



ACTA

AMERICAN COUNCIL OF
TRUSTEES AND ALUMNI

“Lessons of the CUNY Transformation”

By Benno C. Schmidt, Jr.

Remarks accepting

**The Philip Merrill Award
for Outstanding Contributions to Liberal Arts Education**

with

Tributes from
Colin Powell
Floyd Abrams
Matthew Goldstein

November 5, 2010

Philadelphia, PA

The American Council of Trustees and Alumni (ACTA) is a 501(c)(3) non-profit educational organization committed to academic freedom, excellence, and accountability. Launched in 1995, ACTA has a network of alumni and trustees from over 700 colleges and universities.

“Lessons of the CUNY Transformation”

by Benno C. Schmidt, Jr.

I am honored to receive the Philip Merrill award. Several of the previous winners are my intellectual heroes, so to join them as recipient of this great award is a special pleasure.

I trust my family was taking careful notes throughout those introductions. Don't worry, I'm not going to get a swelled head. Same old easygoing Dad. It's just that when I come downstairs for my morning coffee, could we have a brief flourish of trumpets?

Those introductions remind me of the other day, shopping with Annie. We passed a coin-operated scale. She said, “Why don't you weigh yourself, let's see the bad news.” So I did, and the scale printed a little ticket out with my weight, and also a little fortune, which I couldn't resist reading out loud. It said, “You are a highly amusing after-dinner speaker, and women find you extremely attractive.” Annie said, “Let me see that. Oh, I see it got your weight wrong too.”

We're not going to look too closely at the accuracy of what's been said here tonight. After all, what are friends for? Anyway, when it comes to undeserved praise, I subscribe to the philosophy of Mae West: “Too much of a good thing is wonderful!”

There's always been a lot of speculation about why I left Yale to start Edison—did I do it for the money, did I do it because I wanted to work with poor, inner-city kids, etc.? The real reason was simple and was summed up by Woodrow Wilson when he was asked why he would leave the presidency of Princeton to become governor of New Jersey. His reply: “I couldn't stand the politics.” As for the nobility of

my CUNY work, the truth is that I did everything I could to avoid it. When the Mayor asked me to chair the CUNY Task Force, I tried my best to convince him that I was the wrong guy. I said, “I’m a private university guy, I don’t know anything about public universities. They’ll say I’m an elitist who doesn’t understand CUNY, and they’ll be right.” “Nope,” the Mayor said, “I want fresh eyes on the problem. It’s good you don’t know anything.”

There’s a moral here somewhere. Sometimes things you don’t want to do turn out to be your best opportunities. To paraphrase the Stones: “Sometimes when you get what you don’t want, you get what you need.”

I’m so glad that Floyd Abrams is here. One of the best things Fred and Ruth Friendly ever did for me was to introduce me to Efrat and Floyd Abrams. Floyd and I have been fast friends for 40 years. We’ve taught together, argued cases together, laughed together at the absurdities of law and politics, compared notes on our kids, enjoyed each other’s professional successes. Most of all we enjoy being together.

Floyd, it means a lot to me that you are here, as you have been at so many important occasions in my life. Our friendship has enriched my life. By the way, regarding those other careers I tried, it still bothers me that I did not become a TV star. What did Peter Jennings have that I didn’t have? I must have had the wrong hair dresser.

Matt Goldstein and I have a wonderful working relationship: He does 100% of the work and I take 50% of the credit. To pull off a transformation like CUNY, you’ve got to be lucky, and I won the jackpot when I persuaded Matt to become chancellor of CUNY. I knew that Matt would be a strong leader, but I had no idea that he would turn out to be the greatest academic leader of his generation. Let me cite just two examples of his extraordinary leadership: In the past seven years, Matt has managed to increase the CUNY full-time faculty by 50%. A faculty of 5,000 he inherited is now a faculty of 7,500. No other university in the country has seen anything like this increase. And here’s the kicker. Matt has done this without a single tuition increase

over these years—and against the budgeting chaos of New York State. How’s that for being able to focus your priorities?

Let me give another example of Matt’s unique leadership. When we started together at CUNY, CUNY was raising about \$35 million per year from its alumni and friends. I told Matt that was a pitiful number for a university of CUNY’s size. It reflected the dismay CUNY’s graduates felt toward their alma mater. Matt and I agreed on a plan to bring back the alumni and increase their generosity. In each of the past two years, CUNY raised over \$280 million. That’s an eight times increase in 10 years. No university has ever seen such an increase in giving. It is a sure sign of the alumni’s tremendous support for Matt’s leadership.

Working with Matt is not only inspiring, but a great personal pleasure as well. We and our wives have become close personal friends. Many, many other CUNY people have become close friends. My CUNY engagement may have been reluctant at first, but it has become a source of pleasure because of CUNY’s wonderful people.

What are the lessons of CUNY’s transformation?

1. Change in institutional strategy can only come from trustees. The faculty cannot be given responsibility for strategy. The faculty is too compartmentalized, too divided, and too distracted to control strategic planning. Any change of significance will affect the interest of some faculty, and very small numbers of faculty can block any faculty action that threatens them. Strategy must be the purview of the trustees. Reviewing an institution’s academic strategy and deciding whether change is called for is a trustee’s most important responsibility.
2. You don’t know what you think until you write. For a strategic plan to be effective, it must be written. For a strategy to be concrete, it must be written. To say “we’re going to raise academic standards” does not mean much. To say “we’re going

to raise academic standards, and here are the 14 concrete steps we're going to take to do it" means everything. If the Governor had sent me to CUNY with a vague mandate to raise standards, I doubt that much would have happened. Every time I proposed to do something, people could say, "Wait a minute, the Governor didn't mean that." But when the Governor endorsed my Task Force Report, people knew that the Governor was behind every one of the 300 plus recommendations in the report. They couldn't say, "Wait a minute—we need to check with the Governor."

3. New strategy requires new leadership. Those who presided over the old strategy can never be effective agents of change. Even if they are very able and even if they wholeheartedly support the new, they will lack credibility. People will doubt their commitment to the new and will assume that delay and obstruction will work.
4. When lots of things are wrong, focus on academic standards first. If an institution's academic standards are suspect, it will never be able to address its other problems unless it first repairs its academic standards. No one will invest in any other change if they doubt the institution's academic standards. Academic standards must be the constant in any strategic plan; everything else is a variable.
5. A plan for strategic change must have built into it external measures for judging whether change is actually happening. It is best if those measures are extended to the institution. So, the CUNY plan to raise student learning outcomes used external assessments. People will rightly be skeptical of the success of strategic change if the only measure of that change is by the institution that needed the change.
6. Strategic change takes time and continuity of leadership. One reason change at CUNY has been so successful is that Matt and

I have been able to work together for 11 years. That is unusual continuity of leadership, especially under three different governors of different parties. Indeed, that has never happened in CUNY's history.

7. If you as a trustee think change is needed, don't be talked out of it by even the most strident criticism. You must have the courage of your convictions. This is not to say that criticism should be ignored. We can always learn from our critics, even when they simply are defending their own interest. But any program of change will call out critics, and the more extensive the change, the more extensive the criticism, so when change is most needed—criticism will be most vociferous.
8. For a strategic plan to work, the stars must be aligned. For a public university, this means not only alignment of the trustees and the chancellor, but the alignment of the governor as well. No plan for serious change in any public university will work unless the governor endorses it in concrete detail. That happened at CUNY, and it is why changes were able to happen.

I've obviously been incredibly lucky in my career. For most of my career I thought my good fortune was working on big, interesting problems—important things that affected lots of people. Now I think about my good luck a little differently—the real pleasure was not what I worked on, but whom I worked with. So it wasn't the fascinating cases I worked on at the Supreme Court, it was the chance to work with the Chief. And even in that relationship, the personal looms larger than the professional. I remember more vividly than any judicial matter when the Chief told me to put my baby daughter on his massive desk to crawl around and muss up his papers while he cooed and croaked like a big baby himself. I learned a lot in the Justice Department, but what I recall is in 1968 sitting around with Warren Christopher at three in the morning talking about the fact that neither of us had the slightest idea

what to tell the President he could or could not do about the riots in Detroit.

The First Amendment has been my lifelong love as an endlessly fascinating subject, but what that really did for my life was to lead me to Fred and Floyd. At Yale it wasn't the power and prestige—it was the chance to work with people like Mike Finnerty. Mike prepared for the rigors of Yale by flying helicopters in Vietnam and serving as New York State's budget director during New York City's bankruptcy. Mike had a very important assignment at Yale. He would sit behind me at faculty meetings and grab the back of my belt so I wouldn't leap out of my chair every time I was insulted by some resentful sociologist. Those of you who know Yale will know that it is the most anxiety-prone institution in the world. In that environment, Mike was like an industrial strength Valium. Strikes would be threatened, students would be on the march, faculty would hold candlelight vigils, and I'd say to Mike, this is really nerve wracking, I can't sleep, etc.... And Mike would say, "Yes it's pretty bad, but it's not quite as bad as flying a medivac into a hot ambush wearing a full-body flak suit when it's 120 degrees." And I'd think, yeah, maybe he has a point.

And the priority of people over substance continues to this day. Even more satisfying than bringing choice and competition to public education has been the fun of working with Chris Whittle. And what's great about our reform work in the Arab world is not just the importance of the problem, it's the chance to work with Jeffrey Leeds and the incredible team we've assembled.

And I've already said how much the pride and pleasure I take in CUNY is because of my friendships there.

What an honor it is for me to receive the Phillip Merrill Award. The Award comes from ACTA, the most important and creative organization in higher education, one that supports high academic standards, academic freedom, and institutional accountability. There is a great need for a national organization that oversees this field. Thank you.

General Colin Powell

A Written Tribute to Benno Schmidt

I offer my congratulations to Benno Schmidt for receiving the Phillip Merrill Award from ACTA. Phil Merrill was a good friend of mine who was a great public servant and philanthropist with a deep commitment to the education of the next generation of American leaders.

Benno exemplifies that same commitment to the education of our future. He has been a leader in insisting on the highest standards for our education institutions. He has been a champion of reform and a firm believer that every youngster needs a solid grounding in the liberal arts to be a complete person and citizen.

Benno and I are graduates of the New York public school system. In the 1970s the City University of New York had fallen into despair. Benno and other dedicated leaders were determined to rebuild this great institution to the world class standing it deserved. He has succeeded and the University is once again providing a quality and balanced education to 500,000 students—most of modest means, most minority and most immigrant. The City University has earned the title of “America’s Dream Machine.”

I am proud to have a policy center named after me at CCNY and to work with Benno in making the Powell Center a world class center of educational excellence.

I am also honored to be working with Benno on an education reform project in the Middle East.

Benno has been in the forefront of the campaign for American educational excellence for decades as an administrator, university president, chairman and believer in the simple proposition that the first priority of every generation is to prepare the next generation to lead us.

I congratulate ACTA on all it is doing to support a liberal education and to reform our educational system. In selecting Benno Schmidt for the Merrill Award, you have chosen well and wisely.

The following are tributes given in honor of Benno C. Schmidt, Jr. at the presentation of the Philip Merrill Award on November 5, 2010.

Floyd Abrams

Partner, Cahill Gordon and Reindel

It would be tempting this evening, when my longtime friend Benno Schmidt is receiving the coveted Philip Merrill Award, to say only good things about him. Benno has certainly done all the things that those of you from the American Council of Trustees and Alumni thought—and rightly thought—made him a deserving recipient of the award. More about that in a few moments.

But especially now that the mid-term election is over and most of you obviously have withdrawal symptoms from the absence of attack ads that filled our television screens until Tuesday, we thought you might like to see some of the real Benno, with information that just might have been presented to you in one of those ads. For Benno has had lots of earlier lives—none as a warlock, none calling for the repeal of the 14th amendment—that an informed citizenry should know about. There was Benno the musician, Benno the television personality, Benno the actor, and only then, when none of those moves seemed to be wholly promising as career moves, Benno as university president, Benno as chairperson, Benno as recipient of lifetime achievement awards. So here it is—the briefest of treatments of Benno before he started down the path to this award. It's called "Benno Schmidt: A life in four acts." [Video Presentation]

Of course, like all attack ads, there's a level of exaggeration and even misrepresentation in the above portrayal. Woody, after all did call back and Benno appeared in "Husbands and Wives" in another starring role. But then, attack ads aren't always perfectly accurate. And Benno's role as a moderator on the superb series of documentaries created and

introduced by our much missed friend and mentor Fred Friendly—a series only created with the indispensable contributions of Ruth Friendly and Stuart Sucherman, who join us this evening—can hardly be treated quite so cavalierly as our brief excerpt does. In those public seminars, Benno was a penetrating, unyielding and light-footed moderator, always open to the widest range of divergent views and always drilling down to see if those views made sense.

Of course, Benno’s role in academia has been a high point in his contributions to American society. Dean of Columbia Law School, president of Yale University, vice chairperson and then and now chairperson of the Board of Trustees of the City University of New York—it is hard to think of more responsible positions calling for leadership in the defense of academic freedom and impossible to think of anyone who has mounted that defense with greater vigor and, given Benno’s prior role as one of our country’s leading First Amendment scholars, greater authority.

It has been fitting that Benno has played such a role since it was in one of the very first cases involving such an issue that Chief Justice Earl Warren, for whom Benno would later serve as a law clerk, referred to “the essentiality of freedom in the community of scholars.” Benno has repeatedly led the battle to protect that very freedom.

When Benno delivered his inaugural address almost a quarter of a century ago after his investiture as president of Yale, he focused—as he so often had before and would regularly do so thereafter—on what he characterized as “the foundation of the mission of a university.” That foundation, he said, was “academic freedom and absolute adherence to freedom of expression within the university and the associated freedoms and protections that sustain it.” The basic tenet of academic freedom, he observed, is “that neither students—[nor] administrative officers [nor] staff members—need answer to any test of religious dogma, political orthodoxy, or civic virtue in their academic pursuits.”

And in a seminal passage, worthy of inclusion in any collection of materials about the relationship of free expression to a great university,

he concluded as follows: “Even more threatening is the insidious tide of conformity and fear that menaces so many of our public schools, where offending books are ransacked from libraries, science is subverted to sectarian ends, and teachers are harassed for intellectual convictions, elections of private lifestyles, and simple commitments to truth ... speakers have been hounded and intimidated into silence by forces both inside and outside the university. Scientific investigation has been throttled out of misplaced fears and fantasies, and teachers and students harassed for their research interests, their politics, their sexual identities.

We will protect our own with fierce resolve. But Yale is not an island where intellectual liberty is at stake, we must never ask for whom the bell tolls when academic freedom is jeopardized.”

Those views have always been central to Benno’s view of the university and of the essentiality of academic freedom to the functioning of any great university.

Benno’s devotion to the protection of academic freedom was put to the test in the aftermath of the savage attack on this nation on September 11, 2001. Some faculty members had made what can only be viewed as inflammatory public statements in the days after 9/11, statements of the sort that might, in turn, have inflamed members of the public in a manner that could have led to calls for punitive action—action that would threaten (quite likely, unconstitutionally) academic freedom. At the same time, the possibility of Muslim students being unjustly singled out for criticism of or worse, for the murderous conduct of those that attacked us, conduct for which the students bore no responsibility, loomed large.

So how to respond to those two prospective threats to professors and students alike? The CUNY board acted promptly, adopting a statement drafted by Benno which, after joining in the mourning for those individuals who had been slain or injured by the terrorists, said this with respect to those subjects:

Our faculty and students come from every corner of the globe. Every race, every great religious tradition, every ethnic group is part of our academic family. It seems likely that the United States will undertake military operations in countries where CUNY students and faculty have powerful roots. Times of tragedy, crisis, and military action engender strong emotions: pride and patriotism, powerful fears, acute concerns about justice and loss of life. In such times, it is important for the City University of New York to adhere to first principles.

Academic freedom, freedom of inquiry in the search for truth, the freedom of thought to challenge and to speak one's mind, these are the matrix, the indispensable condition, of any university worthy of the name.

The City University of New York has a proud tradition of academic freedom. We will defend the academic freedom of our faculty and students as essential to the preservation of the university. That these are prized American values, as well as central to the academic mission, only makes their defense in times of crisis the more essential.

Threats, harassment, discrimination of any kind, based on race, religion, national origin, political persuasion, or any other characteristic irrelevant to the academic enterprise is an assault on the foundation of the university. I have asked the chancellor to take every appropriate measure to protect our academic mission and our students, faculty, and staff from any harassment or other inhibition on their ability to pursue their academic work in freedom.

That is the way someone steeped in the First Amendment and possessed of a particularly felicitous writing style, responds. That is the way a great institution should (and did) respond. That response, in and of itself, more than qualifies Benno for the splendid award you bestow upon him this evening.

So congratulations, Benno. You deserve it.

Chancellor Matthew Goldstein

The City University of New York

Good evening. I am delighted to join you this evening to recognize Benno Schmidt on behalf of the American Council of Trustees and Alumni.

I am pleased to be joined by my CUNY colleagues:

- Trustee Kay Pesile
- Senior Vice Chancellor and Secretary to the Board of Trustees
Jay Hershenson
- Senior Vice Chancellor and General Counsel Rick Schaffer

My thanks to President Anne Neal, the ACTA leadership, and the selection committee for their work and for their especially fine choice of this year's recipient of the Philip Merrill Award for Outstanding Contributions to Liberal Arts Education. Mr. Merrill's commitment to higher education and academic rigor mirrors Benno's own profound dedication to offering students the highest quality academic preparation. It has been my privilege to witness Benno's work firsthand, and I can't think of anyone with his extraordinary combination of skill, passion, creativity, and principle when it comes to serving our students and the ideals of education.

What makes Benno such a rare breed is that he has operated in vastly different environments—in private and public education—and in each case rose to oxygen-deprived heights with energy, wisdom, and basic, gut-level good sense. (He is also quite at home in vastly different physical environments: whether the hallowed halls of academia or a corner table at the local pub...where his wisdom is also highly esteemed.) You may know him best as a former president and an alumnus (both undergraduate and law school) of Yale University. This, of course, followed his successful turn at Columbia University, where he was one of the youngest tenured faculty at the law school and, later, dean of that law school.

He was also called into service for The City University of New York, first as the chairman of a mayoral task force that conducted an in-depth

review and analysis of CUNY, which was at a particularly difficult time in its history. The University had really lost its way: it lacked standards, vision, accountability, and leadership and was headed woefully in the wrong direction. The task force issued a comprehensive report with a title that summed up the state of CUNY at that point: “An Institution Adrift.” (Benno, as you may know, doesn’t mince words.)

The work of the Schmidt task force led directly to CUNY’s subsequent, and still unfolding, renaissance—academic standards were raised, the system was tiered, new leadership was brought in, and assessment and accountability measures were strictly applied, including our Performance Management Process, which assesses individual campus performance.

Benno was named to CUNY’s Board of Trustees in 1999 and became chair a few years later, a position he still holds. Under his leadership, the University has accelerated its resurgence, creating, among other things, the Macaulay Honors College, the Graduate School of Journalism, the School of Professional Studies, the School of Public Health, an extensive partnership with the New York City Department of Education, a science and research initiative called the “Decade of Science,” a major capital program, and the highest enrollment in the University’s history.

At every step, Benno has been my trusted and valued partner, and a tireless advocate for the University and for creating a public system in which access and quality are mutually valued and pursued. Let me emphasize: this is not a small thing. He has not only articulated the ideals of a true liberal education; he has taken courageous action to ensure that every deserving student has the opportunity to achieve such an education.

That means developing institutions of higher learning that encourage both intellectual achievement and openness. It means espousing an education that introduces students to what Matthew Arnold called “culture”: the best that has been said and thought in the world. It means studying history, literature, biology, philosophy, languages, mathematics, and much more in order to understand

better the world and our place in it. It means teaching students to ask questions and formulate answers and to deepen their own forms of expression. A liberal arts education fires our imaginations and fuels our humanity; it instills a curiosity that can be cultivated throughout a lifetime. And if Benno is the ultimate proponent of it, it's also because he is the ultimate embodiment of it.

My professional partnership with Benno is undoubtedly made more effective by the fact that we share the same vision for CUNY and for higher education. But it doesn't hurt that we are also good friends. If you know Benno—or have heard his singing—then you know that his *joie de vivre* is contagious. If you don't know him, remember that he is a serious scholar of constitutional law—and consider how much fun constitutional scholars have had during this election season. You may also remember him from his days as moderator of the PBS series, “The Constitution: A Delicate Balance,” in which his fierce intellect and wit, and, every so often, his great sense of humor, were on display. He's also a former hockey player, who still loves the New York Rangers. He plays guitar in a band. And let's not forget his Oscar-worthy cameo role in Woody Allen's “Hannah and her Sisters”—an achievement that most New Yorkers would consider the pinnacle of success.

Benno is someone who lives life to the fullest—and we are extremely fortunate that he has brought that energy to CUNY, which has benefited from his leadership and guidance in every possible way. Indeed, our country's entire system of higher education has been the beneficiary of his exceptional contributions. Benno, on behalf of ACTA and The City University of New York, I thank you for continuing to ask fearlessly what is possible for our students, and for our friendship, which I treasure.

Benno C. Schmidt, Jr.



As a scholar, administrator, and trustee, Benno Schmidt models the values and principles on which the future of higher education rests. For over two decades, he has been a champion for the arts and letters and an innovative leader, advancing both access and excellence. Whether protecting academic freedom, measuring academic progress, or promoting a model community college with strong core requirements, Mr. Schmidt has

been at the epicenter of creative higher education reform.

He currently serves as chairman of the board of trustees of the City University of New York (CUNY). Before joining the board, he led Mayor Rudolf Giuliani's Task Force on CUNY, charged with exploring ways to revitalize the largest urban public university in the world. Its recommendations are widely credited as the blueprint for CUNY's remarkable renaissance. Mr. Schmidt is chairman of the board of The Council on Aid to Education, chairman of Edison Schools, and serves on the Ewing Marion Kauffman Foundation board of trustees. In 2005, he led a blue ribbon task force in Kansas City to develop recommendations to advance higher education and research, through partnerships among business and philanthropy and civic organizations. He served as Yale University's 20th president, where he was known nationally for defending freedom of expression and the values of liberal education, and he was dean of Columbia University Law School.

Mr. Schmidt is recognized as a leading scholar of the First Amendment, the history of race relations in American law, and the history of the Supreme Court. He is a graduate of Yale College and Yale Law School, and he was a law clerk for Supreme Court Chief Justice Earl Warren.

In his unwavering commitment to the highest academic standards, opportunity for underserved communities, and energetic stewardship of higher education, he exemplifies all that the Philip Merrill Award seeks to recognize.

The Philip Merrill Award for Outstanding Contributions to Liberal Arts Education



ACTA is most pleased to be presenting the sixth annual Philip Merrill Award for Outstanding Contributions to Liberal Arts Education. The awarding of this prize, made on the recommendation of a distinguished selection committee, advances ACTA's long-term initiative to promote and encourage a strong

liberal arts education.

The Merrill Award offers a unique tribute to those dedicated to the transmission of the great ideas and central values of our civilization and is presented to inspire others and provide public acknowledgment of the value of their endeavors. Past recipients of the award are Robert P. George, the McCormick Professor of Jurisprudence and founder and director of the James Madison Program in American Ideals and Institutions at Princeton University (2005); Harvey C. Mansfield, William R. Kenan, Jr. Professor of Government at Harvard University (2006); Gertrude Himmelfarb, professor emeritus of history at The Graduate Center of the City University of New York (2007); Donald Kagan, Sterling Professor of Classics and History at Yale University (2008); and Robert "KC" Johnson, professor of history at Brooklyn College and The Graduate Center of the City University of New York.

The prize is named in honor of Philip Merrill, who served as a trustee of Cornell University, the University of Maryland Foundation, the Johns Hopkins School of Advanced International Studies, the Aspen Institute, and the Smithsonian's National Museum of American History.

Mr. Merrill was also a founding member of ACTA's National Council.



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