

**MINUTES OF THE MEETING OF THE BOARD OF
HIGHER EDUCATION OF THE CITY OF NEW YORK**

HELD

DECEMBER 15, 1975

**AT THE BOARD HEADQUARTERS BUILDING
535 EAST 80 STREET · BOROUGH OF MANHATTAN**

At this point the Board went into Executive Session.

There were present:

Alfred A. Giardino, Chairman

**Armand D'Angelo
Vincent R. FitzPatrick
Gurston D. Goldin**

**Harold M. Jacobs
James P. Murphy
Vinia R. Quinones**

Jay Hershenson, ex officio

Etta G. Grass, Acting Secretary of the Board

Chancellor Robert J. Kibbee

Deputy Chancellor Seymour C. Hyman

Upon motions duly made, seconded and carried, the following resolution was adopted:

A. CHAIRMAN OF BOARD: WHEREAS, Alfred A. Giardino has served with dedication, tireless energy and unflinching courage as Chairman of the Board of Higher Education since being appointed for a two-year term by the Mayor of the City of New York in 1974; and

WHEREAS, Mr. Giardino has stated officially that professional and other obligations make him undesirous of reappointment for a full five-year term upon expiration of his present term on December 31, 1975; and

WHEREAS, The Board and the City University will be seriously handicapped without his outstanding leadership during the continuing fiscal crisis of the University; now therefore be it

RESOLVED, That the Board of Higher Education hereby sincerely urges Mr. Giardino to make himself available for reappointment or for reappointment for a term of at least one year in view of the continuing crisis faced by the University, the effects of which might have more serious consequences should there be a break in the continuity of leadership of the Board of Higher Education.

The Chairman called the meeting to order at 5:20 P.M.

There were present:

Alfred A. Giardino, Chairman
Franklin H. Williams, Vice Chairman

Armand D'Angelo
Vincent R. FitzPatrick
Gurston D. Goldin

Rita E. Hauser
Harold M. Jacobs
James P. Murphy
Vinia R. Quinones

Jay Hershenson, ex officio

Etta G. Grass, Acting Secretary of the Board

Chancellor Robert J. Kibbee
President Milton G. Bassin
President William M. Birenbaum
President James A. Colston
President Edgar D. Draper
President Leon M. Goldstein
President John W. Kneller
President Leonard Lief
President Robert E. Marshak
President Joseph S. Murphy
President Harold M. Proshansky

President Donald H. Riddle
President Kurt R. Schmeller
President Joseph Shenker
President Herbert M. Sussman
President Richard D. Trent
President Edmond Volpe
President Jacqueline G. Wexler
President Clyde J. Wingfield
Professor David Valinsky
Deputy Chancellor Seymour C. Hyman
Vice Chancellor Anthony Knerr
Vice Chancellor J. Joseph Meng

Upon motions duly made, seconded and carried, the following resolutions were adopted or action was taken as noted: (Calendar Nos. 1 through 7)

NO. 1. CHANCELLOR'S REPORT: RESOLVED, That the Chancellor's Report for December 15, 1975 (including Addendum Items) be approved, as amended as follows:

(a) PART D - ADDENDUM: Include ADDITION TO ADDENDUM.

(b) Items listed in PART E - ERRATA, to be withdrawn or changed, as indicated, and also to delete the reference on Page 4 of the ERRATA to the withdrawal of the appointments of Lillian Gradin and Eugene McConnell from Item BRI. 13.6 (Queensborough Community College).

EXPLANATION: The Chancellor's Report consists of those resolutions and actions of a non-policy nature which require approval by the Board of Higher Education.

NO. 2. COMMITTEE ON FISCAL AFFAIRS AND PLANNING: RESOLVED, That the following items be adopted:

A. NDSL BILLING AND COLLECTION SERVICE CONTRACTS:

RESOLVED, That the Board of Higher Education authorize the Central Office to award a contract on the basis of competitive bidding for furnishing National Defense/Direct Student Loan billing services with an option to extend the operation of the billing service to include the Nursing Student Loan program. The duration of the contract shall be from April 1, 1976 to March 31, 1977 with two renewal options of one year each. It is estimated that the cost of the contract will be \$170,000 annually, or \$210,000 annually if the Nursing Student Loan program option is exercised; and be it further

RESOLVED, That the Board of Higher Education authorize the Central Office to award a contract on the basis of competitive bidding for a letter writing service which specializes in mail follow-up of National Defense/Direct Student Loan delinquent accounts. The duration of the contract shall be from April 1, 1976 to March 31, 1977 with two renewal options of one year each; and be it further

RESOLVED, That the Board of Higher Education authorize the Central Office to award a contract on the basis of competitive bidding for furnishing National Defense/Direct Student Loan collection agency services. The duration of the contract shall be from June 1, 1976 to May 31, 1977 with two renewal options of one year each.

EXPLANATION: The United States Government (Department of H.E.W.) has made it mandatory for all participating colleges to make a bona fide attempt to bill and collect repayments of the National Defense/Direct Student Loan. Funds for the billing service contract will be provided by Federal Government reimbursement of administrative expenses to the University. Funds for the letter writing service and collection agency contracts are permitted to be charged against the NDSL fund at no cost to the University.

Continuation of the University-wide systematized billing service is essential for the orderly repayment of student loans. At present, the Nursing Student Loan billing activities are being manually maintained. The extension of the billing activities to include the Nursing Student Loan program will be exercised when the administrative details can be properly managed.

The letter writing service procedure is designed to remind neglectful National Defense/Direct Student Loan borrowers of their oversight in fulfilling their obligation to the University. This method will provide a better rate of collection at a less expensive cost than a collection agency.

A collection agency serves as a final attempt, short of litigation, to effect payment of delinquent accounts. The present National Defense/Direct Student Loan collection agency contract will expire on May 31, 1976.

B. COMMUNITY COLLEGE OPERATING BUDGETS FISCAL YEAR 1975-76:

RESOLVED, That the Board of Higher Education approve the adjusted operating budget for fiscal year 1975-76 for the Community Colleges indicated below:

	Operating Budget as Adopted by The City of New York	Adjusted Operating Budget
Board of Higher Education Community Colleges	\$142,368,867	\$163,623,867

EXPLANATION: The City of New York approved budgets for each community college for 1975-76 in its Expense Budget, as indicated in the column entitled "Operating Budget as Adopted by The City of New York." The City also approved budgets for the College Discovery Program, as well as unallocated amounts for enrollment and other increases held centrally in University Programs. The budget contained in the column entitled "Adjusted Operating Budget" reflects the addition of these amounts to the approved Community College budgets. The Director of the State Division of the Budget has requested a Board resolution approving these allocations on a University basis for his approval for purposes of State aid. This resolution complies with that request and also with State Education Law Section 6304 (1-b), which permits City University Community Colleges to file for State aid as a single unit.

NO. 3. PROPOSAL REGARDING EDUCATIONAL MISSION OF UNIVERSITY: Mr. Williams asked if there was any language in this resolution which raised the question of the qualifications for admission to the University, and the Chancellor assured him that there was not.

Upon motions duly made, seconded and carried, the following resolution was adopted:

WHEREAS, The City University has provided education of high quality to the citizens of New York City for 128 years under sound policies which permit the expansion of the City's economic base and enhance the quality of life for its citizens; and

WHEREAS, At this time of fiscal crisis the City, which has previously provided funds to support this mission, has become unable to continue this public policy at levels previously prevailing; and

WHEREAS, The quality of the educational programs should be maintained over the full range of educational opportunities and a solid educational base should be maintained from which the University can respond to present needs within reduced funding and from which it can expand when improved public funding returns; and

WHEREAS, The University must continue in its search for more efficient and effective ways of carrying out its educational mission,

NOW, THEREFORE, The Board of Higher Education hereby:

A. Directs the Chancellor, in consultation with appropriate administrative, faculty and student bodies to prepare plans and appropriate options together with cost analyses and time schedules for presentation to the Board for the following:

1. The establishment of more uniform and stricter definitions for the classification of students enrolled at the University, including rational but firm guidelines to require satisfactory student progress toward a degree,

2. The development of reasonable standards of progress and basic skills development for admission to the upper division programs of the colleges, both for students in attendance at the local colleges as well as those transferring from the community colleges,

3. Development of University calendars that will make more efficient use of the University's human and physical resources and the feasibility of experimenting with revised calendars in a given number of colleges in the September 1976 semester,

4. The rational consolidation of multi-campus specialized graduate and undergraduate programs, with due consideration to the geographic location of programs, student transfers, the strengthening of quality and greater faculty interchange,

5. The development of administrative staffing patterns for the colleges which relate the number of administrative and support personnel to the size and complexity of each institution,

6. The development of criteria for the consolidation or elimination of some of the University's basic units and development of plans and schedules for such action, including termination of space rentals,

7. The institution of a program for faculty development to expand the competencies and versatility of young faculty members; and

B. Further reaffirms the moratorium now in effect on major new programs and on major new construction until the future needs and financial and physical resources of the University can be reassessed within the context of the changes due to the implementation of this plan.

C. Directs the Chancellor to provide by January 5, 1976 a schedule for presenting the plans and schedules described above.

NO. 4. HOLIDAY CLOSING OF FACILITIES: A motion was made and seconded that the resolution be adopted.

At this point the Board heard Dr. Irwin Polishook, Professional Staff Congress, who spoke in opposition to the resolution.

The following resolution was adopted:

RESOLVED, That all units and facilities of the University shall close from December 24, 1975 through January 4, 1976; and it is further

RESOLVED, That notwithstanding the above, the Chancellor or the Presidents may during the pendency of such closing direct the performance or maintenance of essential or emergency services; and it is further

RESOLVED, That with respect to employees other than full-time teaching members of the instructional staff, any days which would otherwise be work days within such period shall be charged against annual leave; and it is further

RESOLVED, That the Chancellor is directed to implement these resolutions.

EXPLANATION: The closing of University facilities during the period from Wednesday, December 24, 1975 through Sunday January 4, 1976 will permit the University to save fuel and electricity costs and thus contribute to the required fiscal reductions, and conserve resources.

NO. 5. BUDGET RETRENCHMENT: WHEREAS, In response to a severe fiscal crisis in the City of New York and to the reduced operating budget for City University, the Board, on July 28, 1975 adopted a Statement of Policy and adopted implementing resolutions designed to meet the University's budget gap of \$87 million in the current 1975-76 academic year; and

WHEREAS, Pursuant to such resolutions student fees and tuitions have been substantially increased, administrative and support staff personnel reduced, faculty teaching loads increased by an average of 15%, sabbaticals curtailed, and significant portions of Masters and other programs terminated, resulting in the reduction of 3,688 total full-time equivalent positions and a serious curtailment in the functions and mission of the University; and

WHEREAS, The deepening fiscal crisis has impelled the City of New York to reduce the budget in the University in the current academic year by an additional \$34 million in City tax-levy funds, which, with a further loss of \$21 million in State matching funds, results in a total additional reduction of \$55 million and an overall \$130 million reduction from the 1975-76 budget certified by the Mayor; and

WHEREAS, Efforts to have New York State release part of its funds already appropriated to match expected city funds have thus far proved unavailing; and

WHEREAS, Senior college facilities under construction to a value of \$413 million are being suspended while 30% completed, and the Board has deferred all plans for new, urgently needed design and construction of physical facilities; and

WHEREAS, If the staff reductions that would be required to meet the \$55 million budget reduction were to be realized in the spring semester, twice the number of positions (approximately one-third of the instructional staff) would be required to be abolished as would be required by the annualization of such reductions for the fiscal year 1976-77, and this would imply rehiring and recruitment to refill positions for Fall 1976, and more importantly would make it impossible to continue the educational program for the students now in midyear; and

WHEREAS, The Board recognizes that said extreme further reductions must be accommodated on an emergency basis in the spring semester of the 1975-76 academic year for the most part, and that due regard must be given to the fundamental mission of the University to maintain and continue the education of its student body; and

WHEREAS, The Board further recognizes that such emergency measures are proper only within the context of a total restructuring and reorganization of the University which define its role within the constraints which the fiscal condition of the City and State place upon it; and

WHEREAS, The Board is presently engaged in developing such a plan to be adopted at the earliest time consistent with the dimensions of the task and the responsibilities which this places upon the Board; and

WHEREAS, The Board resolution which follows represents, in the judgment of the Board, the most feasible method of accommodating the drastic budget reductions which have been imposed upon it; now therefore be it

RESOLVED, That the Board will make the required savings by:

1. Distributing budget reductions among all the college units to be effectuated by consolidation of programs, retrenchment of administrative, support and instructional staffs for a saving of \$13 million,
2. Moving collection of all summer session fees and charges into the month of June 1976 as income for the current fiscal year and consolidating summer session offerings to result in savings of \$9 million,
3. Scheduling for faculty, administration and support staff payless furloughs of total duration of four weeks, or equivalent payless periods to result in payroll savings of \$32 million, and with due consideration being given for the protection of the fringe benefits of staff; and be it further

RESOLVED, That the Chancellor is requested to report to the Board his plans to implement the above actions; and be it further

RESOLVED, That the above is effective immediately.

Mr. Jay Hershenson read part of the substitute resolution proposed by the University Student Senate which he had read into the record of the November 24, 1975 meeting.

He also asked for inclusion in the record of the following letter from State Senator Joseph R. Pisani to the Chairman of the Board:

December 4, 1975

Honorable Alfred A. Giardino
Chairman
Board of Higher Education
535 East 80 Street
New York, New York 10021

Dear Mr. Giardino:

I was distressed to learn today from the Chairperson of the City University Student Senate and from representatives of the Student Association of the State University of a ruling made by you at the Board of Higher Education meeting on November 24, 1975, in which you denied the right of the non-voting student member of the Board to make a motion at said meeting.

As the author and principal sponsor of the statute (Chapter 587 of the Laws of 1975) mandating ex-officio membership of a designated student representative on the Board of Higher Education, I wish to inform you, in no uncertain terms, that this interpretation, which strikes at the heart of the entire purpose of the bill, is in clear violation of legislative intent.

The law clearly indicates that the sole contemplated restrictions on the participatory rights of student governing board members consist of the right to vote and the right to be appointed to certain offices. In support of this interpretation, I enclose a copy of the supporting legislative memorandum, which accompanied the bill during the legislative process and the Governor's deliberations, which specifically mentions - among the defects to be corrected by the bill - the then inability of such student representatives to make motions (p.2).

It is difficult to express the sense of frustration which I have experienced upon learning that this legislation, which was carefully drafted to give the student bodies of our public colleges and universities the full right to express not only their views on policies advanced by other elements in the academic community but to place on the table their own suggestions as to the governance of their institutions, has been, in effect, nullified by a mere parliamentary ruling.

The technically irrelevant but nevertheless disturbing fact that the motion by Mr. Hershenson which occasioned the ruling was made in an effort to memorialize the contributions of a student whose statesmanlike leadership in this cause has done much to bridge misunderstandings between the student bodies of our state and city institutions and the members of the State Legislature and state government, saddens me further.

I am hopeful that, in the light of the considerations mentioned herein, you will see fit to make your future rulings on this subject conform to the clear intent of the law. I shall otherwise feel reluctantly compelled, along with those of my colleagues who were instrumental in the passage of this legislation, to take whatever action is necessary and proper to vindicate the provisions and intent of the law in question.

Very truly yours,

(sgd.) Joseph R. Pisani
Joseph R. Pisani
STATE SENATOR

JRP:ay

The Chairman's reply follows:

December 15, 1975

Senator Joseph R. Pisani
State Senate
Capitol
Albany, New York

Dear Senator Pisani:

Thank you for your letter of December 4 with respect to the statute adopted earlier this year providing for ex officio membership of a designated student representative on the Board of Higher Education.

May I share with you my understanding of the law and the reasons for the ruling that an ex officio member who is specifically prohibited by law from exercising voting power does not appear to have the power to move or second a resolution which requires action by the Board.

The question of the right to move had been researched by our Vice-Chancellor in charge of Legal Affairs. Her opinion, given at the public hearing before the ruling was made, was that the right to make a motion implied the right to act or vote on that motion. The parliamentary rationale behind having to have a mover and a seconder is that a minimum of two members of a constituent body wish that motion acted upon favorably by the entire body. Thus, to "move" the resolution toward adoption, the mover and seconder must be persons who share in the body's power to act.

Normally, an "ex officio" member is one holding a fully empowered membership in a Board by reason of a different office held by that person. However, in the present legislation, the law specifically provides that the particular ex officio member named is not a full member with power to act. It specifically restricts him from exercising the right to vote. Hence the normal application of "ex officio" status which does not limit the power to act does not apply here. Nor did the law specify the right to make or second motions.

I understand that the Attorney General of New York State recently found that ex officio non-voting student Board members are not public officers within the meaning of our State statutes. His opinion of November 25, 1975 states:

"As a non-voting member, the student member does not exercise a portion of the sovereign power, and, therefore, would not be a public officer under common law. Furthermore, it appears that the student members are elected by the students of their respective institutions therefore may be considered representatives of the student bodies by whom they are elected rather than representatives of the public at large."

The Attorney General recognizes their character as representatives of one element of the University community rather than as persons charged with the weighty public duty of upholding the institution regardless of private, special, or personal interest. Moreover, it appears that they are not bound by the rigorous conflict of interest prohibitions relating to public officers.

Moreover, if a motion were permitted to be made by a person who does not have a clear right to make that motion and action is taken on the basis of that motion, it may be legally challenged. That action of the Board could be set aside with great harm to the University since, as you know, we let contracts of millions of dollars. Frankly, that is not the kind of serious risk that a public body should take without a clear expression in the law.

You have expressed the desire of the legislation to permit student bodies to place on the table their own suggestions as to the governance of our University and that this purpose may have been adversely affected by the ruling. The fact of the matter is that a year prior to the legislation you sponsored, the Board set up a committee structure in which a representative of the University Student Senate participates at all of its meetings. Moreover, the ex officio representative of the University Student Senate is present and participates effectively in the discussions of the Board at our informal and public meetings. Thus there has been complete freedom to suggest or to place on the table suggestions regarding the governance of the University. Such a purpose and question are different from that relating to the right to make official motions and to act on them.

In the light of the above, I trust you can appreciate the reasons for the ruling that an ex officio member who is specifically prohibited by law from voting may not move or second a resolution of the Board in the absence of specific statutory authorization to make or second motions.

Sincerely,

(sgd.) Alfred A. Giardino
Alfred A. Giardino
Chairman

AAG:as

NO. 6. ENROLLMENT: A motion was made and seconded that this resolution be adopted.

Mr. Murphy gave a brief report on the recommendations of the Regents Task Force and urged that the various principles in the Regents Task Force report be kept in mind in connection with a resolution of the long-term restructuring of the University.

At this point the Board heard the following who spoke in opposition to the resolution on Enrollment:

New York State Senator Robert Garcia, Minority Legislative Caucus
Professor David Valinsky, University Faculty Senate

Mr. Murphy made a motion, which was seconded by Mr. Williams, that the Board continue to hear the people who had requested to speak and then announce a continuation of the public hearing at a subsequent date, with adequate notice to be given of the date, and that the Board not vote on this item at this time. The motion was lost.

The hearing continued:

Mr. Raynes L. Soaries, Jr., Chairman, N.Y.C. Regional Education Comm., NAACP
Ms. Frances Julty, Field Services, Bank Street College of Education
Professor James A. Malone, Assistant Dean of Students, John Jay College
Mr. Paul Caballero, Lower East Side Puerto Rican Council
Mr. Steve Gaynor, University Student Senate representative, Baruch College
Mr. Ken Carrington
Mr. Ernesto Loperena, Puerto Rican Caucus, CUNY

The meeting was recessed for dinner.

At the conclusion of the recess the Chairman spoke of the resignation of President Donald H. Riddle to become Chancellor of the University of Illinois (Chicago Circle).

Upon motions duly made, seconded and carried, the following resolution was adopted:

NO. 6A. DESIGNATION AS ACTING PRESIDENT OF JOHN JAY COLLEGE OF CRIMINAL JUSTICE: RESOLVED, That Dr. Gerald Lynch, Vice-President and Acting Dean of Faculty, be designated Acting President of John Jay College of Criminal Justice, effective January 15, 1976, until such time as a president is designated, with compensation at the rate of \$11,000 per annum in addition to his regular academic salary, subject to financial ability.

The Chairman introduced Dr. Lynch.

Mrs. Hauser asked to be recorded as having voted affirmatively on all items already voted by the Board. Mr. Hershenson objected to a member of the Board voting on an item when not present.

At this point the Board returned to Cal. No. 6.

NO. 6. ENROLLMENT: The Board continued the hearing, and the following were heard:

Dr. Janet Karlson, Director, Joint Schools Comm. for Academic Excellence Now, Inc.
 Dr. Marjorie Henderson, President, Campus Coordinating Advisory Comm., The City College
 Reverend Charles L. Norris, Sr., Bethesda Missionary Baptist Church
 Mr. Efrain Quintana, Chairman of Student Senate, Hostos Community College
 Ms. Fran Geteles, SEEK Counselor, CCNY
 Mr. Freddie H. Pepper, Exec. Vice-President, Student Government, Hostos Community College
 Mr. Samuel Farrell
 Mr. Garth Marchant, Borough of Manhattan Community College
 Mr. Kanzaki

A motion was made by Mrs. Quinones and seconded by Mr. Williams that the resolution be tabled. The motion was lost.

Mr. Williams objected to the Board's taking action on this item for the following reasons:

1. It is a major amendment of a major Board policy and should not be adopted without adequate notice and an adequate public hearing.
2. It questions the standards set for the high schools by the Board of Regents.
3. It starts at the wrong end of the spectrum. Standards should first be set for moving from the third year of college to the last year, then from the second to the third and from the first to the second before limitations are set on admissions.

Mr. Williams indicated that he might challenge Board approval of this resolution in the courts.

Mrs. Quinones objected to the resolution on the grounds that the value of the tests to be formulated is questionable and that the "other standards to be developed" would lead to confusion and misunderstanding. Adoption of the resolution would mean the elimination of open admissions and would be in violation of the higher education law according to which a public hearing with adequate notice is to be held. A public meeting is not the same as a public hearing.

Mr. Hershenson objected to the adoption of the resolution because he felt there had not been an adequate public hearing and he felt it was brought about by the officials of the Mayor's Office, Big MAC, and the Emergency Financial Control Board, none of whom were present. He suggested that an emergency meeting be requested with the Governor and that his help and support be sought to protect free tuition and open admissions.

Mrs. Quinones asked that the roll be called. The following resolution was adopted with Mr. D'Angelo, Mr. FitzPatrick, Dr. Goldin, Mrs. Hauser, Mr. Jacobs and Mr. Murphy voting in the affirmative, and Mrs. Quinones and Mr. Williams voting in the negative:

WHEREAS, The University must continue in its search for more efficient and effective ways of carrying out its educational mission,

NOW, THEREFORE, The Board of Higher Education hereby directs the Chancellor to develop and apply admission standards, effective with admissions for the fall semester of 1976, to assure that future undergraduate matriculated entrants to the University have satisfactorily completed their reading and academic requirements for high school graduation and have demonstrated their readiness for college work by meeting successfully a skills test given by the University in standard reading and standard arithmetic or by meeting other standards to be developed.

NO. 7. UNIVERSITY REPORT: No report.

Upon motions duly made, seconded and carried, the meeting was adjourned at 10:34 P.M.

ETTA G. GRASS
Acting Secretary of the Board