The meeting was called to order at 5:32 p.m.

There were present:

**Committee Members:**
- Hon. Benno Schmidt, Chair
- Hon. Philip A. Berry, Vice Chair
- Hon. Valerie Lancaster Beal
- Hon. Wellington Z. Chen
- Hon. Freida D. Foster

**Trustee Observers:**
- Hon. Una S. T-Clarke
- Hon. Rita DiMartino
- Hon. Judah Gribetz
- Hon. Charles A. Shorter
- Hon. Terrence F. Martell
- Hon. Joseph K. Awadjie

**Trustee Staff:**
- Senior Vice Chancellor and Secretary Jay Hershenson
- General Counsel and Senior Vice Chancellor Frederick P. Schaffer
- Deputy to the Secretary Hourig Messerlian
- Ms. Towanda Lewis
- Ms. Fenella Ramsami
- Mr. Anthony Vargas

**University Staff:**
- Chancellor James B. Milliken
- Executive Vice Chancellor and University Provost Vita Rabinowitz
- Vice Chancellor Judy Bergtraum
- Vice Chancellor Matthew Sapienza
- Vice Chancellor Gloriana Waters
- Associate Vice Chancellor Andrea Shapiro Davis
- Senior University Dean/Special Counsel to the Chancellor Dave Fields
- Senior University Dean Robert Ptachik

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The agenda items were considered and acted upon in the following order:

I. ACTION ITEMS:

A. APPROVAL OF THE MINUTES OF THE MEETING OF APRIL 4, 2016. The minutes were approved as submitted.

B. POLICY CALENDAR

1. CUNY GRADUATE SCHOOL OF JOURNALISM – NAMING OF THE MADE IN NY BROADCAST CENTER:

   RESOLVED, That the Executive Committee of the Board of Trustees of The City University of New York approves the naming of the Broadcast Center on the third floor of the CUNY Graduate School of Journalism as the “Made in NY Broadcast Center” for a period of five years, coterminous with the duration of programmatic funding provided by the Mayor’s Office of Media and Entertainment.

   **EXPLANATION:** Made in NY is a workforce initiative sponsored by the Mayor’s Office of Media and Entertainment in New York City. The Mayor’s Office of Media and Entertainment has pledged to grant $1,000,000 to the Graduate School of Journalism to support workforce training offered through the School’s Center for Community and Ethnic Media (CCEM), to be paid in one sum on June 10, 2016.
Subsidized training will be offered to members of the community and ethnic media, whose 350 combined media outlets represent a readership, listenership, and viewership of 4.5 million people. Such training will extend over the course of five years and will be offered in conjunction with the School’s professional training program, CUNY J+. The training across a spectrum of platforms, including print, web, video, broadcast, radio and podcasts, is aimed at elevating both the skills level and the reporting quality of journalists from this sector. The Mayor’s Office of Media and Entertainment recognizes the effective work that the Center has already done in training and creating a network for a diverse population of New York City media organizations and sees in this grant an opportunity to leverage CCEM’s effectiveness. In recognition of this grant, the School recommends naming its broadcast center the Made in NY Broadcast Center during the period of City funding.

Chancellor James Milliken stated that he supports this naming resolution.

Dean Sarah Bartlett stated that this initiative gives the CUNY Graduate School of Journalism the opportunity for CCEM to train members of the community and ethnic media in New York City in digital technology. CCEM is interested in supporting the School for a period of five years with a million dollar gift. The School already has a professional training unit called CUNY J+, and the goal there is to train working journalists in digital technologies, ensuring that the program is accessible to the hundreds of journalists who work for the smaller mom and pop community and ethnic media in New York City. In exchange for this initiative, CCEM would like recognition and naming of the broadcast center at the CUNY Graduate School of Journalism—for the period of time that the programming has been offered for—to be the “Made in NY Broadcast Center.”

Chairperson Benno Schmidt stated that the Broadcast Center at the CUNY Graduate School of Journalism is important for the digital future of journalism.

Following discussion, this item was approved.

2. THE CITY UNIVERSITY OF NEW YORK - POLICY ON FREEDOM OF EXPRESSION AND EXPRESSIVE CONDUCT:

RESOLVED, That the Board of Trustees of The City University of New York hereby approves the following policy:

1. General Principles
   1.1 The City University of New York (“CUNY” or “the University”) is committed to academic freedom and the free exchange of ideas and expression of all points of view for members of the University community, including individual students, faculty, and staff and recognized groups of those constituencies. Such exchange is at the core of the mission of higher education. The ideas of different members of the University community will often conflict, but it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable or even offensive. Although members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility can never be used as a justification for closing off discussion of ideas, however disagreeable or offensive they may be to some members of the University community. The appropriate response to false or offensive speech is not to prohibit it but to respond with more speech.
   1.2 The freedom to express ideas does not mean that individuals may exercise that freedom in ways that are incompatible with the functioning of the University and the rights of other members of the community to freedom of expression and to a full and equal opportunity to pursue their education and to participate in the benefits of the University.
   1.3 It is well established that certain forms of expressive conduct may appropriately be subject to reasonable restrictions as to time, place and manner. In particular, demonstrations,
leafleting and tabling must be carried out so as to ensure the safety of individuals, the protection of property, and the continuity of the University’s educational activities and business operations. However, any such restrictions must be narrowly tailored and applied in a non-discriminatory manner and without regard to the content of the speech at issue. Similarly, meetings or forums that are open to members of the University or the public must also be conducted so as to protect their rights to participate on equal terms and without discrimination as to point of view.

2. Prohibited Conduct

2.1 Any conduct that violates the Rules and Regulations for the Maintenance of Public Order pursuant to Article 129-A of the Education Law, also known as the Henderson Rules, also violates this policy. Prohibited conduct generally includes any behavior that adversely affects or directly threatens to negatively affect the health or safety of persons or their opportunity to enjoy the benefits of the University or materially disrupts or seriously threatens to materially disrupt University functions or operations, whether or not such conduct occurs on property owned, leased or licensed by the University.

2.2 Examples of prohibited conduct that adversely affects or directly threatens to adversely affect the health or safety of persons or their right to a full and equal opportunity to pursue their education and to participate in the benefits of the University include:

- causing actual physical harm to a person;
- interfering with the freedom of movement of any person, including such person’s free entry to or exit from University property or facilities;
- shouting down or otherwise preventing a speaker from delivering remarks at a program or event at a college campus or ejecting participants in a public forum or meeting because of their viewpoint;
- directing threats at a person or attempting to coerce or intimidate a person with the intent to cause that person to fear for his/her safety; and
- engaging in harassing behavior toward a person that is so persistent, pervasive or severe that it denies the person’s ability to pursue an education or to participate in the activities of the University community, including not only the academic work but also the other activities and programs that occur outside of the classroom.

2.3 Examples of prohibited conduct that disrupts University functions or operations include:

- threatening to destroy or destroying University property or other public or private property located on University property;
- preventing the performance of educational or other institutional duties by any member of the University community;
- occupying or remaining on any property or facility owned or operated by the University after receiving due notice to depart; and
- using amplified sound without prior notice, or otherwise making loud noise that interferes or seriously threatens to interfere with classes, meetings, or other scheduled or routine University functions or activities.

2.4 Students who engage in prohibited conduct are subject to discipline under Article XV of the CUNY Bylaws. Employees who engage in prohibited conduct are also subject to disciplinary action as prescribed under the governing collective bargaining agreement and/or University policy. In addition, in cases in which the conduct at issue may violate the law, the University may take appropriate action, including seeking judicial remedies or referring the matter to external law enforcement authorities.
3. Guidelines for Conducting Demonstrations

3.1 Subject to the procedures and terms set forth in campus guidelines, students and/or employees of CUNY, including but not limited to officially-recognized student and/or employee organizations, as well as persons invited and sponsored by such student and/or employee organizations, shall have access to areas of the campus owned, leased or licensed and controlled by the college that have been designated by the educational units of CUNY for demonstrations. Such designations shall be made by the president or dean of each such educational unit, with appropriate consideration given to areas in which demonstrations have traditionally been permitted, and after consultation with the college or faculty governance body and the student government association at a meeting thereof and shall be published on the website of each educational unit. Persons and groups wishing to demonstrate in public areas not owned, leased, licensed or controlled by the University, such as sidewalk adjacent to a campus, should address their requests to the New York Police Department.

3.2 Members of the University community may not demonstrate in a manner that materially impedes or disrupts the University's educational activities (including, but not limited to classes as well as public conferences and forums) or business operations or materially interferes with the rights of others. Furthermore, members of the University community may not demonstrate in places that have not been designated for demonstrations or in places where those members of the University community are not authorized to be. In addition, demonstrators shall comply with building or facility closing times set by the College; overnight camping on University property is prohibited.

4. Procedure for Handling Disruptive Demonstrations at CUNY Facilities

4.1 At each educational unit of CUNY, the President or his or her designee, in consultation with the Director of Public Safety or designee, will determine the point at which individuals involved in a demonstration taking place on a CUNY campus continue to exhibit prohibited conduct based upon the criteria set forth in Sections 2 and 3 of this Policy.

4.2 Unless there is an imminent threat to safety or circumstances prevent such communication, the President or his or her designee or the Director of Public Safety or his or her designee will direct the demonstrators to discontinue their prohibited conduct, explain which conduct violates the Policy, and inform them how to continue their demonstration in a manner that does not violate this Policy. If the prohibited conduct continues, the President or his or her designee or the Director of Public Safety or his or her designee may take appropriate action to end the prohibited conduct, including where necessary to terminate the demonstration and to seek the immediate intervention of public safety officers or external law enforcement authorities or to seek other legal remedies.

4.3 If the conduct presents an immediate threat to persons or property, the President or his or her designee or the Director of Public Safety or his or her designee may take immediate action to address the threat, including where necessary to terminate the demonstration and to seek the immediate intervention of public safety officers or external law enforcement authorities.

5. Leafleting, Tabling and Posting

5.1 The distribution of written materials by hand is permissible in locations that do not block entry or egress or interfere with the educational activities or business operations of a campus as designated by each of the educational units of CUNY. It is within the discretion of the educational units of CUNY whether to permit individuals and groups who are not members of the University or campus community to distribute materials and/or to give priority to members of the campus community.

5.2 The educational units of CUNY shall designate areas where members of the University community and invitees will be permitted to set up tables. Such areas must be sufficient for students and employees to communicate their message while not interfering with the
college or unit's educational mission or business operations. Requests for tabling must be
granted on a neutral, nondiscriminatory basis in light of the availability of space. It is within the
discretion of the educational units of CUNY whether to permit individuals and groups who are not
members of the University or campus community to set up tables and/or to give priority to
members of the campus community.

5.3 Each college and unit of CUNY shall provide access by members of the University
community to bulletin boards and systems of digital signage intended for general college use to
provide information about events, subject to reasonable limitations as to size and quantity by a
single organization. College or unit personnel may remove notices on a regularly-scheduled
basis and may remove outdated notices but may not remove notices based on their viewpoint. It
is within the discretion of the educational units of CUNY whether to permit individuals and groups
who are not members of the University or campus community to have access to such facilities
and/or to give priority to members of the campus community.

6. Media Access to University Facilities

News media are permitted to enter areas of the University campuses that are open to the
public but are encouraged to first contact the college's media relations office so that staff may
help facilitate campus visits. News media who have arranged to conduct an interview with
faculty, staff or students may use a designated area over which the interviewee has authority
(e.g., a faculty members’ own office) or for which the interviewee has obtained permission from
the college (e.g., a student lounge or cafeteria). Media representatives are not permitted access
to nonpublic areas, such as libraries and classrooms (except to participate in educational
activities at the request of the instructor), laboratories, business offices or residence halls without
prior permission from the college. During emergencies, colleges may require news media to
remain within a designated area for law enforcement or safety reasons. Media personnel who
interfere with a college’s normal operations may be asked to leave the campus. Each college may
establish further guidelines consistent with this policy.

7. Publication of this Policy and Campus Regulations and Designations

This Policy shall be posted on an accessible location on the CUNY website and on the
websites of all educational units of CUNY. In addition, each educational unit shall post on its
website any additional, reasonable time, place and manner restrictions on expressive conduct
permitted or required by this Policy, including its designation of areas where certain expressive
conduct may or may not be conducted. This Policy and any additional restrictions shall also be
included in the handbook of each educational unit of CUNY relating to student activities.

8. Training about this Policy

8.1 Training of public safety personnel shall include training in the contents and
implementation of this policy and of best practices in the handling of expressive conduct in a
university setting, consistent with the principles of academic freedom and freedom of speech and
assembly.

8.2 The leadership of student government organizations and recognized student groups,
their faculty advisors and appropriate student affairs staff shall also receive training in the
contents of this policy.

EXPLANATION: Recent events have raised once again the issue of whether and to what extent there
are permissible and appropriate limits to the free expression of ideas on a university campus. Issues
with strong emotional resonance have caused some participants to argue that speech by their
ideological adversaries constitutes bullying, harassment, hate speech or is otherwise beyond the
scope of protection for free speech or academic freedom. In addition, protests activities have
sometimes interfered with the opportunity of students to pursue their education and on other
occasions have been met by force or restrictions that infringe upon protected rights. CUNY does not have a policy affirming the importance of free expression on its campuses or describing what, if any, limits may be imposed, other than the “Henderson Rules” regarding public order. This policy fills that gap with due consideration for the purpose and nature of a university and the appropriate balance of interests recognized by the First Amendment and academic freedom.

Chancellor Milliken stated that there has been considerable discussion in recent months, not only at CUNY but across the country, about protections of the First Amendment and academic freedom on university campuses often involving political and other discussions. There has been some interest at CUNY, and the chancellor has been interested in ensuring that the University has a consistent and clear statement about CUNY policy in regard to this matter so that there would be uniformity across CUNY. The University Faculty Senate (UFS), under UFS Chair and Trustee Terrence Martell's leadership, has taken an active role in this, by discussing and endorsing what has become known as the Chicago Statement developed by a University of Chicago faculty committee which has been endorsed by a number of other universities. CUNY's policy is not the Chicago Statement, it is the CUNY Statement that has had the benefit of a work by a taskforce chaired by the General Counsel and, in addition, extensive comment from both faculty and student governance.

General Counsel and Senior Vice Chancellor (GC&SVC) Frederick Schaffer stated that the key to this policy is the introductory section on General Principles. It contains a strong endorsement of freedom of expression and academic freedom in the University context as the fundamental and guiding principle of this policy. It then recognizes two important but limited restrictions on absolute freedom of expression and then the rest of the policy goes on to spell out how that works out in practice. Section 2, Prohibited Conduct, is largely a restatement of the Henderson Rules that have governed this University for several decades and gives some useful examples of what falls outside of the protection of free speech. The proposed policy goes on to talk about the kinds of activities—that are part speech and part conduct—that are subject to the normal time, place, and manner restrictions applicable to such activity, and lays out some principles and procedures for how local authorities on the college campuses will deal with protests that get out of hand. Then the proposed policy goes on to deal with a few discreet subjects that have come up from time to time with questions such as leafleting and tabling on campuses and access by the media to CUNY campuses. The proposed policy also deals with two very important issues: the publication of this policy so that it is available for everybody; and ensuring that the appropriate people on the campuses are trained.

In response to a question from Chairperson Schmidt, GC&SVC Schaffer stated that the gestation period for this policy was much longer than the normal nine months, and the Office of General Counsel (OGC) has had extensive input from both the UFS and the University Student Senate (USS) across the University after the work of the taskforce was finished. It has been revised weekly if not daily in response to continuing and helpful comments from those two bodies and has reached the point where constituencies most affected by this proposed policy seem to be satisfied.

UFS Chair and Trustee Martell stated that there were extensive discussions and the UFS appreciates the modifications that have taken place in this policy over time.

USS Chair and Trustee Joseph Awadjie added that he would also like to thank GC&SVC Schaffer for communicating constantly with USS in regards to this policy.

GC&SVC Schaffer noted that the students were justifiably concerned that this was coming up at the end of the year when they are taking their final exams. OGC certainly understood and sympathized with the students' conundrum but they pulled through magnificently and got their comments in on time, improving this policy from therein.
In response to a question from Chancellor Milliken, GC&SVC Schaffer stated that there has been student and faculty representation on the taskforce throughout the development of the policy, as well as presidential representation.

Trustee Valerie Beal stated that she would like to applaud GC&SVC Schaffer for this policy, as the most compelling line is the appropriate response to false or offensive speech is not to prohibit it but to respond with more speech.

In response to a question from Trustee Beal, GC&SVC Schaffer stated that this policy is quite clear. It is understood that discretion should be even-handed and not for CUNY’s own political purposes. Furthermore, this policy says that the University may not remove notices based on their viewpoint, and of course, all of the subsequent paragraphs are governed by the General Principles in Section 1.

Chairperson Schmidt stated that he supports this policy and that it is important for the University to put out a statement that anticipates some of the issues that have arisen at CUNY and at many other campuses. These set of principles will help the University avoid the confusion that has existed at some other campuses. CUNY should be a university where academic freedom and freedom of expression are primary and protected values. Bad speech is to be answered and countered, not prohibited.

Following discussion, this item was approved for placement on the June 27, 2016 regular Board of Trustees’ Calendar in order to allow for comment at the June 20, 2016 Public Hearing.

The meeting was adjourned at 5:46 p.m., to go into Executive Session to consider personnel actions.
The Executive Session was called to order at 5:47 p.m.

There were present:

Committee Members:
Hon. Benno Schmidt, Chair
Hon. Philip A. Berry, Vice Chair
Hon. Valerie Lancaster Beal
Hon. Wellington Z. Chen
Hon. Freida D. Foster

Trustee Observers:
Hon. Una S. T-Clarke
Hon. Rita DiMartino
Hon. Judah Gribetz
Hon. Charles A. Shorter
Hon. Terrence F. Martell
Hon. Joseph K. Awadjie

Trustee Staff:
Senior Vice Chancellor and Secretary Jay Hershenson
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University Staff:
Chancellor James B. Milliken
Executive Vice Chancellor and University Provost Vita Rabinowitz
Vice Chancellor Judy Bergtraum
Vice Chancellor Matthew Sapienza
Vice Chancellor Gloriana Waters
Associate Vice Chancellor Andrea Shapiro Davis
Senior University Dean/Special Counsel to the Chancellor Dave Fields
Senior University Dean Robert Ptachik

The Executive Session was adjourned at 5:59 p.m.

The meeting reconvened in Public Session at 6:01 p.m., to consider the following items:

B. POLICY CALENDAR, continued:

3. LEHMAN COLLEGE - APPOINTMENT OF PRESIDENT:

RESOLVED, That the Board of Trustees of The City University of New York approve the appointment of Jose L. Cruz as the President of Lehman College, effective August 15, 2016 at a compensation to be recommended by the Chancellor to the Board, subject to financial ability.

EXPLANATION: The Search Committee, Chaired by Trustee Valerie Beal, at the conclusion of an extensive national search, recommended four finalists for the presidency of Lehman College. The Chancellor is recommending Jose L. Cruz as President. Dr. Cruz is presently Provost and Vice President for Academic Affairs at California State University, Fullerton. He was previously the Vice President, Higher Education Policy and Practice, at the Education Trust and Vice President for Student Affairs of the University of Puerto Rico System. Dr. Cruz earned a B.S. in Electrical Engineering from the University of Puerto Rico-Mayaguez, and an M.S and Ph.D. in electrical engineering from Georgia Institute of Technology. His research interests are in the areas of optoelectronics, massively parallel computing, image processing, biometrics, VoIP communications, and equity-driven K-12 and higher education policies and practices. His work has been funded by the National Science Foundation, the U.S. Department of Education, the Bill & Melinda Gates...
Statement of Dr. José Luis Cruz:
I want to express my sincere appreciation to Chairperson Schmidt, Chancellor Milliken, the chair of the search committee Trustee Beal and other members of the Board, and the members of the Lehman College campus community who participated in the search, as well as to Senior University Dean Robert Ptachik and his staff for all their help. I am truly honored by this appointment and very much look forward to serving as the third president of Lehman College of The City University of New York. I am also humbled by the level of responsibility entrusted to me, energized by the opportunity to help advance the noble mission of CUNY, and confident that in the years to come, Lehman College will expand its influence, increase its relevance, and reach its full potential as an engine of opportunity. I am confident because of how impressed I am with the faculty, administrators, students, and alumni that I have met thus far. It has been clear from my interactions with them that they are passionate about Lehman College's mission, sincere in their aspirations for its future and committed to living the College's stated values of providing the highest quality education in a caring and supportive environment with respect, integrity, inquiry, creativity and diversity contribute to individual achievement and the transformation of lives and communities. I look forward to working at Lehman College, embracing the opportunity to build upon President Ricardo Fernández' legacy of leadership and accept the challenge of leading the difficult but impactful work that lies ahead. Thank you for your confidence in me.

Following discussion, this item was approved.

4. CUNY SCHOOL OF LAW - APPOINTMENT OF DEAN:

RESOLVED, That the Board of Trustees of The City University of New York approve the appointment of Mary Lu Bilek as the Dean of the CUNY School of Law effective August 15, 2016 at a compensation to be recommended by the Chancellor to the Board, subject to financial ability.

EXPLANATION: The Search Committee, Chaired by Trustee Judah Gribetz, at the conclusion of an extensive national search, recommended four finalists for the Dean of the CUNY School of Law. The Chancellor is recommending Mary Lu Bilek as Dean. Ms. Bilek is currently the Dean of the University of Massachusetts School of Law. She previously spent two decades at the CUNY School of Law as Professor, Associate Dean for Academic Affairs, Associate Dean for Special Projects, and Interim Dean. Ms. Bilek earned an A.B. (Summa Cum Laude) from St. Mary’s College, and a J.D. (Cum Laude) from Harvard Law School.

Statement of Mary Lu Bilek:
I cannot express how honored I am to be chosen the new Dean of the nation's premier public interest law school. Thirty years ago, I read about a new law school that CUNY was starting. It would be a law school that would create lawyers, not just teach law and produce scholarship. It would be a law school that would internalize its privilege and its responsibility to be public. To place an emphasis on creating justice centered lawyers, prepared to practice in the service of the public good and human needs, and to take their places as lawyers, judges and practitioners with a deep understanding of how precious the rule of law is and how critical equality and due process are to achieving a civil society. It was going to be a law school that would in the great CUNY tradition be about access to legal education for those whom law school would otherwise be prohibitive, and access for those who would be the first in their families and their communities to not only think about going to law school but to attend law school and graduate from it. It was going to be a law school that would turn its scholarly energies to discovering new paradigms and uncovering old canards. It was going to be a law school that would appreciate the responsibility that comes with the diversity it creates and build a
school that creates a nurturing and welcoming environment for all its students to thrive. It was going to be a law school that would integrate theory and practice, lifting the profession up instead of denigrating it. Then one day I got a phone call from the Dean who said would you like to come and teach? For 25 years, I had the privilege of working with an innovative and talented faculty, and to learn from students who were deeply motivated to claim their place in their profession and to use the law to work for their communities. Four years ago, I seized the opportunity to use what I had learned in those 25 years to build the first public law school in Massachusetts and to create a path to pursuing justice for the citizens of Massachusetts. It has been quite a ride but I am here to say I cannot overstate how personally and professionally happy I am to be back in the School that stole my heart 25 years ago. To be part of building on its proud history and to continue the work that Dean Michelle Anderson pursued to raise its profile and its stature and increase the impact that the School, its scholarship and its graduates have on the city, the state and the world. I want to thank you for this opportunity to continue to build a law school that started as a game changer and will be changing the game for the rest of its history.

Following discussion, this item was approved.

The reconvened Public Session at 6:13 p.m.