively priced, meaning one publisher requires multiple millions of dollars a year for us to acquire their journals. It has become a rather heavy burden. We were again giving the library comfort in saying we agree that you should negotiate aggressively. Another thing that emerged was open-access publishing (Appendix 21), which is becoming a rather important issue, nationally and internationally. That is gaining rapidly. As was reported to a year ago, NIH has adopted a policy asking faculty who have funding from NIH to make their materials accessible world wide on open access spaces within a year of publication. There was introduced recently some legislation which, if adopted, says any federal funding of 100 million or more a year - which would then sweep up not only NIH but NSF and NASA and so on - would be expected to be put on online and made accessible. And again that URL will be there for you if you want to track it down. (Appendix 22).
“A second issue that collides with our way of doing business is one on which the Provost sent a letter, dated April 24, to each of us (Appendix 23). The Internet has emerged as a major factor in how we do our scholarship and teaching. Issues that were well settled back in the print age have become unsettled. For example, what can the library put online without violating the copyright ownership? We certainly want to respect intellectual property rights and we certainly are not going to put ourselves in a position of violating the law. There are some real issues that are emerging and the Provost has alerted us to these, that we have to some heavy thinking about how we operate, what we put online, how widely we distribute other people’s property. (Appendix 24) For our own benefit I would mention one thing here, which is, notice the word ‘individuals’ - translation: faculty members’ - may be named in a lawsuit, could be. Given the fact that the Trustees have given us the authority to assign copyright, it means that it comes back to us sign a release. So one thing that is going to have to happen is to figure out what ‘fair use’ is in the age of the Internet. The resolution deals with the second part, that I think is more important. Here - and this is just for your information - in the University By-laws, we are indemnified when we are functioning as faculty member on behalf of the University doing our assigned duties. But I put italics ‘not inconsistent with law.’ If we are actually sued and are taken into court the University may or may not come to our defense if we have violated the law. If we have followed the law, the presumption is the University would provide the legal support to see to it that we are protected.

“There is a group working on establishing guidelines, and this was also attached to the letter from the Provost (Appendix 25). The University Counsel’s office is the place you would direct your comments and I presume there will be a serious discussion of this in the fall. Here are some guidelines (Appendix 26) that you might want to refer to as you prepare your course syllabus for next semester given the heightened sensitivity to the question of what’s yours and what’s somebody else’s.

“One of the immediate things that has been done by the Libraries is that they are willing to provide, in cooperation with the Counsel’s office, some general open discussions on what is fair. But the Library is also willing to provide consultation with individual faculty. If you were signing a contract with a publisher for a book or something, there are people who have some serious expertise who can help you at least identify the issues. You may still want to choose to have your own lawyer if it really is a serious discussion, but at least the University Library can provide some help in knowing what the issues are that you ought to be thinking about.

“This is the resolution from the Library Board (Appendix 27). The third word is urges. That word was chosen deliberately. It did not say we suggest you think about, it says we urge you to look at your rights when you sign away the rights to a publisher. It does not say you shall. It says the Library Board, and if you approve it at some point, it means you would recommend or strongly urge that every member of the faculty
consider these issues. In true to the fashion at Cornell, it’s not obligatory. It is advisory. It is a way of our dealing with the longer term problem. Instead of just figuring out how to avoid a lawsuit, if we really want to change the working relationships and so the problems would become less acute in the long run, when we give away the rights because the material originates with us and we transfer the rights to a third party, so if we transfer the rights in such a way that we can do the things that we need to do, then the future will be less burdensome on us (Appendix 28).

“I can remember my own experience with the first book I published in which I had developed some educational software, computational tools, and I had been giving it to my students. Once a commercial publisher had the right and I signed off, I could not longer give it to my students. The University had paid me to do it, I had been using it, and of course I knew that it became someone else’s property, but the full impact just didn’t hit me until later. I had a colleague down the hall from my office that had written a book and published by a commercial publisher, and in his enthusiasm for encouraging his colleagues around the country to use this book, he wrote some problem sets and solutions for them to use as assignments. The publisher through their lawyer advised him that was their right. It was a derivative work and he was not allowed to do that, cease and desist. There are things that you sign away that you may not think about, that could have real consequences for how you are doing your work.

“Let me stop with that and take questions. I do think, again, it is a serious issue of long-term consequences for the University. We did not ask the American Association of Publishers to raise this issue at this moment, but they are providing ample evidence that we need to think about how to solve the future problem.”

Speaker Knuth: “We have opportunity for a couple of questions.”

Professor David Delchamps, Electrical and Computer Engineering. “In the write-up of the meetings, I read that some publishers were being cooperative on this kind of thing, I’m just wondering if there are any villainous publishers who have been recalcitrant individually about responding to this sort of thing.”

Professor Cooke: “Yes, there have but I’m not inclined to start a name calling competition. They deserve it. There is a web site available. Perhaps Bill Arms would remember the exact address of it where someone has for several years been identifying publishers as to which ones would allow you put a copy of your publications on your own website. I know that people want to do that because it’s easier to put it up there instead of your having to send things through the mail. You can just put them up there and just let them be shipped out. A great many journals now will allow that. There seems to be a great divide between the professional societies and the commercial publishers. The ones that are causing the problem overwhelmingly are the commercial ones. There are a few exceptions, professional ones, say Chemistry, where they are
behaving as if they were commercial organizations. The important point I would make is we own the material before they get it. We have within our power, if we choose to exercise it, the ability to solve this problem.”

Professor Phil Nicholson, Astronomy: “I guess you have already made your point more or less but I am editor of a journal at Cornell which is published by one of the evil commercial publishers and we had an incident recently where one of our own faculty members decided to append the SPARC Amendment to his paper when he submitted it, and it caused quite a furor. E-mails and letters went to Amsterdam, backwards and forwards, and after a significant delay they made it clear that they would not accept this. He actually had to write a letter recanting his previous request before they would consider publishing the paper. The paper had already been accepted by the editorial process.”

Professor Cooke: “Elsevier is notorious for having been in an area where there's contentions.”

Professor Nicholson: “There was no bones about the answer on that.”

Professor Cooke: “Notice that the resolution says urges, it does not say obliges or compels. We were especially sensitive to the predicament of not yet tenured faculty who really need to have their work credentialed and for whom it really does make sense to not rock the boat as intensely. But two thirds of us have tenure and there’s more than one place to publish. The tide is clearly shifting in favor of sharing this intellectual resource with the rest of the world. I’m convinced that time is on the side of the people who think public institutions, private institutions, and higher education are there to serve the world, not to serve a narrow financial interest. We need to be careful how we proceed, but in the long run I’m convinced that we will have to turn it around and we have the capacity to do it because we own the material before they get it.”

Speaker Knuth: “We’ll move on now to calling on Vice Provost for Research Richardson for two items. The first is background on the resolution from the Local Advisory Committee to Affirm the Policy of Openness in Research and Public Disclosure of Sponsorship of Research.”

Vice Provost Richardson: “The Local Advisory Committee, I will remind you, is a joint committee of this body and my office. Its members are suggested jointly and discussed with the Nominations and Elections Committee every year. It has a variety of jobs. I want to tell you about one in the category of things that are triggered by events that happen in the research. The LAC has had three studies on policies handed to it this year. One is on openness of research, and that’s the one I’m going to talk about. Another one is on post doc minimum salary and the third one is the ownership of data. The ownership of data report will be coming out sometime in the future.”
“They come about in different ways. What triggers them might be an event in Sponsored Programs in deciding what the policy should be if it’s not what we think. They are generally inter-college and University-wide and related to research.

“Openness in Research. The basic issue here is that in 1948 Cornell passed legislation saying that we would not accept and support classified research in any form. We had quite a thoughtful discussion about how to define that and so forth. It has been reiterated through the years in times of difficulty especially between, say, universities and federal government and so forth. By 1968 to 1972 there were people who didn’t trust academics. They thought that there were all kinds of people up there in those buildings on top of the hill, and they were doing all kinds of secret stuff and making bombs and all kinds of evil things. You could see them leading tours in Clark Hall and other places, and when a door was locked, they whispered they are doing the secret stuff in there.

“It then became a matter of an organization called the Research Council. Don Cooke, who was the Vice President for Research then, had a discussion of this and said, ‘we have to be an open book, the public has to have access to the names of all sponsors of research.’ The Research Council supported that opinion unanimously, and it exists in the minutes. However, it was never written up as a policy statement. It doesn’t show up in the Faculty Handbook. There is a beautiful history that Lesley Yorke in my office has written. It’s kind of a thick document that summarizes the whole history of this work. But basically it’s always been there as a policy, and right now each month there is a new listing of sponsors of all research, and it’s available to anyone.

“I will point out that almost every year there are two or three letters to the editors of various local publications that claim we are doing secret stuff on the Cornell Campus. Our only way to rebut that is to make it open so people can actually look up who is doing what research. What came up this year is something I found very disturbing for me to have to do. One of our faculty members got a nice juicy grant from (I’m going to tell you the agency, but not the person) the Central Intelligence Agency for doing things totally unclassified. It was in no way you could imagine related to intelligence. It was just some beautiful fundamental science research. The proposal went all the way up to the last stage, and then the CIA said you can’t list this in public that we are supporting it. So I had to reject it. Eventually they said we could say US Government. That does not cut to the openness issue. That’s like when we have industrial support and we say ‘US industry.’ I felt very unpleasant to tell the principal investigator that we were going to have to reject it. But nevertheless, we did. He pointed out that nowhere is this a written policy and that’s correct, and I thought we should change that. I turned this over to the Local Advisory Committee and they discussed it at length. There’s unanimous support for the resolution (Appendix 29). I guess we can’t vote on it today but it gives the background, the whereases, and basically resolves that a listing of all
Sponsored Programs awards be made publicly accessible and updated on a regular basis (ideally monthly) giving the name of the Principal Investigator, the name of the unit administering the award, the name of the sponsoring agency (or organization) of the award, the project title, and the amount of the award. And that indicates the spirit of what has been the practice since 1948.”

Speaker Knuth: “Is there any comment or question on this? This again is an item that would come back before this body in the fall for a vote. Anything at this point?”

Professor Andrew Ramage, History of Art: “I have the impression in my dim memory that there used to be a list of that kind that came around to the faculty, which hasn’t appearing for several years now. Is that right?”

Vice Provost Richardson: “Sponsored Program Office does prepare a monthly list of all new awards but it doesn’t send it to all faculty, but it does send it out to anyone who requests it. The reason the list is not sent to everyone is that our survey showed that readers mostly just threw it away. It was not a widely appreciated publication.”

Professor Ramage: “I read mine all through, then I threw it away.”

Vice Provost Richardson: “It’s posted. You can get it off the web site. You can also subscribe to it. You can have it mailed to you every month on e-mail. I’ve been known to write letters of congratulations.”

Speaker Knuth: “One last question.”

Professor Brad Anton, Chemical and Biomolecular Engineering. “I’m curious as to whether this policy is unique or unusual in American universities.”

Vice Provost Richardson: “It’s really interesting because there is a group of 13 peer institutions that I interact with regularly. What’s important there is you can get quick response on what other people are doing. Of that group, and these are institutions like Harvard, Stanford, MIT, CAL Tech, Hopkins, Penn, the ones we got responses from, nine of the eleven have the policy that this information is open and published. The two that don’t, it was MIT and I’m not sure, said that the information is available for those who request it. I asked MIT if anybody ever requested. No.”

Professor Anton: “Does anyone do classified research?”

Provost Martin: “MIT does.”

Vice Provost Richardson: “Penn State does big time.”
Speaker Knuth: “We are going to move on. Thank you for that report. We’ll look forward to seeing you again in the fall. The last item is again from the Local Advisory Committee, a report on minimum salaries for postdoctoral associates.”

Vice Provost Richardson: “I want to give you some background information. I do see some people here who participated in the early stages of the development of this. Post docs are a population of people who come to Cornell for professional and educational advancement. It is a very important stage in the career of quite a large number of people. There are disciplines where the quality of the post docs that are at the institution is very important.

“Nationally, the treatment of post docs was an utter disgrace ten years ago. Here on our campus, in surveys that were conducted, we discovered some departments in some disciplines like the Veterinary School or the physical sciences which a have strong tradition and lots of post docs and sort of a culture embedded and they keyed pretty well. But there are others where they just sort of come in and get lost. There were lots of abuses, but we have progressed. Abuses like failure in mentorship, people refusing to write letters of recommendation after the post docs have been here a couple of years. That’s the most egregious. There were also abuses in salary structure and lack of medical support. People would get a minimal amount of money from their own government in their country and come here as a post doc and be outrageously underpaid and stranded with no health benefits.

“In the years since we started paying attention to this, we have instituted health benefits. We have instituted a grievance procedure. There is a social program where post docs get together if they want to. We have Christine Holmes, an employee who manages the post doc interactions with the University. We provide health benefits. All post docs are enrolled in the New York Academy of Sciences Review. We struck a really good deal. It’s ten dollars a year for membership. It’s a goody that looks kind of nice on the CV. It has in addition some rather useful workshops, e.g., tips on how to get a job.”

“The other issue, salary, the one that I bring to you now, is one that has to be a University policy. We wanted to look at what the structure of post doc salaries was and compare them with the NIH minimums. There is a document relating to this on the table. What we found is, out of roughly 380 post docs, that there were 31 that had a annual stipend under $30,000, and ten under $25,000. The ten curiously are all in physics or chemistry, and those were not even listed right. In almost every case they were top-offs. They came about with other people’s money, Humboldt Foundation, Max Planck Institute, and some of them were paid very well. They got just little top-offs that were necessary. We are now having them listed in a different way, so it’s more accurate.”
“I need to tell you something on reputation. The Scientist has ratings of various institutional on various topics. One of the two finer points is that their techniques for arriving at these ratings could be open to question. Anyhow, three years ago they did a review and they ranked institutions, and Cornell was listed 73rd in its treatment of post docs. This was universities, industry and so forth. Last year, three months after Christine showed up, we were 17th. I claim with that progress, we are going to be in the top five here soon. Let’s hope.

“The ones under $25,000 are easy to fix. There are twenty that are in range of $20,000 to $30,000 and what you now see is that we eventually move toward the NIH minimum, which is also the minimum NSF is moving rapidly toward. That’s $36,000 right now, and we want to start off at 87% and over five years move to whatever the NIH minimum is then, not what it is now. There is a recipe for that. The exceptions would be post docs who are working in other countries. Currently we have post docs in Africa and Asia. There you can have something more appropriate to the salaries there. That’s the recommendation. I talked with Dean Walcott about whether the post doc salary structure was something that would be a matter for approval of the Senate. He said no it is something that is up to the Administration to determine, and I agree with that, but I would also believe that because of the way it affects the entire population of research faculty it is important to have a discussion, not to just do it in a vacuum. Our intent is to have this implemented in September 2006, when the minimum would be $31,000, and then we would scale up in five years to whatever the minimum is at the end of five years. There are twenty people affected right now and they are in the Chemistry Department and in Geneva, people primarily with Department of Agriculture grants. The complaint of course is the obvious one - that people say when you have Central Administration dictating what the minimum is going to be, it restricts the flexibility that the individual principal investigator has in how to use the grant funds.”

Speaker Knuth: “Any comments or questions?”

Professor Nicholson: “This is not already covered in the University Salary Guidelines?”

Vice Provost Richardson: “Post docs never have been. Research Associates are. However, there are other interesting things. For instance, you can only be a post doc at Cornell for three years. We checked with peers. Christine actually has a peer group that she’s interacting with, and that’s a different one than I interact with. Out of eight that she got information on, Duke was one that was included, but also Hopkins, Penn, Stanford, University of California, Berkeley, they all had the NIH post doc minimums except Berkeley. Berkeley curiously would seem to be going exactly the way we are, that is, they are going to move toward adopting the NIH minimum, but not going cold turkey. If you have to jump the salary of someone seven kilabucks a year, that’s a heck of a blow on a grant. Everybody on the LAC manages big contracts or grants so they
understand that.

Speaker Knuth: “Is there a final question?”

Professor Greene: “I’m just curious on NIH post doctoral fellowships. Are fringe benefits charged on top of that?”

Vice Provost Richardson: “Did you say fellowship? You have to be careful. There is a thing called the NIH Fellow that’s different from the NIH post doc. The NIH Fellow is the one did not have built in health benefits. That was looking highly problematical. We now have the rule that the host for the NIH Fellow, either the PI that’s hosting him/her, or the department, or if that fails, the Dean, will provide the health benefits. For everybody else that is a post doc, the other 90%, they have all the same University fringe benefits and they are charged by the same recipe. They actually get TIAA/CREF, life insurance, the whole suite of benefits that everyone else has. In that regard, we are in the top three or four institutions. There are only three or four other places in recent surveys that people were doing this, including those benefits. That has a lot to do with our reputation and our ability to attract people.”

Speaker Knuth: “We have reached our agenda limit. Thank you very much for attending, Vice Provost Richardson, and everybody have a great summer. We’ll see you in the fall.”

Meeting adjourned – 6:00 PM.

Respectfully submitted,

Cynthia R. Farina
Associate Dean and Secretary of the University Faculty
Appendix 1

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Cornell University AFPS Committee
Draft Policy on Job-Related Faculty Misconduct

DRAFT: 05-10-06

Policy Statement:

Reason for Policy:

Entities Affected by this Policy: University professors and college or school faculty members (excluding the Joan and Sanford I Weill Medical College).

Who Should Read this Policy:

I. Definitions:

A. College or school faculty member: as defined by Art. XIII of the Bylaws of Cornell University:

Each college or school faculty, except the Graduate Faculty, shall be composed of the President; the Dean or director of the college or school; and all professors, associate professors, and assistant professors in the department or departments under the charge of that faculty. Instructors, senior research associates, senior extension associates, lecturers, senior lecturers, clinical professors, associate clinical professors, and assistant clinical professors, and those bearing the adjunct title shall be non-voting members. Each college or school faculty may, in its discretion, grant membership to senior scholars, senior scientists, and other professional personnel for whom such membership is deemed appropriate by such faculty. Any college or school faculty may elect to its membership persons who are already members of other faculties of the University for so long a period as they continue to be members of such other faculties.

Note: The provisions of this policy do not apply to faculty members holding appointments with a duration of six months or less, or to those holding courtesy appointments.

B. Emergency suspension: A suspension with full salary pending the ultimate determination of the faculty member's case where the member is charged with misconduct and the member's continuance threatens imminent serious harm to
the member or others or to property.

C. Minor sanction: any sanction other than a "severe sanction."

D. Severe sanction: dismissal or suspension.

E. Suspension: A temporary abrogation of the faculty member's rights or responsibilities that effectively prevents the faculty member from carrying out the responsibilities of his or her position or a temporary partial or temporary full reduction of a faculty member's salary will be considered a suspension for the purposes of this policy, whether or not it is named as such. This policy does not apply to the Joan and Sanford I Weill Medical College, nor does it apply to a non-disciplinary reduction of salary such as a non-temporary reduction of salary that may be implemented at the time of an annual salary review (which may be grieved pursuant to the academic grievance policy).

II. Purpose and Scope of this Policy:

To ensure fair and adequate processes for faculty charged with job-related misconduct or failure to perform the duties required of the position held, the following procedures govern the imposition of severe sanctions, minor sanctions, and emergency suspensions.

III. Procedures:

A. Severe Sanctions

1. Duration of suspensions: No suspension, other than an emergency suspension, shall be imposed for a period of less than two weeks or more than 12 months.

2. Reporting requirements for dismissals or suspensions: All dismissals or suspensions, including those resulting from informal settlements, shall be reported to the Dean of Faculty by the appropriate administrator. Such reports shall include a summary of both the complaint and its resolution, and shall be maintained in a permanent archive.

3. Suspension procedures for university professors, professors, associate professors, and assistant professors¹:

   (a) The term "faculty member" in subsection III A. 3. shall refer

¹ The procedure used for dismissals is the procedure adopted for that purpose by the Board of Trustees.
exclusively to university professors, professors, associate professors, or assistant professors.

(b) If the administration believes that the conduct of a faculty member is sufficiently grave to justify imposition of a suspension, or if the recommendation for a suspension is a result of action taken under any other university policy (including those policies governing "academic misconduct," "sexual harassment," "financial irregularities," and "conflict of commitment/interest"), the faculty member shall be provided with a detailed written description of the charge or charges that form the basis for the recommendation of a suspension. The recommendation of suspension shall be reported to the Provost, along with the results of any investigation taken. The Provost shall consider the charges and evidence against the faculty member, and may make such independent investigation as may seem appropriate, in order to determine whether there is a reasonable basis to believe that a suspension may be appropriate. If the Provost concludes that no such reasonable basis exists, the recommendation of a suspension shall be terminated. If the Provost concludes that a reasonable basis exists for believing that a suspension may be appropriate, the faculty member may invoke the hearing procedure specified in section III.A.3.(c) below. The faculty member will be informed of the Provost's decision and of the faculty member's right to invoke the hearing procedure in writing. If the faculty member wishes to invoke the hearing procedure, he or she must so inform the Dean of the Faculty in writing within two weeks of receipt of the Provost's decision. In the event that the faculty member fails to so inform the Dean of the Faculty within two weeks, the suspension will commence immediately. If the Provost concludes that some but not all of the charges against the faculty member may form a reasonable basis for believing that a suspension is appropriate, the Provost shall cause the faculty member to be furnished with a written and detailed statement of the charges against the faculty member.

(c) The charges against the faculty member shall be heard by a hearing panel appointed as follows: The faculty member and the Provost shall each choose four members of the University Appeals Panel. The faculty member's nominees shall choose two of the Provost's nominees, and the Provost's nominees shall choose two of the faculty member's nominees. The four so chosen shall then choose a fifth tenured University member, who shall chair the hearing panel. Any person nominated who has participated in the matter being heard or feels unable to render an unbiased judgment or perceives a conflict of interest shall disqualify him or herself.
(d) At the hearing, the faculty member shall be entitled to be accompanied by an advisor or counsel of his or her own choice, to present witnesses in his or her own behalf and to confront and question the witnesses against him or her. The faculty member's advisor or counsel may not address the panel or question the witnesses unless requested to do so by the chair of the panel. The hearing panel may elect to rely on the written record of any previous hearing boards that have adjudicated the matter in hand or selected portions thereof, if in the opinion of the hearing panel, the accused faculty member has been offered a full and fair opportunity to rebut the charges and the evidence presented. If the accused faculty member believes that previous hearings were not fair, or did not offer the faculty member the opportunity to rebut the charges or the evidence presented, the panel will afford the faculty member the opportunity to justify that belief. In either event, the hearing board shall determine whether suspension is an appropriate penalty for the conduct of the faculty member.

(e) If the faculty member requests before or at the opening of the hearing, he or she shall after its conclusion be furnished, without cost to him or her, a full report of all the evidence received by the panel (including an audio recording of the testimony taken and copies of all documents received) and the panel's findings and recommendations.

(f) The panel shall report its findings to the President in writing within eight weeks of being formed. The decision of the President will not be subject to further appeal or reconsideration.

(g) The office of the Dean of the Faculty will provide staff support for the panel.

4. Procedures for suspension and dismissal of college or school faculty members other than professors, associate professors, and assistant professors:

(a) When complaint from any source is made against such member which might lead to the imposition of a dismissal or suspension, and unless the alleged misconduct falls under the jurisdiction of a specific Cornell policy containing alternate procedures, the Dean of his or her college shall inform the member of the complaint against him or her, investigate the case, and if the faculty member is willing, consult with him or her regarding it.

(b) If the matter is adjusted informally to the satisfaction of the Dean and
the faculty member, no further proceedings shall be invoked by them. If the matter is not adjusted informally, the Dean shall cause the faculty member to be furnished with a written and detailed statement of the charges against him or her.

(c) No dismissal or suspension shall be imposed without first giving such member an opportunity to invoke grievance procedures and seek review by the Committee on Academic Freedom and Professional Status of the Faculty [AFPS], to the extent permitted by the specific policy guidelines governing such reviews, and within the following stated time periods: The member shall have 4 weeks after being informed in writing of the charges and recommended sanctions to invoke grievance procedures or review by the AFPS. Where a review by the AFPS is requested following a grievance action, the faculty member shall have 4 weeks after the completion of the grievance procedure to request review by the AFPS.

(d) The opportunity to invoke grievance procedures and seek review by the AFPS before the imposition of a dismissal or suspension, as described above, applies also to cases where the recommendation for a dismissal or suspension is a result of action taken under any other college or university policy (including those policies governing "academic misconduct," "sexual harassment," "financial irregularities," and "conflict of commitment/interest"). In such instances, the AFPS may elect to rely on the written record of any previous hearing boards that have adjudicated the matter in hand or selected portions thereof, if in the opinion of the AFPS, the accused faculty member has been offered a full and fair opportunity to rebut the charges and the evidence presented. If the accused faculty member believes that previous hearings were not fair, or did not offer the faculty member the opportunity to rebut the charges or the evidence presented, the AFPS will afford the faculty member the opportunity to justify that belief. In either event, the AFPS shall determine whether suspension is an appropriate penalty for the conduct of the faculty member.

B. Minor Sanctions

If the administration believes that the conduct of a faculty member justifies imposition of a minor sanction, the following procedures will be followed:

1. If a minor sanction is imposed under a specific university policy (such as "academic misconduct," "sexual harassment," "financial irregularities," and "conflict of commitment/interest"), the faculty member may obtain consideration and, possibly, redress by invoking a formal grievance action
according to the grievance procedures adopted by his or her college and, where appropriate, request review by the AFPS.

2. If the conduct justifying a minor sanction is not regulated under any other specific university policy, the appropriate administrator will notify the faculty member of the basis of the proposed sanction and provide the faculty member with an opportunity to persuade the administration that the proposed sanction should not be imposed. A faculty member who believes that a minor sanction has been unjustly imposed may invoke a formal grievance action according to the grievance procedures adopted by his or her college and, where appropriate, request review by the AFPS.

3. A faculty member who believes that a sanction proposed under the procedures for "minor sanctions" is, in fact, a "dismissal or suspension" may invoke a formal grievance action according to the grievance procedures adopted by his or her college and, where appropriate, request review by the AFPS.

C. Emergency Suspension

1. If a university professor, or college or school faculty member, is charged with misconduct and if the member’s continuance threatens imminent serious harm to the member or others or to property, the faculty member may be suspended by the President (or his or her designee) or assigned to other duties in lieu of suspension pending final resolution of the charge.

2. The scope and duration of the emergency suspension shall be tailored as narrowly as possible to the nature of the harm posed, so that the faculty member’s rights and privileges are not summarily abrogated more broadly than is reasonably necessary to protect persons or property pending completion of the suspension procedures. Whatever other rights and privileges may be withdrawn by an emergency suspension, the faculty member’s full salary shall continue during the period of the emergency suspension.

3. The President (or his or her designee) shall promptly report to the Dean of Faculty concerning the propriety, the length, and any other conditions of the emergency suspension.

D. The Role of College Suspension Procedures

Nothing in this policy shall limit the right of any school/college to establish its own procedure to regulate the process by which administrators in that school or
college decide to initiate suspensions, as long as those school/college procedures do not abridge in any way the applicable procedural rights conferred by any section of this policy to faculty members facing suspension.
Resolution to Review Faculty Governance

Whereas 2005 is the tenth anniversary of the founding of the Faculty Senate, and

Whereas several events during the last year have raised questions about the relationship among the Faculty Senate, the central administration, and the Board of Trustees at Cornell University,

Therefore be it resolved that the Faculty Senate, using a slate of candidates proposed by its Nominations and Elections Committee, appoint a seven-member committee to:

1. Review the actions of Faculty Governance over the past ten years to assess their impact on administrative decision-making at Cornell;

2. Examine the relationship among the faculty governing body, administration of the individual colleges, central administration, and Board of Trustees at other comparable universities;

3. Make recommendations to the Faculty Senate for changes to broaden and strengthen the influence of the university faculty on administrative decision-making at Cornell; and

4. Report back to the Faculty Senate no later than its May 2006 meeting.

Faculty Governance Committee members:
Brad Anton, Chemical and Biomolecular Engineering
N'Dri Assie-Lumumba, Africana Studies & Research Ctr.
Eric Cheyfitz, English, Arts & Sciences
William Crepet, Plant Biology, Agriculture & Life Sciences
Cornelia Farnum, Biomedical Science, Veterinary Medicine
David R. Lee, Applied Economics & Mgmt., Agriculture & Life Sciences
Risa Lieberwitz (Chair) Coll. Barg., Labor Law & Labor History, Industrial & Labor Relations
COMMITTEE TO REVIEW FACULTY GOVERNANCE

OVERVIEW OF THE COMMITTEE’S WORK

Spring semester 2006:
(1) Defining issues of faculty governance.
(2) Research of secondary sources (e.g. articles and studies) on faculty governance models.
(3) Interviews with individuals in important university governance roles.
(4) Seeking input and suggestions from the Faculty Senate, department chairs, and the Cornell faculty.

Summer 2006:
(1) Additional interviews
(2) Research on alternative models of shared governance at selected other peer universities.
(3) Evaluation of research and information gathered.

Fall 2006:
(1) Faculty Forums
(2) Evaluation of research and other collected information.
(3) Draft of report and recommendations for Faculty Senate discussion and consideration.
COMMITTEE TO REVIEW FACULTY GOVERNANCE
INTERVIEWS

TRUSTEES and OFFICERS
Board of Trustees Chair Peter Meinig
Board of Trustees Executive Committee Chair Edwin Morgens
University Counsel and Secretary of the Corporation James Mingle

CU PRESIDENTS (current and former)
President Dale Corson
President Hunter Rawlings

PROVOSTS
Provost Biddy Martin

DEANS OF FACULTY (current and former)
Professor Robert Cooke (also former faculty trustee)
Professor Peter Stein (also former faculty trustee)
Professor Walter Lynn
Professor Charles Walcott

ASSOCIATE DEANS OF FACULTY
Professor Cynthia Farina
Professor Kathleen Rasmussen (also faculty trustee)

COLLEGE DEANS
Professor Philip Lewis (former Dean, College of Arts and Sciences)

SCHEDULED INTERVIEWS:
President-elect David Skorton
Professor Ronald Ehrenberg
Professor Dominick LaCapra (former Director, Society for the Humanities)
Appendix 16

SHARED GOVERNANCE AT CORNELL UNIVERSITY

CORNELL UNIVERSITY BYLAWS

Article II, §1
“Subject to the Charter of the University and the laws of the State, the Board of Trustees shall have supreme control over the University, including every college, school, and academic department, division and center thereof.”

Article V §1
“The President shall be chief executive and educational officer of the University and is charged with responsibility for providing general supervision to all affairs of the University.”

Article VI §1
“In addition to the President, the officers of the corporation shall be the Provost, the Provost for Medical Affairs, the Executive Vice President for Finance and Administration, and the University Counsel and Secretary of the Corporation.”

Article XII §3
“The functions of the University Faculty shall be to consider questions of educational policy which concern more than one college, school or separate academic unit, or are general in nature; and to recommend to the Board of Trustees, with the approval of the appropriate college or school faculty, the establishment, modification or discontinuance of degrees.

Article XIII §3
“Subject to the authority of the University Faculty on all matters affecting general educational policy, it shall be the duty of each separate college or school faculty to determine the entrance requirements for its own students; to prescribe and define courses of study for them; to determine the requirements for such degree as are offered to students under its jurisdiction; to recommend to the President such candidates for degrees as may have fulfilled the requirements therefore; to enact and enforce rules for the guidance and supervision of its students in their academic work; and in general to exercise jurisdiction over the academic interests of students and all other educational matters in the particular college or school.”
SHARED GOVERNANCE AT CORNELL UNIVERSITY

ORGANIZATION AND PROCEDURES OF THE UNIVERSITY FACULTY

“University leadership functions best when it is derived from the consent of the governed and is able to strike the delicate balance between the twin needs for broad consultation and decisive, timely decision-making. By long tradition the faculty believe that their views should profoundly influence the course Cornell will follow, but the size and diversity of today’s faculty make it difficult to ascertain those views. The appropriate role of faculty governance is to facilitate communication between the faculty and the administration, ensuring a full consideration of faculty views, thereby building a faculty-administration partnership that will serve as a firm foundation for effective leadership.”
COMMITTEE TO REVIEW FACULTY GOVERNANCE

EMERGING ISSUES

I. Need to improve the timeliness, content, and quality of consultation between the faculty and the Cornell Administration and between the faculty and the Cornell Board of Trustees.

II. Improving the effectiveness of the Faculty Senate in representing the interests of the faculty.

III. Effective faculty voice in and influence on Board of Trustee decisions.

IV. Need to increase the flow of information from the Administration and Board of Trustees to the faculty.
Resolution by the Library Board for consideration by the Faculty Senate. Approved by the Library Board on 24Apr06.

WHEREAS the Cornell Faculty Senate on 11 May 2005 passed a resolution on scholarly publishing, according to which “The Senate strongly urges all faculty to negotiate with the journals in which they publish either to retain copyright rights and transfer only the right of first print and electronic publication, or to retain at a minimum the right of postprint archiving”; and

WHEREAS the Scholarly Publishing and Academic Resources Coalition (SPARC), has made available a standard form that authors may attach to publishing agreements in order to secure a non-exclusive right to make their work available for non-commercial uses; and

WHEREAS the widespread use of such an addendum would educate publishers about the importance scholars attach to the ready availability of their scholarly work for educational purposes,

THEREFORE BE IT RESOLVED THAT

The Senate urges faculty members to attach the SPARC Author’s Addendum to publishing contracts that they sign unless they arrange to retain copyright itself and transfer only the right of first print and electronic publication.

Discussion

The resolution passed by the Faculty Senate on 11 May 2005 acknowledges the importance of faculty management of copyrights. Faculty create work, often give it to publishers, and then must license it back to use it. The Cornell University Library spends millions of dollars a year to rent access to scholarly material produced largely by faculty here and elsewhere; departments and individual faculty members license

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2 Author's Addendum Intro
   http://www.arl.org/sparc/author/addendum.html

The above introduction provides a link to the SPARC Author's Addendum document
   http://www.arl.org/sparc/author/docs/AuthorsAddendum2_1.pdf

3 The NIH Public Access Policy pertaining access to NIH research is at:
   http://www.arl.org/sparc/oa/nih.html
permission to use scholarly material on course web sites; and students pay to use the material through course pack permission fees.

The SPARC Author’s Amendment is an easy and effective way of negotiating desired rights. It allows faculty authors to retain the following rights, which otherwise might not be available under the standard contract provided by the publisher:

- The right to make your article available in a non-commercial open digital archive on the Web (such as ArXiv, DSpace at Cornell, or NIH’s PubMed Central, as NIH has requested);
- The right to make copies of your article for use in the classes that you teach;
- The right to authorize others to use the article in teaching and research, both here at Cornell and elsewhere;
- The right to modify and use the article in later articles, books, and other publications, without having to ask permission of the publisher;
- The right to receive from the publisher a PDF version of the article, as published.

In the event that a publisher refuses to accept the SPARC Author’s Addendum, faculty are encouraged to ascertain which of the above rights the publisher will not allow the faculty member to retain. Faculty should weigh how important those rights are to the faculty member, to Cornell, and to scholarship in general.

The Scholarly Communications program of the Cornell University Library in conjunction with the University Counsel’s and other offices on campus stands ready to offer workshops to interested faculty and departments on publication options as well as analysis of individual publishing agreements.
Appendix 20

History

- Trustees formalized the role of faculty in copyright transfer. 28 June 1990
  

- Senate discussion of the University Library’s Policies on Serial Acquisitions, with Special Reference to Negotiations with Elsevier (17 Dec 2003)

- Senate Resolution (11 May 2005) urged non-cooperation with exorbitantly priced journals, urged the University Library to negotiate vigorously with publishers who price exorbitantly and to reduce acquisitions from such publishers and urged faculty to consider publishing in open access journals.
Open Access Publishing

Open access publishing is gaining in popularity world-wide and there are local versions of this, including The Internet-First University Press.

The NIH policy of expecting NIH-funded research to be made openly accessible after a time delay.

Recently introduced federal legislation would broaden this to other federally-funded research.
Appendix 22

A U.S. Senate bill “...was introduced last week by Lieberman and Cornyn that would require that researchers who receive grants from Federal agencies that spend more the $100 million a year on research (meaning NSF, NIH, NASA, etc.) would have to publish any articles resulting from the grant in an open access repository within 6 months of publication in a journal.”

Potential Litigation

“The Association of American Publishers recently sent the university a threatening letter complaining of widespread copyright infringement at Cornell and threatening to bring a federal lawsuit against Cornell and individuals at the university unless satisfactory remedial steps are taken. The focus of the AAP complaint is the provision of electronic course reading materials to students through electronic reserve reading and materials scanned and linked to course web pages. The AAP has apparently been using guest privileges to monitor course web pages and library reserve listings.”

from a memo by Forrester Biddy Martin dated 24 April 2006
ARTICLE XXI
INDEMNIFICATION

Members of the Board of Trustees, officers of the corporation, and Vice Presidents and Vice Provosts of the University shall be entitled to indemnification in the defense of any criminal or civil action or proceeding as provided by law or by such procedures, not inconsistent with law*, as the Board may adopt from time to time.

Other officers and employees of the University may be so indemnified on such terms and conditions as the Board may approve from time to time.

* italics added for emphasis

from University Bylaws at:
http://www.cornell.edu/trustees/
from the Provost’s letter of April 24th:

“... A draft set of guidelines is attached. If you have concerns about, or wish to provide input into this process, please contact **Pat McClary** in the Office of University Counsel (5-5126, pam4@cornell.edu).”
"Guidelines for the Inclusion of Copyrighted Material on Course Web Pages" is found at http://www.copyright.cornell.edu/policy/Guidelines_Course_Web_Pages.htm and http://web.cornell.edu/UniversityFaculty/docs/Copyright.pdf when placing material on a Blackboard site.
Resolution (10 May 06)

“The Senate urges faculty members to attach the SPARC Author’s Addendum to publishing contracts that they sign unless they arrange to retain copyright itself and transfer only the right of first print and electronic publication.”
Rights you might want to reserve:

- The right to make your article available in a non-commercial open digital archive on the Web (such as ArXive, DSpace at Cornell, or NIH's PubMedCentral, as NIH has requested);
- The right to make copies of your article for use in the classes that you teach;
- The right to authorize others to use the article in teaching and research both here at Cornell and elsewhere;
- The right to modify and use the article in later articles, books, and other publications, without having to ask permission of the publisher;
- The right to receive from the publisher a PDF version of the article, as published.
Resolution to Affirm Policy of Openness in Research and Public Disclosure of Sponsorship of Research

WHEREAS Cornell University has a tradition of free and open research dating from 1948, which was codified as policy in the Guidelines on Sensitive and Proprietary Research (Cornell Research Council, May 20, 1985),

WHEREAS there has been a settled tradition since 1954 of publishing a "detailed list of research projects giving sponsor, title, project, director, amount and time period" (Vice President for Research, Annual Report 1954),

WHEREAS the University Faculty Committee on Research Policies reviewed the benefits of publicly disclosing sponsors of research grants and contracts and recommended (December 14, 1972) that such information be published in the Cornell Chronicle (first published September 1, 1973),

WHEREAS a monthly list of new grants and contracts for Ithaca and Geneva campuses was published in the Sponsored Programs newsletter beginning October 28, 1982, and was disseminated via the Sponsored Programs website beginning July 1998,

THEREFORE, BE IT RESOLVED that a listing of all Sponsored Program awards be made publicly accessible and updated on a regular basis (ideally monthly) giving the name of the Principal Investigator, the name of the unit administering the award, the name of the sponsoring agency (or organization) of the award, the project title, and the amount of the award.

BE IT FURTHER RESOLVED that the format of the publication may be amended from time to time, and that additional information about Sponsored Program awards may be published as deemed necessary by the Vice Provost for Research.

Local Advisory Committee
May 2, 2006

Background/Discussion

LOCAL ADVISORY COUNCIL
Revised Draft Statement
Openness in Research
April 11, 2006

It is the policy of Cornell University that a listing of all Sponsored Program awards will be made publicly accessible and updated on a regular basis (ideally monthly) giving the name of the Principal Investigator, the name of the unit administering the award, the name of the sponsoring agency (or organization) of the award, the project title, and the amount of the award. Other information may be published as deemed necessary by the Vice Provost for Research.

The format of publication may be amended from time to time. Currently, the sponsored programs New Awards list is published monthly and can be found at the web site of the Office of the Vice Provost for Research. Choose the Publications tab on the left side of the home page http://www.research.cornell.edu/vpr/ and scroll to the bottom of the page for "Research Newly Funded."