

SUNY CANTON COLLEGE COUNCIL

280th MEETING

April 17, 2018

Present:	Grace Burke Marie Regan Nikki Zeitzmann	Chloe Ann O'Neil Thomas Sauter	Ronald O'Neill, Chair Roger Sharlow
Absent:	Timothy Currier	Cecily Morris	Joseph Rich
Others:	Courtney Bish Douglas Scheidt Karen Spellacy Michaela Young	Brian Harte Anne Sibley Zvi Szafran	Shawn Miller Travis Smith Lenore VanderZee

Call to Order

Chairman O'Neill called the meeting to order at 9:00 a.m.

Minutes of March 20, 2018, Meeting

Ms. Regan made a motion to accept the March 20, 2018, minutes with noted minor changes shown in yellow. The motion was seconded by Mr. Sauter and approved.

New Business

Council's Indemnification and Information on Sexual Harassment/Assault Complaints Presentation (*see attached*)

Dr. VanderZee presented on the above topic to the Council. She stated that her particular research centered on the roles and duties of the Council and what you should know and when, as well as SUNY's role in both defense and indemnification. Dr. VanderZee shared that the Controlling Laws are the Education Law, Not-for-Profit Corporation Law, and the Public Officers Law – Section 17. She continued by saying that Board Members have a fiduciary duty to the board that they are on, which includes a Duty of Care, Duty of Loyalty, and Duty of Obedience. Essentially, this means that you need to act in good faith, and in your actions, you are not benefitting yourself over and above the organization, as well as having a responsibility to put the resources of the organization into programs that fulfill its mission. She continued by sharing what was in the ACT Handbook, which lists specific powers and responsibilities. The first is to recommend candidates for appointment by the Trustees as presidents of the institutions, and the second is to review all major plans. Some examples of the review of all major plans include the following in the ACT Handbook – student admissions policies, standards for earning degrees, and student activities and housing. The Board of Trustees passed a policy in 2011 that clarifies major plans within the scope of this law to mean, in particular:

- Plans to close or open a branch or extension campus.
- Plans to eliminate or create a school or multi-departmental division other than by just restructuring existing resources.
- Plans to purchase or sell real property other than for or by a hospital valued at more than \$50M.
- Plans to construct or demolish a residential facility.

Those four items are what the Board of Trustees calls major plans. The ACT Handbook is a little more broad than that.

Lenore stated that the presentation will be emailed to everyone, and they are welcome to contact her with any questions.

Mr. Sauter asked what is the governing policy as the ACT Handbook says one thing and the Board of Trustees clarifies – is it one of these, or something in the middle? Do campuses do it differently? Do we know how other College Councils interpret the College Council powers and responsibilities? Dr. VanderZee stated that she does not have the answer as to how other College Councils handle it, but in her opinion, she would say to take the ACT Handbook as the broad role of responsibilities. She provided some examples regarding how the Council currently meets those responsibilities. Standards for earning degrees: the Council looks at all new degree programs, the requirements, and makes recommendations to the College before the full proposal goes to SUNY. Any time there are changes to student policy/handbook, those changes are brought to the College Council for review and approval. She further noted that the Board of Trustees clarifies expansion of institutional plans. Dr. VanderZee stated that she had a question regarding the appraisal or improvement of faculty, and she reached out to the ACT General Counsel but was not able to get in touch with her. Lenore will follow up on this with them.

Dr. Szafran added that the ACT Handbook talks about College Councils and their equivalents at other colleges. He stated that there are some colleges where the Council, or equivalent, are involved with faculty appraisal – the last step of the tenure process for a faculty member goes before them for approval/official stamp. This process is found at private colleges, not state colleges; however, tenure is approved by the Chancellor. He agreed with what Lenore said about these items being general things that members of Councils or Boards may be called upon to do, but which ones that actually apply depends on the institution. He noted that within SUNY the Board of Trustees have clarified that these are the major ones that we expect Councils to be dealing with. He further noted that through his attendance at ACT meetings the perception of many other Councils is that their only responsibility is in the selection of the college president. Mr. Sauter remarked that he believes an argument could be made for that position, as the Board of Trustees clarification ignores admission policies, changes to academic programs, and standards for earning degrees. He feels that these seem to be very reasonable things that the Council should be doing, but it seems that the Board of Trustees does not feel this way. Dr. VanderZee interrupted to point out that there are more powers and responsibilities. Chairman O'Neill stated that he had a question about the first one – selection of the president – and he feels that that is a primary responsibility of the Council, along with the others. In a past presidential search, the search committee was instructed to put forward the final three candidates' names to the College Council for approval. The Council approved them, and then sent them on to the Chancellor. All names were approved and sent back to the Council to choose. This all changed under a subsequent Chancellor, and Chairman O'Neill was not able to get clarification on if the change was ever approved by the Board of Trustees or not. Dr. VanderZee shared that according to the ACT Handbook it says that the Council only recommends the candidates to the Board of Trustees. It is unclear if that goes through the Chancellor or not, and she pointed out that the Board of Trustees has the discretion to approve the names and send them back to the Council for choosing if they choose to do that. Chairman O'Neill pointed out that it did not happen that way the last time; the Board of Trustees and the Chancellor made the decision, which was different from when the previous president was hired. Chairman O'Neill stated that the

College Council is more familiar with what their campus needs. Dr. VanderZee acknowledged that and reiterated that the Handbook, which is based on the law, reads it as a recommendation of the candidates. Her feeling is that Chancellor Zimpher's interpretation of this was that SUNY makes the decision. She stated that she also feels it could be read in other ways as well, as it is a less clear point in the law. Chairman O'Neill asked if Dr. VanderZee knew which process would be followed for future presidential searches. She stated that she felt that both ways would be valid according to the Handbook. He went on to ask if this was dictated more by the Chancellor or the Board of Trustees and asked for her opinion. Lenore stated that in her opinion she felt that it probably had a lot to do with the Board of Trustees. During the time that Dr. Szafran was hired, the Board of Trustees gave Chancellor Zimpher a lot of leeway, and they probably put a lot of faith in her selections. Other Boards of Trustees, if they do not have that faith in the Chancellor or feel that they know the campus, may reserve the right to make the decision themselves. Chairman O'Neill stated that he felt that all of the Councils were upset with the change. Dr. Szafran asked for clarification on what change he meant – being able to state their preference of candidates. Mr. O'Neill responded yes. He shared that the search committee's composition is a faction from across the campus, and it is troublesome to have someone make the decision when they have not been involved at all. Dr. VanderZee stated that she would be happy to ask for clarification on this as well when she speaks with the General Counsel.

Dr. VanderZee continued with her presentation and listed the other roles and responsibilities:

- Make regulations regarding campus facilities.
- Review and recommend institutional budgets.
- Foster development of advisory citizens' committees.
- Name buildings and grounds.
- Make regulations regarding student conduct.
- Exercise supervision of student housing and safety.
- Report to the Trustees annually.
- Perform other actions directed by the Trustees.
- Make regulations necessary for performance of other duties.

She pointed out that she takes #11 to mean that whatever regulations you need locally in order to carry out these functions is within your power to make those regulations, subject to counsel, which she stated she is not officially. Number 10 was felt to say it all – other duties as assigned.

Dr. VanderZee shared the services of the Council, which are: regulatory, advisory, and advocacy. She went on to share, for the purposes of the Public Officers Law, Council members are considered "employees." The definition for employees in this case is: "Any person holding position by election, appointment, or employment in the service of the State, whether or not compensated." Employees of the State under that definition are entitled to State counsel. College Council members can be held personally liable for a breach of their fiduciary duties or a breach of other duties and responsibilities. However, they are entitled to have the State provide for their defense in every case other than intentional acts on the part of the individual. She noted that it is a tight timeframe, as members need to send the summons they received with a request for counsel defense within five days after service. This goes to the Attorney General with a copy going to the University Counsel. It was further shared that if the State brings a case against you you are not entitled to defense. And, the Council member must cooperate fully in the defense as provided by the State.

Dr. VanderZee went on to speak about criminal cases. College Council members are entitled to reimbursement of all of attorney and litigation costs if they are acquitted or the case is dismissed. In that case, it is a reimbursement; it is not defense by the State. If a monetary judgement is to be awarded in a civil case, the State does indemnify the College Council member in all situations other than intentional acts. To recap, the State provides for your defense, and the State indemnifies you against any monetary judgements. She stated that it should be noted that there are cases where a Trustee is named in a suit, and 99 out of a 100 times, those names are dropped as the case proceeds. It is very unusual that a College Council member is found liable; there are very few cases. She believes there have been two total in the State of New York, and she believes those were intentional acts.

Mr. Sauter asked about process – in regard to the five-day window for seeking State assistance and indemnification, how would that work if we were all sewed and individually listed in the suit. Is this something that the College would do on the Council's behalf, or do they do that individually? Dr. VanderZee stated that it has to be an individual request – i.e., if Mr. Sauter was personally named in a suit, after receiving service, he needs to send that to the Attorney General along with a request for defense. It is an individual's responsibility not the College's. She added that a person may know that they are named in a suit because the College was named and received service, but the person does not have to do anything until they are served. It was asked, in situations like this, if they would hear from the College prior to being served. Yes, in situations like this, if the College was aware, they would be in contact with the Council; there may be cases where the College would not be informed. Dr. Burke asked about the two cases where Council members were involved and when that happened. Dr. VanderZee stated that there was one case in the 90's and the other was in the early 2000's. It was noted that it is a rare thing. It was felt that even though it was rare the Council needs to be aware and prepared.

Dr. Burke stated that she feels this should be part of the orientation for new Council members in the future, especially with the legal situations, safety issues, and other things changing across the country. Dr. VanderZee agreed with this suggestion and noted that according to the ACT Handbook this is up to the College Council Chairman. It was noted that the College can assist with this as well. The Chairman acknowledged that this piece was an oversight with the most recent past new members, and it should have been done. Doing this would help Council members understand what their roles and responsibilities are according to fiduciary duties and the ACT Handbook.

Mr. Sharlow mentioned that he was wondering why this came up in the manner that it did; he asked if there were folks who were not aware that members had this kind of exposure as Council members. Mr. O'Neill shared that he asked Michaela to have a presentation on sexual harassment at the last meeting due to the issues at Michigan State, as he wanted to be sure that the Council was aware of any problems that might arise on our campus. That led to this.

Mr. Sharlow also added a comment about receiving/having information of sexual harassment cases, which was talked about at the last meeting. He indicated that he is not sure that he needs to know/wants to be involved in conversations of litigation; he feels that the Chairman should however to be aware of it. Mr. Sharlow indicated that he would like to know the outcome. Mr. O'Neill stated that at the last meeting the Council decided that information passed on to the Chair from the President would be shared with the Council at his discretion, without names of those involved. Mr. Sauter further clarified that the Council is the College's representative in the Community, and if something makes it to the media and a

Council member is approached about it, it gives them the opportunity to say the College has been handling that without knowing any details. However, if Council members are not aware, they cannot effectively represent the College. The discussion was not in regards to the College Council members wanting to get involved. Mr. Sharlow indicated that he understood and was in favor of that. Mr. Sauter added that he feels that watching the litigation from the Penn State and Michigan State cases will be very instructive to Council members, as he feels that many involved in these cases will say they did not know and the courts may say they should have. Dr. Burke added that she understood what Mr. Sharlow was saying, but she feels that times have changed and there needs to be more awareness. Dr. Szafran added that it is a matter of threshold; members would not want to hear/know about everything, meaning there is no need to know about matters of detritus. The Council needs to rely on the members of the College to know the difference between what needs to be known and what does not. He went on to say that 99.9% of the time we will investigate a Title IX case, but for the ones that we know are not going anywhere from the initial investigation, the Council probably does not want to know about those. He shared that they make a judgement call, and for anything that they think has the slightest possibility of making it to the media, he calls Ron about, for the reason stated above – we do not want the Council to be put on the spot. Dr. VanderZee offered another example with regard to student policies; she sees the Council's role as ensuring that the right policies and procedures are in place to minimize any potential harm to students and to do their utmost to ensure student safety. She continued by saying that if the College does not follow the policies, as in the case at Michigan State, she does not see that as the Council's role; the Council does not have to ensure every student's individual safety. However, ensuring student safety writ large – make sure facilities are safe, policies are in place, regulations are in place, etc. – is the College Council's role. She feels that this Council takes this role very seriously; however, it is not to say that a court could not read it to say that a College Council member is personally responsible for every student's individual safety. It is possible, but not likely. Dr. Szafran added that he feels the Council is already fulfilling their responsibility by having this conversation; it shows the right level of interest – members saw what was going on at other campuses (Michigan State and Penn State), and they wanted to ensure that SUNY Canton was not at risk in those ways by asking relevant questions about procedures to make sure it would reach the level of authority necessary to take action to stop it. There has also been a reasonable discussion on personal liability. All of this is the general response of Councils and is reasonable.

When thinking about the possibilities of being held liable and things that are part of a member's duties, Ms. Regan added that she is comforted to know that there are detailed minutes showing that the Council has been involved and asked questions and that these things have been important and have been addressed. She feels that the minutes are a legal safeguard and reminded everyone that that should be remembered as these things are discussed. She thanked Michaela for the detailed minutes.

Dr. VanderZee agreed and noted that not only does the Council discuss policies and procedures, but they also discuss ways in which to handle cases – President calls the Chair; the Chair, at his discretion contacts the rest of the College Council – a step further than just overseeing the policies and procedures.

Dr. Burke added that she felt the Council has moved to a higher level of discussion and knowledge since she began her term; she stated that the Council has grown in the process and been very active. Dr. Szafran added that he has known other Councils that never reported anything negative, which he feels is wrong, as you have to be honest, take the hit if you are doing something wrong, and fix it. He feels there is open conversation about issues here, and he is glad that that happens. Mr. Sharlow reflected on

his various council, board, and committee roles and is glad that this Council exhausts the conversation to allow everyone input and understanding. He also stated that he agreed with Marie on the minutes.

Ms. Bish offered to add a generalized overview without names of Title IX (under the Clery Act and reported on) or major student conduct cases to her update at each meeting if the Council members want that. There was no comment or determination if the Council wanted this.

Dr. VanderZee added that when Council members cease to be Council members, as former employees, they are entitled to continued State defense and indemnification.

A brief discussion happened regarding the Council members being employees and how they were classified. They would be non-remunerative and confidential; they did/do have to sign a confidentiality agreement when they become members.

Old Business

There was no Old Business.

Chairman's Report

Chairman O'Neill reminded the Council members to respond, if they have not already, to Michaela about the Spring events with their attendance.

President's Report

Dr. Szafran provided a summary of what has happened since the last meeting.

- At the last meeting, the Council was informed about a set of meetings with Chancellor Snider from Penn State New Kensington, which is a college that has established an accelerator for economic development in their area. That meeting took place on March 26, and there was an excellent turnout of members from the community and from on campus, as well as representatives of our elected officials – Senator Gillibrand's office, Congresswoman Stefanik's office, Governor's office, and county, town, and village. The sessions all went well. There was strong support for the College's plans to develop the entrepreneurship accelerator, including for having an in-town location. To date, most incubators and accelerators that do this sort of thing have been located in large cities. New Kensington's is an outlier, as they are in an exurb of Pittsburgh, and SUNY Canton's will, of course, be in a rural location. We have agreed to work together with New Kensington as we both develop our efforts, since what we are doing is a relatively new concept. He stated that this is important, as the economic development in this country has left large swaths behind.
- In related matters, Dr. Szafran and Lenore have met with the Mayor and the Town Supervisor regarding having an in-town location for the accelerator. They are strongly supportive, and we are working together on identifying grants that we can mutually apply for regarding economic development. He has also been hearing from various levels of government that they want to help as well.
- With regard to enrollments, we are having some challenges. He remarked that the climate has never been more competitive. Applications are still well up, but deposits are down 60 at this moment. This is concerning to Dr. Szafran. He indicated that most of this is from the loss of the dental hygiene program, which normally gets about 40 applicants between the program and the

pre-program. We had hoped that other things would make that up, and it may. He stated that he thinks that everyone is seeing delays in deposits right now, but we are looking into it very carefully. He shared that we had hoped that we would have heard about the earmark we were seeking to build new facilities in Fulton for the Dental Hygiene program, but Fulton has run into some delays on purchasing the adjacent property they wanted, and the earmark did not appear explicitly in the new State budget. They followed up with Senator Ritchie, and she told them that she is still working on getting the earmark and knows how important the program is.

- Speaking of the State budget, SUNY basically broke even with the one big win being the restoration of the \$200M increase in capital funding. This is still only usable for critical maintenance. The good news is that SUNY Canton received about \$1.3M of additional funding (compared to last year) for critical maintenance. The bad news is that even with the increase, it is still one of the lowest fundings for any SUNY campus, because they do it based on a formula that was set some time ago, and things have changed since then. As an example, our enrollment and Potsdam's is not much different, but they get about double what we get. He stated that we do not begrudge them getting it; we just want it as well.
- We are trying to identify additional new degree programs that may be good for the College, mostly in the introductory medical area. Lenore and he will be meeting with the heads of the local hospitals to see what specialties they need. And, they will also see if they would allow us to use their facilities for the laboratory portion of these programs, as they are often fairly expensive to offer in terms of lab costs, and we would like to find a way to do this affordably.
- Last Tuesday, he attended the SUNY Chancellor's Student Awards ceremony in Albany. Our two winners were Jessica Fischer (Mechanical Engineering Technology major) and Katie Tibbetts (Criminal Investigation major/Homeland Security and Forensic Science minor). There are about 250 winners of this across SUNY out of about 600,000 students, which makes it pretty prestigious.
- The next two days in Albany, he attended the SUNY conference on the First Amendment, along with five others from the College – Bill Jones and Lashawanda Ingram (Co-CDOs), Kristen Roberts and Nate Pietropaolo (discipline area in Student Affairs), and Al Mulkin (Chief of Police). The conference was interesting, focusing on both free speech and freedom of religion issues, and the area is extremely complicated with lots of contradictory rulings in the courts. The consensus view of the speakers was that campuses have to stick closely to allowing any kind of speech on campus, no matter how odious, but that we do have the capability to put time and place restrictions on events so long as they are consistent for all groups. The consensus view was also that even hate speech is part of free speech, and that students (and everyone else on campus) need to understand that and not to stop it, though they are (of course) able to challenge and reply to it. Some suggestions in dealing with it included encouraging students to come prepared to politely ask challenging questions or to not come at all and let the hate-speaker speak to an empty auditorium. He stated that he thinks that this is a bit simplistic, as students tend to view their campuses as their homes in a real way, and as a consequence, there have been a number of student protests around the country and locally (at Potsdam and Plattsburgh). We continue to work hard to find ways of having civil discussions on controversial issues and to ensure that our students have the opportunity to engage with responsible viewpoints on all sides of contemporary issues.
- We have had a number of Excellence in Leadership speakers on campus recently who have also been alumni. Ike Cook ('93) and Jeff Turbolino ('96) of Blue Line Engineering Contractors spoke on March 22, and Glen Greenberg ('77) president of Elmont Glass spoke yesterday. We

also hosted our 8th Annual Law Enforcement Day on March 28. Among the many speakers was Deputy Commissioner Stephen Maher, who spoke on the prison breakout at Dannemora. Charles Guess, who wrote the book *Relentless Pursuit: Inside the Escape from Dannemora: New York State's Largest Manhunt*, also spoke and signed copies of his book after the event.

- Our Scholarly Activities Celebration starts today, with poster sessions at Noon in the Library, and talks this afternoon in Cook Hall. Everyone was invited to attend. Dr. VanderZee added that this event has grown significantly from 30 poster presentations last year to 87 this year. The culture is growing in the area of scholarly activity and it is great to see.
- Finally, he mentioned that he has been involved or will be involved in a number of student activities. He has had four "Pizza with the President sessions in the Residence Halls" events with students, where they engage in a game together and end by asking him questions or sharing their concerns on any subject. He also was a judge at Canton Idol (a singing competition on campus) and noted that our students have lots of singing talent. In the near future, students will be raising money in penny wars, and the winner of which gets to throw a pie at him. Also, Funeral Services Administration students are raising money for St. Baldrick's appeal, which provides funding in the fight against childhood cancer. If they meet their fundraising target, they get to shave both Dr. Penepent's and Dr. Szafran's head.

Academic Affairs Update

Dr. Scheidt reported that it is a bit early to know how the Admissions' challenges are going to play out. In terms of new program development, there are six that are somewhere between department development and State Ed. He reiterated that today we have Scholarly Activities and shared that next week we have the Will Fassinger Honors Convocation ceremony, as well as graduation coming up.

Dr. Scheidt commented that one of his focuses has been on retention and graduation rates, trying to get students who leave here a credential of some sort. One of the pieces of research that supports this is faculty/staff engagement with students around campus and outside of the classroom. One of the things that we can do to help with this is to develop spaces that will naturally lead to faculty/staff/student engagement. Some examples are:

- Refurbishment of an adjunct office to be a CJ student lounge across from the department offices.
- Nevaldine has a natural flow for this as the faculty are in the same area.
- An area is being worked on for Applied Psychology and the eSports arena.
- Furniture has been added to the hallways in Payson, as students were sitting on the floor in that area.

He noted that all of this is minor in regards to expense, but the investment helps with retention; students are very appreciative. He also shared that another space that has great utilization by faculty/staff/students is the Cyber Café.

Mr. Sauter asked if the poster presentations for Scholarly Activities is kept local to the campus or are there opportunities for submissions nationally. Dr. Scheidt responded that there is a wide range of presentation types – from class projects to high-level research projects – with some being funded to go outside of campus. Unfortunately, there are some limiting factors for moving them off campus; however, we are trying, and it is great that we are doing on-campus displays. One of the challenges is funding, and Dr. Scheidt tries to provide funds from his area for conference fees. Dr. Burke asked if the College Foundation could earmark donations for this. Ms. Sibley replied that they do this already, and

they have close to \$50,000 each year that is competitively applied for through the faculty/staff development awards – travel to conference and professional development opportunities – as well as campus enhancement grants. The latter has a benefit to the campus, so this could involve students traveling somewhere, especially if it involved them bringing that information back to the campus in some way. The Canton Fund, an unrestricted fund, is where those dollars come from. This is an annual commitment, and due to the popularity of these programs, they are asking their Board to increase both of them in next year's budget. This is a cooperative effort with a number of offices coming together to make these opportunities happen. It was noted that as this need grows we will need to look at adjusting our process to make it more formal. Dr. Szafran added that, up until about six years ago, there was no expectation of scholarship; there is now, and this passes down to the students, which helps to engage them and interest them in continuing with a degree.

Administrative Affairs Update

Ms. Miller shared that she is a little concerned with our enrollments, as being down 60 means \$.5M to us. There are also contractual increases that are unknown. UUP has not signed their contract yet, but it is anticipated that they will by the end of the fiscal year. It will probably be \$.5M cost to us. Ms. Miller shared that most of our budget goes to salaries (90%), with most of the rest going to keep the lights on. She is thankful for the summer and winter term funds, and she noted that we keep that separate, so it allows academics to have its own funding source. She shared that things are tight, but we do have some reserves. She feels that we will be okay as long as enrollments do not take a huge dive; if they are flat, we will be okay.

Dr. Szafran thanked Shawn for her efforts on keeping the budget balanced.

Dr. Burke asked if there were transfers involved, or are they all just new admissions? The response was that transfers were included as well, and those are actually up. The spring numbers for them were over the projected numbers and brought in over \$300,000 more. Shawn mentioned that there is a campus closing in Massachusetts (Mount Ida), and we have been in touch with them, as some of their programs may be transferable. We may be able to help some of their students. It was noted that our out-of-state tuition of \$16,000 is less than their in-state tuition. It was also noted that our students pay \$6,600 for a year of tuition, so the out-of-state tuition is very helpful to us.

Ms. Miller additionally reported that Chaney Dining Hall will be closing after graduation. The mobile kitchen arrived yesterday and will be attached to the end of Dana Hall. The kitchen is 32x40 with an additional 12x20 walk-in cooler on the end of it. When the students come back in the Fall, they will be eating in the gymnasium in Dana Hall. The projected reopening date for Chaney Dining Hall is January of 2019.

She also shared that we have not received any money from the State for Excelsior. The SICAS Center is trying to get a process to verify those students who were eligible. While they are doing this, Ms. Miller's team is manually verifying 300 students; it was reported that it takes about an hour to verify one. Ms. Miller explained that students have one year to get their 30 credits; if they do not get them, then they back it up, and it becomes a loan.

Mr. Sauter asked if there was any connection between a student depositing and applying for Excelsior. Dr. Szafran indicated that they are probably related. He reminded the group that some issues with

Excelsior were discussed about a year and a half ago, and one of those issues was cash flow, which is what this is. Mr. Sharlow asked where the outcry was on this, as many campuses must be having the same problems. It was noted that the rules are being written and changed as it moves forward, and if an automated process cannot be developed, they will need to be done manually. It was noted that we did voice our opinions/concerns when it was being implemented. The Governor wanted this program and wanted it fast. We did our best to implement it. It was noted that the program is a good idea; it just has some issues to be worked out. To answer Mr. Sauter's question from earlier, Ms. Miller added that there is only a small window to apply, and once it is closed, you cannot apply. Also, you do not know at the time of application if you meet the criteria. Ms. Regan asked if students getting an Excelsior grant can also get other financial help. Yes; it is a last dollar in program for tuition. Everything else that they get goes in first, and that goes towards the balance; it is not a set amount. Another problem was explained. If your tuition is \$3,300 and you get \$3,200 in other funding, Excelsior will cover the last \$100. The added benefit to the student is that your tuition is now frozen, which means they do not have to pay the increase, and we do not receive it. The students do not have to pay the Tap Gap either, but we do. The Gap is more than \$1.5M.

It was noted that there are a lot of details that affect our budget, and so far, we have been able to budget for it. Each year, we lobby for full Maintenance of Effort, which would mean the State would cover the Tap Gap, the salary increases, and any mandates. It was noted that every year they approve a narrow version of Maintenance of Effort, but what that means is that they are not going to cut from what they gave us last year.

Chairman O'Neill asked if there were more projects in the works for the \$2M more in capital funds that we got. Ms. Miller replied yes; we have a whole list of projects. She stated that we ended up with about \$4.2M this year. She shared that the interior to Dana Hall will cost \$12.5M, which we do not have funds for yet. She indicated that there is another \$196M for capital projects that she is hoping to be able to get some of; if anyone can help with advocacy for this, we would be appreciative. It was noted that we are thankful for the extra we have gotten over the past years; it has allowed us to do more than expected. It was shared that Dr. Szafran and Lenore advocate widely, so people understand our needs. The number one priority right now is the interior of Dana Hall.

Chairman O'Neill also inquired about adjuncts unionizing. Ms. Miller shared that they are part of the union now. She shared that they are looking to get an increase to \$5,000/course. She also shared that about a year ago we did some research across SUNY to see where we were at, and it turned out that we pay our adjuncts pretty good here, much higher than other tech colleges. She stated that she did not think the increase will go into the contract; it was noted that we could not afford it here. It was asked and noted that they are represented by UUP. It was also noted that UUP did their own salary comparison and found that we were in the top half for salaries. A discussion happened regarding keeping the balance of adjuncts and full-time faculty. It is a difficult balance, and concerns are sometimes voiced. Employing adjuncts does, however, give us some flexibility on the budget side if enrollments tank.

Chairman O'Neill asked if we get to keep the \$200 tuition increase. Ms. Miller stated that we do now; she did state that for a while they were keeping a portion of it – 90/10 split. It is not clear at what rate students will be locked in now, but it is believed that they are doing a cohort model. It was noted that even though there is an increase in tuition it does not cover the other mandated costs that we face. Dr.

Szafran shared that students are protesting this as well with the State, as the original deal was a partnership between the State and the students to make education affordable, but it has come down to the State moving the cost onto the students.

Student Affairs Update

Ms. Bish shared that tomorrow is the annual Student Specialty Awards at 5 p.m. in the Theater, and everyone was invited to attend; the students winning Scholarly Activities Awards will also be awarded there this year. Ms. Bish announced that Patty Todd, retiring after 30 years as the Health Services Director, is winning the student-led North Star Award as well. She also mentioned that they are currently searching for Patty's replacement.

Advancement Update

Ms. Sibley followed up on Patty Todd's retirement by sharing that a scholarship in Patty's name is being created; it is confidential for now but will be announced at the end of the year. If anyone wants to donate to this scholarship, please let Anne know.

Ms. Sibley continued her report by saying that they are having a good fundraising year. At the end of March, they are at 96% of their goal (fiscal year ends June 30). The Canton Fund (unrestricted funds) is only at 67% of that goal; it is always challenging to raise money for this fund, but it does go back to the campus in many ways. This spring, they will be doing a big push to raise money for this fund.

She reported that events and travel have been held/will be held in the following locations – Watertown, Ogdensburg, Albany, Buffalo, North Country, California, Florida, Arizona, Seattle, Oregon, Tennessee, Georgia, and North Carolina.

She asked everyone to put June 1 on their calendar for the Gala dinner for 50 Years on the Hill. They are looking for this to be a big celebration of the history and future of this campus. Dr. MacArthur and Dr. Kennedy will speak, and they will be presenting the Distinguished Alumni Award to Dave Gerlach and Anne Williams.

Chairman O'Neill asked if the tax reform is still deductible to the College. Yes, charitable contributions are still deductible. It was noted that the minimum for itemizing deductions was raised, and it was asked if that would have any effect on smaller contributors. No, she does not think so, as the people giving smaller donations might not have been itemizing deductions anyways. Ms. Sibley explained that charitable deductions are allowed, as well as gifts to non-profits and gifts of appreciated stock do not require payment of capital gains on it. And, people who are over 70 and a half can make a gift from their retirement fund, and they do not recognize it as income.

Ms. Regan asked if Ms. Miller knew when the window for Excelsior closes. She did not but noted that it is published on our website.

Faculty Governance Update

Ms. Spellacy reported that they are looking at changing the review process for online courses. She noted that every online course goes through a peer review process to ensure quality. She also shared that they are looking at the attendance policy. She believes that there are items coming forward for the May meeting, but she has not seen them yet.

Student Government Update

Ms. Zeitzmann shared that they are holding Springfest on May 3, and the theme is Festival of Colors. Everyone is welcome to join and bring their families. She also shared that they have recently attended the SUNY Student Assembly, a conference that they attend once a semester. Nikki reported that she attended the business meetings, where resolutions were passed, and the other SGA members attended workshops on leadership. The Board will be presenting what they learned to the students today and tomorrow. She also shared that they did a lot of networking, and they voted to fill the SUNY Student Assembly positions.

Ms. Zeitzmann provided further details on the resolutions that the SUNY Student Assembly brought forward and passed. She shared that there were 11 total resolutions, with 4 being of interest to our campus: Library Access – equal access to library information services for all SUNY students and establishment of SUNY e-journal and database access system for all 64 campuses. SUNY Plattsburgh brought up a SUNY Flag Policy. This was passed, however, Nikki and the current and former SGA presidents of Plattsburgh are working on making the language in the policy more clear. She explained that at the government level campuses are allowed to fly certain flags. The students at Plattsburgh are interested in flying other flags to be inclusive – LGBTQ and Black Lives Matter. Nikki explained that her question about language pertained to where on campus they wanted to fly them. Another resolution that was passed was the Application Fee Waiver for Veterans, which we are already doing through the help of donations. The last one that she shared regarded Gun Reform; however, it was tabled due to the short timeframe to discuss and language changes. It will be brought up again at the Fall Assembly. Nikki noted that if anyone wanted information on the other resolutions please let her know.

Ms. Zeitzmann continued her report, and shared that the SGA elections are happening next week. They have their question and answer panel on Monday for the candidates, and the polls will be open on Tuesday through Thursday.

Lastly, Nikki shared that this was her last meeting with the Council, and she thanked the members for allowing her this opportunity to sit on the Board for the past two years. Dr. Burke stated that she admired how direct Nikki has been at addressing difficult and current issues; she wished Nikki the best and stated that she has done an excellent job.

Public Relations Update

Mr. Smith reiterated that everyone is encouraged to attend the 50 Years on the Hill Gala. He also shared that as part of our 50 Years on the Hill celebration they have been putting together 50 Acts of Kindness, highlighting community events that clubs and organizations have done throughout the year. Currently, we are at 48, and virtually all clubs/organizations have participated. The finale is being planned for Heritage Park, including the Outdoors Adventures Club, Habit for Humanity, and a few other groups.

Travis also shared that we are on track to break another Summer Session enrollment; this makes four years in a row. He continued by reporting on e-Sports and noted that Randy Sieminski, Molly Mott, and Kyle Brown did a national story with EdScoop, which was subsequently picked up by the Chancellor as well. Rob Snow and Greg Kie are also traveling to NYC this weekend to do a presentation at Microsoft, regarding education and e-Sports.

Mr. Smith reported that they are doing their first national marketing campaign in 10 years with the help of Dr. Scheidt's off-term funds. They have \$250,000 to spend nationally, NYC, Boston, DC, Maryland, and Toronto; they are doing ads for our online programs and working to fill upper-class seats with transfer and non-traditional students, as that is where the growth is seen. Travis expressed the importance in getting our name out there; he indicated that they are hitting all of the social media platforms in order to reach students to fill the upper-level classes. Dr. Scheidt added that he spoke with SUNY and shared that we are piloting this with plans to write a PIF grant for this next year to help everyone in the System. The hope is that Open SUNY will fund a large campaign for the System, so we see SUNY where we see others such as Southern New Hampshire, etc. Mr. Smith added that the team has been developing specialized targeted ads, digital ads, and video ads; they are hoping to see some results soon. Mr. Sauter asked if there were any metrics. Travis indicated that the campaign just started about two to three weeks ago, so they do not have a lot of metrics yet, except our Veterinary Service Administration video got 7,000 views on Twitter.

Dr. Burke asked if anyone knew Southern New Hampshire's secret to their growth. Dr. Szafran indicated that he was there at the beginning of their effort; they started as a culinary school with a small brick and mortar presence, but they went online very quickly and before others. They spend a lot of their revenue on advertising and not on faculty, with the majority of their faculty being part time. They have a very smooth operation, good processes, make it easy for students to enroll, and offer fairly significant financial aid as their cost model is inexpensive. They have run into some problems, as have some for-profits, with the success rates though, but he believes that they are better than most. Travis added that they spend about \$100M in advertising, but they get that back through all of the students. He also added that we have an edge with our out-of-state online tuition, which is about \$8,000 a year compared to Southern New Hampshire's at \$23,000 (Theirs is often heavily discounted, and they have a lot more freedom than we do.).

University Relations Update

Dr. VanderZee reported on the People Project, which is a program from AFT and NYSUT. She explained that it is a pilot project that AFT is looking to do as a rural model in development of education. As part of this project, there are three working groups – community schools, community health, and economic development. She shared that this project is bringing in a lot of new people with new ideas, and there is also money behind it with AFT finding funding for the initiatives that are determined to be the most important for the county. The leaders of AFT were at the last meeting and have connections across the country that could lead to support for these initiatives as well as for SUNY Canton and the accelerator.

Dr. VanderZee shared that she was recently appointed to the Canton Chamber Board. She also shared information about the College's professional clothing fair, which has been around for years now. This year, it was held online through a student-led initiative – photos were taken of all items and uploaded to the online store that they created. It was funded through the PIF grant that Molly got for online initiatives. This allowed students to shop online without any stigmas attached; it was very inclusive and a great learning experience.

Dr. Szafran added that there is a SUNY initiative to have a food bank on every campus because there are a lot of students who need them. We have had a food bank on our campus for many years, and we are looking at ways to expand it. Like the above initiative, the food bank is another example of how we are

trying to be ahead of the curve and help students with their needs. Ms. Bish added that she sits on the SUNY taskforce for the food bank initiative, and she noted that this would be a good initiative to donate to if anyone was looking for one.

Chairman O'Neill asked if there could be a central location to drop off donations. There were several ideas to help community members with this – French Hall lobby (Arrangements could be made with the mailroom to pick up and deliver.), Municipal Building (Lenore will check to see if they would be willing to have a drop box there for us.), and bring to a Council meeting. Dr. Burke asked if there was a community garden on campus. No, we have flower gardens, but not a community garden; it has been discussed, but the largest drawback is that it requires a consistent effort to keep it going.

Chairman O'Neill thanked Nikki for her contribution to the College Council. He commented on how great her attendance has been and noted that we would present her with a gift at Commencement. The group gave her a round of applause.

Adjournment

Ms. Zeitzmann made a motion to adjourn. The motion was seconded by Mr. Sauter and approved at 10:56 a.m.

Respectfully submitted,

Michaela Young
Secretary to the College Council



COLLEGE COUNCIL LIABILITY AND INDEMNIFICATION

SEXUAL HARASSMENT / ASSAULT AND OTHER COMPLAINTS



CONTROLLING LAW(S)

- Controlling laws:
 - Education Law
 - Not-For-Profit Corporation Law
 - **Public Officers Law - PBO § 17**

FIDUCIARY DUTIES

A CC member may be held personally liable for breaches of his/her fiduciary duties:

- Duty of Care
 - Discharge duties in good faith, with diligence, care, and skill
 - The law does not penalize directors for incorrect decisions as long as they were prudently and reasonably made
 - Cases enforcing personal liability for breach of duty of care are extremely rare
- Duty of Loyalty
 - Subordinate your interests to those of the institution
 - Prohibition of self-dealing
- Duty of Obedience
 - Responsibility to ensure that institutional resources are dedicated to the fulfillment of its mission, that the institution complies with applicable laws, and does not engage in unauthorized activities

COLLEGE COUNCIL POWERS AND RESPONSIBILITIES

ACT Handbook:

1. Recommend candidates for appointment by the Trustees as presidents of the institutions
2. Review all major plans
 - ACT Handbook – including but not limited to:
 - Appraisal or improvement of faculty
 - Student admission policies
 - Appraisal or changes of academic programs
 - Standards for earning degrees
 - Expansion of institutional plants
 - Student activities and housing
 - BOT Policy, Jan. 11, 2011) clarifies "major plans" to mean:
 - Plans to close or open a branch or extension campus
 - Plans to eliminate (other than by administrative restructuring of existing resources) or open a school or multi-departmental division within an institution
 - Plans to purchase or sell real property (other than for or by a hospital) valued at more than \$50 million
 - Plans to construct or demolish a residential facility

COLLEGE COUNCIL POWERS AND RESPONSIBILITIES (CONT.)

ACT Handbook:

3. Make regulations regarding campus facilities
4. Review and recommend institutional budgets
5. Foster development of advisory citizens' committees
6. Name buildings and grounds
7. Make regulations regarding student conduct
8. Exercise supervision of student housing and safety
9. Report to the Trustees annually and at other times as needed
10. Perform other actions directed by the Trustees'
11. Make regulations necessary for performance of other duties

COLLEGE COUNCIL POWERS AND SERVICE

Service should be:

- Regulatory – management, supervision, control, etc.
- Advisory – bring your valuable expertise, experiences, skills, and talents to collective deliberation and the President
- Advocacy – collectively and individually, formally and informally, liaise between SUNY institutions and the public:
 - Forums for interaction with local government officials and community leaders
 - Supplement official communications
 - Promote visibility of institutions and Presidents in their communities
 - Assist in student recruitment and fundraising activities

COLLEGE COUNCIL MEMBERS: STATUS

- For purposes of the Public Officers Law, College Council members are considered "employees":

Employee - any person holding position by election, appointment, or employment in the service of the state, whether or not compensated. ... The term employee includes a former employee, his estate or judicially appointed personal representative..."

ENTITLEMENT TO COUNSEL

- College Council members, as "employees" of the State, may be sued in their individual capacity in a civil suit in State or Federal court for acts or omissions that occurred or are alleged to have occurred within the scope of their employment.
- College Council members are entitled to have the State provide for their defense.
 - Members must send summons, complaint, or other process with a request for representation and defense **within 5 days** after s/he is served to:

Attorney General
State Capitol
Albany, NY 12224

A copy will be sent to University Counsel as well.
 - No defense shall be provided in civil actions or proceedings brought by or on behalf of the State.
 - The CC member must cooperate fully in the defense.

CRIMINAL DEFENSE REIMBURSEMENT

- In the case of criminal prosecution arising out of acts or omissions within the scope of public duties, a College Council member may be reimbursed for reasonable attorneys' fees and litigation costs upon acquittal or dismissal.
- Reasonable attorneys' fees will also be available in connection with appearance before a grand jury (again, if the alleged act or omission in question is within the scope of public duties)

INDEMNIFICATION

- If a monetary judgement is awarded in a civil case as discussed above, the State will indemnify the CC Member for acts or omissions that occurred within the scope of public duty.
 - The damages must not have resulted from *intentional acts* on the part of the CC member.
- Indemnification and payment of a judgment or settlement must be approved by the University, the Attorney General, and the Comptroller.