

Clarion

NEWSPAPER OF THE PROFESSIONAL STAFF CONGRESS / CITY UNIVERSITY OF NEW YORK



NOVEMBER 2017



CAMPUS Members defamed

BC faculty members respond to attacks from a notorious far-right extremist.

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In light of often confusing moves by the White House in regard to DACA, activists are doing all they can to protect CUNY's undocumented students.

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Seeing clearly with new plan

● After reading Ari Paul's article "Rave Reviews for New Optical Plan," in the September *Clarion*, I can report I agree fully there is great improvement in the benefits. How did you do it?

I went to Raymond Opticians in Ossining, New York, at the Arcadian Shopping Center. They are not on the list provided to us in January of this year – though their sister store in Mount Kisco is listed. I was very pleased to learn that all the options I wanted were included, with no charge: oversize metal frame, spring-loaded, tinting, scratch-resistant coating, UV coating and polarized lenses (this was fabulous).

I recall paying at least \$100 for polarized lenses about 10 years ago. This feature alone is amazing in improving vision in bright sun and with headlight glare at night.

Congratulations to the team that arranged for these super benefits.

Matt Lanna
BMCC, Retired

PSC President Barbara Bowen responds: *Thank you, Matt Lanna! We were able to make a major improvement in the optical benefit because PSC members won tough fights on our last contract and on adjunct health insurance. Both changes created new resources for the Welfare Fund, and the Fund used these, together with some astute management, to negotiate a better benefit.*

Austerity on campus

● While Governor Cuomo tries to position himself nationally as a friend to education, his policies have stripped CUNY of needed resources. Just doing normal activities – from printing out required forms and copying them once signed, to getting a cup of water – have become difficult. Here's a sample of austerity at City Tech, Fall 2017 edition:

Over-Enrollment. Enrollment caps were lifted and additional students enrolled in all public speaking, English composition and interdisciplinary courses. There was no consultation or even announcement to the faculty. (A letter from the dean was read at meetings two weeks later.) In the case of public speaking, which I teach, this increase means each student will literally have less time allotted to them, thus lowering the educational opportunity for all.

Printer ink. I asked our departmental secretary for an ink cartridge for my computer and she said we were all out and she was not permitted to order anything. Later, my department put in an order for a new ink cartridge, with fingers crossed. No word a month later.

Library Database Subscriptions. Financial aid payments generally are not available to students for the first several weeks of the

semester. With that in mind, for the first two reading assignments in my play analysis class I chose works that could be accessed electronically from our library's collection without charge. Over a third of my students came to class unprepared, because the database was unavailable. Our subscription was suspended for lack of payment. (I received a gracious apology from the head librarian and the database was reactivated within a few weeks.)

No Copier. Faculty are regularly instructed to make copies in the Faculty Resource Center. On September 14 the copier there was out of paper; no quizzes, handouts, or signed field trip forms could be duplicated. When I tried to make copies in my department, a sign announced that the department had an extreme paper shortage and faculty were prohibited from making copies. Two weeks later, the paper shortage continues.

Water. There are no water fountains (or bathrooms) anywhere in the building where my departmental office is located. Instead, we have a water cooler that takes five-gallon bottles. The water cooler in my office has been empty since early September.

We must all work to convince our government leaders and CUNY management that austerity education hurts our students and the future of our city.

Shauna Vey
City Tech

Losing the plot

● I am baffled – deeply baffled – by the inclusion of the comment entitled "The Jewish questions" among the several comments on the events at Charlottesville ("Fighting hate after Charlottesville"). What relationship does its content bear to the events in Charlottesville? In my reading of it, little. The writer presents herself as a critic of the "conservative" Jewish "establishment" in opposition to the "progressive Jews" with whom she identifies.

Was that what the Charlottesville events were about? In what way was this opposition among Jewish groups related to what took place in Charlottesville? There was outright anti-Semitism replete with swastikas and Nazi slogans, in addition to a torchlight march reminiscent

of the KKK that was both an anti-Semitic and anti-black movement. And of course the death of one anti-white-supremacist protester. Such a false connection diminishes the focus on the main issue – namely, what occurred in Charlottesville and its political aftermath.

Vivian R. Gruder
Queens College, Retired

Women of labor

● New York women firefighters recently celebrated the 35th anniversary of the formation of their association (United Women Firefighters) and the 40th anniversary of winning the sex discrimination lawsuit, *Berkman v. City of New York*, that allowed them to work as firefighters. A September panel convened at Tamiment Library Labor Archives under the auspices of the New York Labor History Association and LaborArts included representatives of women stagehands, plumbers and electricians, as well as firefighters. Jane LaTour, author of *Sisters in the Brotherhoods: Working Women Organizing for Equality in New York City*, moderated.

The presence of these stalwart women was thrilling – they went against the normative expectations of their time and endured incredible obstacles. The spectrum of approaches they used and continue to use to gain inclusion into these formerly male-only and still male-dominated trades is instructive and resonant with some strategies of our union.

Legal. They fought to change the physical tests to be more relevant to the actual job versus being solely focused on upper body strength, which favors males. They are currently trying to raise the cap on the age of application from 28 to 35 years, arguing that many women don't find out about the opportunities till later and that they do have the body strength.

Networking. They had to find each other. Because of the small number of female firefighters, it was and is lonely – most of the original inductees toured for 21 years without ever working with another woman. The same is true for stagehands, plumbers and wireworkers.

Mentoring. All the groups have developed programs and training workshops for obtaining and learning the jobs and surviving the barriers.

The proof of success is that there were 8,700 recent applications for female firefighters. Local 3 of the Electricians Union pairs each apprentice with a mentor who assists them in navigating the industry, educates them in trade unionism and engages them in the labor movement.

Power positions. They all saw the importance of running for office in their local, city and national groups. They support each other in getting closer to decision-making hubs.

Solidarity. The stagehand rep who is a delegate to the New York City Central Labor Council says the International Alliance of Theatrical Stage Employees would not have won the strike that protected their health care and pensions without the active support of allied unions. Last week's massive rally in support of Spectrum electricians' strike is in that direction.

Marcia Newfield
BMCC, Retired

Admin for Trump

● Private universities – particularly in New York City – have positioned themselves carefully regarding the Trump agenda. Universities like Columbia and The New School have issued statements decrying Trump's travel ban targeting Muslim communities as well as his call to end the DACA program. Thus the reputation of private universities as left-leaning institutions is preserved. However, the administrations of these uni-

versities have been careful to limit their protests to statements rather than resisting Trump by taking action that is immediately under their control. When it comes to Trump's anti-union agenda, New York City private universities are all on board.

The trend of adjunctification in universities continues unabated; over half of university faculty are part-time workers. This includes adjuncts as well as graduate students, who increasingly rely on picking up extra teaching loads in order to financially support themselves. Graduate students have been fighting for years to protect their rights as workers through union organizing. In 2016 the National Labor Relations Board reversed an earlier ruling and decided that graduate students do, in fact, have the right to unionize: this ruling was in response to organizing at Columbia.

Both Columbia and The New School provide lip service to the right to unionize. Both administrations have challenged their graduate students' union elections – challenges that have been denied by the NLRB. These challenges against elections and other anti-union tactics (Columbia launched an anti-union propaganda website after the NLRB's first ruling) reveal its real interests: undermining the rights of workers. Columbia even increased the pay of some student workers (although not to a living wage) before the NLRB ruled on their election challenge. But pay is not the same thing as rights, something both the administrations and graduate students know. The administrations of private universities – representing New York's business interests and upper-crust community – are invested in rolling back the rights of labor, and will support Trump's lead in this area.

Rosa Squillacote
Graduate Center

Honoring Alan Pearlman



The PSC's CLT chapter introduced a memorial at the union's office for the late Executive Council member Alan Pearlman at its October meeting.

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Members to trustees: we need 'MOE'

By CLARION STAFF

Faculty, staff and students packed a meeting room at Baruch College on October 16, telling CUNY's Board of Trustees that it was imperative for Governor Andrew Cuomo to sign the higher education Maintenance of Effort bill.

The bill, passed by both legislative houses, would help CUNY and SUNY's financial health by ensuring that the actual, inflation-adjusted cost of operating the four-year colleges in each system is met each year. Specifically, the bill would fund collective bargaining increases. It would also provide funds to close the gap between the highest TAP award and the actual cost of CUNY tuition, saving CUNY millions of dollars per year. CUNY has relied on tuition increases to fund these day-to-day costs; the bill, if enacted, would help to eliminate the need for tuition increases to cover such expenses in the future.

Pressure on Gov. Cuomo

In short, it would give CUNY colleges some needed relief after decades of state underfunding. At a time when the governor wants to increase enrollment through the Excelsior Program, the need to fund CUNY has increased.

The governor has until December to sign or veto the bill. He vetoed a similar bill in 2015. At the hearing, members told trustees of their experiences working under austerity conditions for year after year at CUNY, and how the MOE bill is necessary for the future of CUNY, to retain high-quality instructors and provide students with a well-rounded education.

Members' testimony (see below) to the CUNY trustees was clear: trustees have a duty to use their political capital and influence to urge the governor to do the right thing and sign the MOE.



CUNY students, faculty and staff packed a Board of Trustees hearing, talking about underfunding at CUNY and the need for Governor Cuomo to sign the Maintenance of Effort bill that was passed in the state legislature with overwhelming support.

A VET'S VIEW

When I was a young man fighting in Vietnam, we used an expression to explain why we'd done really stupid or misguided things: "It seemed like a good idea at the time." The Excelsior Program certainly sounds like a good idea, and we all hope that it turns out to be one, but without action to support it, it's going to prove painful for many of our students.

Unless the trustees take effective action in Albany, this program is going to exacerbate longstanding problems here at Baruch. Several of our business programs are so overtaxed that they are unable to serve all the students who want to enroll in them, or even those who are enrolled. We cannot provide enough sections of key courses to accommodate all the students who need them. And we impose artificial barriers like forced grading curves to limit the numbers of students able to enroll. As a result, many students are unable to complete their four-year degrees in four years. Some have to wait far too long to take required courses; others find that they have to change their majors in order to graduate.

You will recall that Excelsior requires students to graduate in four years and to take 30 credits a year. Given that Baruch students already find this to be an impossibility under current conditions, this new program will mount new obstructions; it will not simply increase enrollments, but will increase the number of students unable to complete their studies in four years. And this means, of course, that they're going to face significant financial penalties. None of us wants to see this.

Glenn Petersen
Professor, Anthropology
Baruch College

FLAT EQUALS CUT

An essentially flat CUNY budget isn't flat. It's cut. As the PSC leadership has pointed out, CUNY's operating funds from New York State have fallen 17 percent since 2008, when adjusted for inflation and enrollment increases.

How has this affected our majority low-income students of color? Beyond the "58 percent increase in tuition costs over the same period," the university has balanced its budget on the backs of students in other ways. Student fees have been raised and those fees are being dipped into to cover costs they shouldn't. For example, at Lehman and many other CUNY colleges, the student technology fee, which was raised in 2013, is being used to cover fixed, recurring costs such as library database subscriptions. By cutting budgets and shifting mandatory library costs to the technology fee, the colleges have deprived students of improved smart classrooms, hardware and other technologies for which the fee was designed.

On the academic side, the real decline in the college budgets has led the college to not replace faculty lines when people leave, retire or die. For example, in Lehman's anthropology department, four lines became vacant over several years. Only two of those lines have been replaced (and those only recently), while the department's course offerings have grown exponentially.

Robert Farrell
PSC Chapter Chair
Lehman College

EFFECT ON DIVERSITY

Over the past two years, the Media Studies department at Queens College lost two women of color. The first went to UCLA, with an offer that included a position for her hus-

band. Queens made a counteroffer, but she chose to accept the UCLA offer. The second colleague left for Loyola Marymount, a private school in Los Angeles. Queens also made a counteroffer, but she also accepted the other offer. While all cases are different, with their own mix of factors, the college has not offered lines to replace the lines of those women. The college has announced that there will be up to four possible hires this year, but many departments compete for those lines, and presumably they come from a separate budget carved out by CUNY for those purposes. That is, without the adequate funding just to maintain staffing needs of the department, the department will be forced to hire more part-time teachers and in our case sacrifice diversity.

Jonathan Buchsbaum
Professor, Media Studies
Queens College

STAY OR GO?

I felt upon arrival to this great institution a deep and chilling, utterly noticeable curtailing of my scholarly and administrative ability because of the gutting of support for what I understand to be the baseline undergirding of my profession: the funding of research, travel, departmental and interdepartmental interaction, scholarly and institutional innovation, and day-to-day teaching.

When I think about my year at Brooklyn College, I am moved to the point of tears about how much is done for what would be a pittance in my previous places of employment. How my staff and fellow faculty members and students keep the amazing work of this institution alive with ever less because we all know how important CUNY is. But if you asked me now will I stay? Honestly, I'm on the fence. At the top of my game, entirely committed to working with our students and faculty and in this great city and state, why would I do

my work in an environment where so much of my effort is spent not on teaching or research, professional interactions or institutional innovation but instead on maintenance, morale and working against the problems born of disinvestment?

Signing the MOE and other legislation that would begin to reverse the state's disinvestment is one small step in retaining me, and the many others like me who continue against all odds to make CUNY great. Without such signs of support, CUNY is bound to disintegrate not just in what we already feel daily in its operational infrastructure but perhaps in its greatest strength: the committed labor, intelligence, teaching, and scholarly productivity of its faculty and hence the students and community we seek to serve.

Alexandra Juhasz
Department Chair, Film
Brooklyn College

FAIR PAY

Today I wish to address two specific areas that need increased funding. The first deals with the faculty underclass known as adjuncts. I have testified before this board twice before regarding my struggle to pay bills and student loans on the absurdly inadequate salary I am paid – a salary that dishonors my hard work, my dedication to my students and my advanced degrees. While it is true that many adjuncts live in poverty, which shames the university, I have come to the realization that this is not the point. The point is that increasing adjuncts' salaries is a matter of doing what is right. It doesn't matter if individual adjuncts struggle financially or not – what matters is the basic democratic principle of equal pay for equal work, which is simple justice. The enormous disparity in pay among those who teach the same courses in higher education is inexcusable; providing funds to pay adjuncts \$7,000 per course per

semester is the right thing to do for all concerned.

My second issue is the need for counselors. Too many students take more courses than they can handle, leading to failures and delayed progress toward graduation. This is true in the regular semester and in the summer and winter sessions. Many students are taking too many courses in addition to working full time and/or dealing with young children, etc. Too many fail because no one was there to tell them basic truths about rational scheduling before they committed to an overloaded schedule.

Diane Auslander
Adjunct, History
Lehman College

HARMING STUDENTS

Many class sections are increasing in size, which does great pedagogical harm to our students. Enrollment in seminars developed and designed for open dialogue and critical thinking has increased so much that instruction must be done in a lecture format. Science courses have lost their laboratory component, creating an inferior learning experience. Much larger class sizes put a special burden on adjuncts who are not being compensated for the tremendous increase in their time and academic responsibilities.

Departments at CCNY are now pushed to organize class scheduling so that many courses will not be available each semester, or even each year. This puts an immense burden on chairs in making schedules, and especially on our students who have the pressure of commuting, working and taking care of families and relatives. Lack of needed courses will delay graduation and in many cases delay licensing and jobs for many of our professional students.

Alan Feigenberg
Professor, Architecture
City College

Signing up members for the future

By ARI PAUL

York College PSC Chapter Chair Scott Sheidlower didn't use a week's leave at the beginning of the semester to simply kick back and relax. He used his own time to get nearly 100 workers on his campus to sign new PSC membership cards.

Meeting with members face-to-face, he explained to them that the Trump administration is waging a war against unions – an upcoming Supreme Court case, *Janus v. American Federation of State, County and Municipal Employees*, is all but certain to strip public-sector unions of the ability to collect agency-shop fees sometime next year. Sheidlower told members that it might be tempting to opt out of union dues to save money, but that the savings won't last long, and they'll come at a steep cost. The collective strength of the union is what wins improvements, he said.

DECREASED BARGAINING POWER

"I tell them, 'If you give yourself a 1-percent raise by not paying dues, but then next year you need more money, and you go directly to the president and ask her for a raise, what's she going to say when she stops laughing?'" Sheidlower told *Clarion*, pointing out that members opting out of the union would mean an end of union power to bargain for wages. "Then they sign the card immediately."

The takeaway for Sheidlower is simple: CUNY faculty and staff know the union has fought for contracts and job protections, and those things can only be fought for collectively. In a so-called "right-to-work" scenario, unions will have fewer financial resources to bargain contracts and represent workers.

"I make sure they know the union's been fighting for them and

The union prepares for a post-*Janus* world



Paul Narkunas, a John Jay College faculty member, signed up members on his campus in October.

for CUNY," he said. "The argument is making them realize that they'd be by themselves, and everyone sort of gets it."

The union is organizing members to sign these new cards, which are blue, in order to redouble the membership's support of the union in the face of this major Supreme Court case. The card requires two signatures, one to assert one's membership in the PSC and one to allow dues to be automatically deducted.

The case will go before the Su-

preme Court early in 2018, and a decision is likely by early summer. With a conservative majority on the bench, the Supreme Court is likely to agree with the plaintiff, who is backed by anti-union and corporate organizations, dealing a crippling blow to public-sector unions across the country. A similar case, *Friedrichs v. California Teachers Association*, went before the Supreme Court in 2016, but the court came to a 4-4 deadlock after Justice Antonin Scalia died.

The PSC is preparing now for this new financial reality, which is why activists are talking to members on campuses about the importance of signing a new card to ensure a strong membership before this new regime comes into effect.

Campus activists are already making progress. Lehman College PSC Chapter Chair Robert Farrell said he found that most faculty and staff who were agency-shop fee payers hadn't become union members not out of ideological opposition but simply because they had not had the opportunity to sign up.

"Newer faculty who may not have had contact with the union through the new faculty orientation process are really excited to sign up," he said. "I think that's especially true for a lot of adjuncts. One of the things we're doing this year is to have an adjunct orientation process through the chapter, and we have had an opportunity to talk to people about membership and get people signed up."

ANTI-UNION MARKETING

Penny Lewis, an associate professor of labor studies at the Murphy Institute, has developed a PowerPoint presentation for activists, in which she explains how corporate, anti-union forces target members in right-to-work environments to encourage members to leave the union to save money, showing how activists can get ready for such a campaign.

"When the *Harris v. Quinn* case barred the collection of agency fees among certain home health care and childcare workers organized by the

Service Employees International Union (SEIU), anti-union groups began an aggressive direct marketing drive to convince SEIU members to opt out of membership," Lewis said. "In Washington state, the Freedom Foundation successfully acquired lists of union members through public records requests. 'Give Yourself a Raise This Christmas,' read a jolly-looking holiday card sent home to union members. Members received robocalls to their homes. There was even a field operation, with some union members visited at home by people hired to encourage them to quit their union. The SEIU [local] initially lost dues and fees from nearly half of the childcare providers it represented."

RECOMMITTING TO THE UNION

Lewis offered examples of how unions can combat such a campaign. "The union was able to gain members back with campaigns countering the assault from the Freedom Foundation," she said. "Will the Freedom Foundation be bargaining a raise for us? Can we go to the Freedom Foundation when I have to file a grievance against my manager?" As workers learned more about the scope of what the union did for them, and the nature of the attacks against the union, many rejoined."

PSC President Barbara Bowen said, "The far-right groups funding the *Janus* case are not shy about their agenda: it is to wipe out the American labor movement, and with it every progressive policy advance unions have supported. *Janus* is an attack on civil rights, on women's rights, on the right to a high-quality public education or health system.

I don't want to be the generation that lets these advances be destroyed. It's not an exaggeration to say that this is a turning point in American social history, and we in the PSC can make a difference simply by keeping our union strong."

Members can learn more about *Janus* and sign the new membership card by visiting <http://psc-cuny.org/UnionYes>. Also, members should talk to their chapter chair and delegates about signing new cards and taking cards to other rank-and-file members.

Organizers have met with chapter chairs and delegates to discuss best practices in talking to rank-and-file members about signing new cards. Interested members can be trained and activists are able to submit online contact forms to report the results of their conversations.

A message to members from the union stated, "All CUNY employees represented by the PSC should reaffirm their PSC membership or join the union by signing this new union card. The Supreme Court will rule [next] year on a case designed to destroy union power. But the Court cannot destroy our union if we all say, 'Yes!' to union membership."

Looking to the road ahead



Graduate Center PSC Chapter Chair Luke Elliott-Negri was elected to the union's Executive Council by PSC delegates on October 19, to fill a vacancy. Invoking the threats of an upcoming Supreme Court case affecting public-sector unions, he vowed to "organize, organize, organize." He replaces Lenny Dick, who died in August.

Ellen Moynihan

Dave Sanders

Extremist targets two members at Brooklyn

By SHOMIAL AHMAD

The message on a poster plastered to a recycling bin on the Brooklyn College campus was succinct and inflammatory: “Terrorist Supporters,” it declared in all caps. Underneath that label were names of current and former Brooklyn College students (all Muslim students of color) and chiseled illustrations of two Brooklyn College professors – Corey Robin and Samir Chopra – both known for their public scholarship and who have supported freedom of expression around Palestinian issues. At the bottom of the poster, underneath the hashtag #StopUniversitySupportForTerrorists was the web address for the California-based David Horowitz Freedom Center, identified as an anti-Muslim hate group by the Southern Poverty Law Center.

Brooklyn College is not alone in being a target of a campaign to single out professors and students as “terrorist supporters.” This semester, posters appeared on several campuses across the country, including the University of California at Berkeley and the University of Chicago. The posters aren’t the first time that the CUNY college has been singled out. Citing increasing concerns about attempts to intimidate and harass faculty, the American Association of University Professors issued guidelines for universities to resist targeted online harassment earlier this year. Already the Trump administration has called on the University of Nevada at Las Vegas to investigate one academic who criticized Trump, and key architects of the campus culture wars have close ties to the Trump administration.

The PSC chapter at Brooklyn College was quick to condemn the poster that appeared in several spots on campus on September 27, and college staff quickly removed the posters.

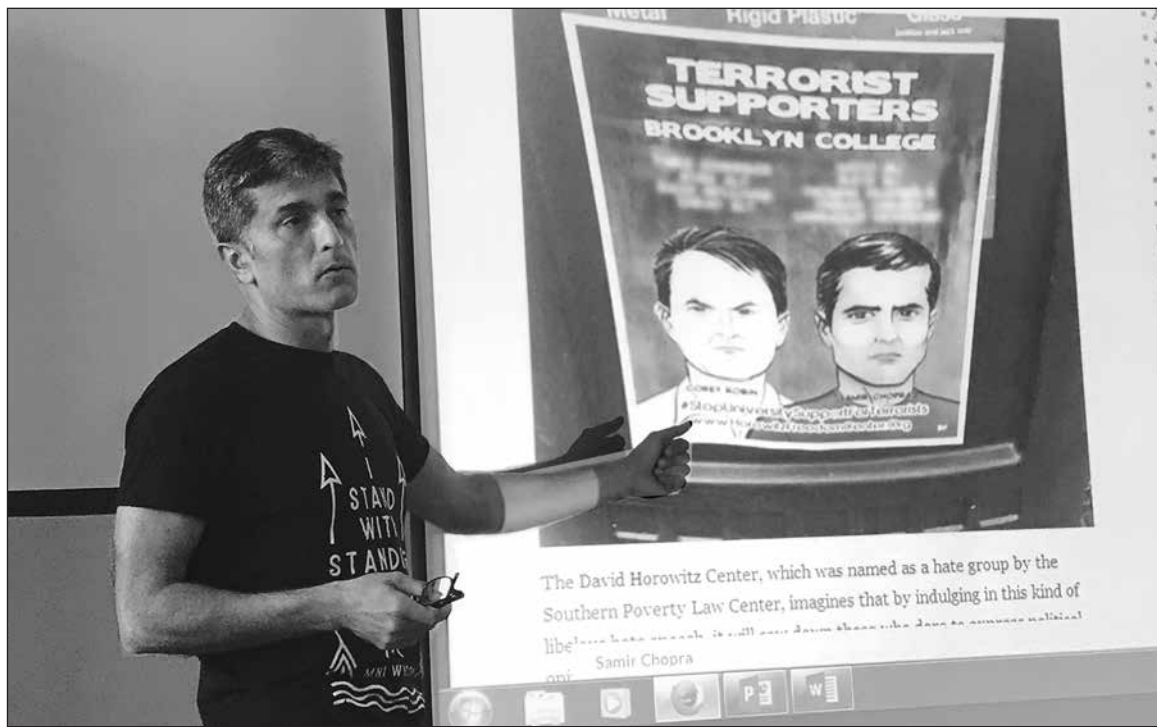
“By naming and depicting professors, it seeks to curb dissent and suppress academic freedom, and it places the safety of these faculty members at risk,” wrote the college’s PSC chapter chair, James Davis, in a September 28 email to members. “Faculty members must not be subjected to orchestrated campaigns of harassment and intimidation. We urge the college administration to affirm the fundamental principle of academic freedom.”

INTIMIDATION CAMPAIGN

It’s easy to dismiss the poster as “frivolous and juvenile,” Davis told *Clarion*, but the effect of the poster and others like it may make faculty think “three times” before they say something controversial, because they may be on a poster next.

Chopra’s illustrated “mugshot” on a Horowitz Center poster isn’t stopping him from speaking his mind. “If you did back down, you would be doing what they would want you to do,” Chopra, a professor in the department of philosophy, told *Clarion*. “That feels like cooperating with them, which I don’t feel like doing.” Chopra admitted he is in a somewhat

Far right campaign seeks to limit speech



Samir Chopra talks about the defamatory posters that called some BC faculty and students “terrorist supporters.”

privileged position. He’s tenured, and he’s not looking to change jobs. But the posters and the concerted campaign against him and others who focus on Palestine, has its cost. In Chopra’s view, his days on the job market are “over.”

“Somebody in the dean or the provost’s office could sit down and do a Google search, and they could tell the department that wants to hire me, ‘That guy is this guy?’” Fearing retaliation from donors or the Board of Trustees, Chopra said, university administrators could decide to hire someone else – and he wouldn’t know.

TRUMP ADMINISTRATION TIES

All 11 names appearing on the latest Horowitz Center poster are listed on the Canary Mission website, an online “blacklist” including profiles – with names, social media handles and photos – of professors and students active on Palestinian rights, with a goal, according to a video posted on its home page, to “ensure that today’s radicals are not tomorrow’s employees.”

The fact that he’s named on the website, Chopra said, means that every few months, his name is tweeted out by the Mission and he’s harassed online. (Nearly a dozen CUNY professors are named on the website and many CUNY students.)

The website singles out individuals, but it ensures that its supporters are hidden. The website does not name staff members; its domain is registered so ownership is hidden. The David Horowitz Freedom Center, Daniel Pipes’s Middle East Forum and other right-wing pro-Israel groups that focus on campuses denied any relationship with the Canary Mission, according to a May 2015 article written by Josh Nathan-Kazis in the *Forward*. Charles Jacobs, who was instrumental in producing “Columbia Unbecoming,” a documentary that showed

the university’s Middle East studies department as unfriendly to Jewish students, replied “no comment.” Later reporting by Nathan-Kazis revealed that the Mission’s home page temporarily directed readers to the personal Twitter profile of a director of an online Israeli advocacy group, Warren Betzalel Lapidus. Even mainstream groups, including the Israel on Campus Coalition, cited the Mission’s effectiveness in being a “strong deterrent against anti-Semitism and BDS activism” and limiting activism of some student because fear of the “repercussions of public exposure.”

While there may not be a direct link between the David Horowitz Freedom Center and the Canary Mission, a September 28 article, “Brooklyn College: Advocating Genocide and a Third Intifada” in the Freedom Center’s *Front-Page*, names students on the poster and links to their “profile” pages on the Canary Mission website. That same article’s main image is a version of the Brooklyn College poster that appeared on campus this semester.

The article then goes on to name a litany of reasons for naming the CUNY college including the Students for Justice for Palestine (SJP) chapter’s use of certain phrases including, “the third intifada” and “Al-Nakba,” (Arabic for “disaster,” to describe the 1948 establishment of the Israeli state). The article also cited the use of “the slogan: ‘From the River to the Sea’” and activists affiliated with the SJP chapter were accused of calling one faculty member a “Zionist pig” during a faculty council meeting. However, a Brooklyn College investigation later found that no member of the Brooklyn College SJP made this comment.

The Horowitz Center is run by David Horowitz, a former 1960s

left-wing radical from Forest Hills and a son of communist parents who later turned and has become what the *Washington Post* describes as “an intellectual godfather to the far right.” A June 3 investigation in the *Post* explored the “shadow” universe of right-wing charities and Horowitz’s connections to Trump officials.

In the 1990’s, Horowitz hosted a Wednesday Morning Club catered to conservatives in Los Angeles. A regular guest was former White House Chief Strategist Steve Bannon. Attorney General Jeff Sessions has been honored at a Horowitz-organized event. Stephen Miller, now Trump’s senior policy adviser, was a protégé of Horowitz. Miller enlisted Horowitz’s help when he was dealing with teachers and classmates at his Santa Monica high school who were “insufficiently patriotic,” and he went on to have Horowitz speak

Posters defame BC faculty and students

at his high school and at Duke University, where he was an undergraduate. Once Miller graduated from college, Horowitz helped him land jobs with conservative lawmakers.

Last fall, the Horowitz Freedom Center issued a list of “the top 10 schools supporting terrorists,” which included Brooklyn College. The Center, according to a website affiliated with it, “conducted a guerrilla poster campaign on the campus.” During that campaign, it decided to target a Brooklyn College master’s student Raja Abdulhaq with an illustrated poster of him with the hashtag #JewHatred.

“The main purpose [of this campaign] is not to shame people. The main objective is to stop them from doing what they’re doing,” Abdulhaq, who is studying political science and international relations, told *Clarion*. “There’s no way that

they’ll stop and intimidate me.”

While he’s undeterred, Abdulhaq said the intimidation has had its effects. A couple of students have approached him personally and said that they’re cutting down their activism with SJP, citing their concerns about their family and job prospects after college. One recent Brooklyn College graduate – who was active in SJP, wears a hijab and has her name and photo posted on the Canary Mission website – had a study abroad poster with her picture on it defaced (her eyes were blacked out and there was an upside-down cross drawn on her forehead).

The most recent posters prompted more than 80 Brooklyn College faculty and staff to sign a letter addressed to CUNY Chancellor James Milliken, calling on him to issue a public statement explaining and condemning the poster and the David Horowitz Freedom Center.

“These posters are an insidious and utterly unacceptable attempt to intimidate and defame members of this college and the larger academic community and have an intense and chilling impact on the young people targeted and the broader student community,” stated the October 4 letter.

WEAK CUNY RESPONSE

Milliken did not publicly issue a statement, but sent an October 13 email to Brooklyn College faculty and staff calling the poster “troubling.” “I share in your strong condemnation of crude attempts to restrict protected speech through intimidation,” he wrote.

He also said he stood behind Brooklyn College Michelle Anderson’s statement, which was released less than a week after the posters appeared on campus.

“[The poster] seeks to defame and silence specific individuals for their political opinions by placing them at risk for further harassment and abuse,” wrote Anderson in an October 2 email to students, staff and faculty. “We reject these tactics, especially in the context of an academic community, where robust discourse on matters of great public import is central to our educational project.”

Neither Milliken nor Anderson named the Horowitz Freedom Center in their statements, nor, as of press time, were there steps taken to restore the reputations of students and faculty who were defamed by the posters.

For concerned Brooklyn College faculty, students and staff, the administration’s response is not enough.

“[Milliken] should name the Horowitz Freedom Center as a menace to the university’s values and the safety of students and faculty, even if it means giving the Horowitz people the publicity they crave,” PSC Brooklyn College Chapter Chair James Davis told *Clarion*. “Otherwise, it’s a squandered opportunity to demonstrate administrative leadership.”

Sarah Raymond

CUNY faculty and staff will not accept

An introduction to demands

The distinguishing feature of the collective bargaining agreements the PSC has negotiated and won since 2000 is that they have advanced a vision of the university that defies economic scarcity. Although CUNY management may be satisfied with managing scarcity, the PSC is not. The union has used the arena of collective bargaining – in addition to other arenas in which we work – to imagine and fight for a university that is worthy of our students' aspirations and our own.

AGAINST AUSTERITY

Even in periods of sharp economic downturn, the PSC has insisted on salary increases at least level with inflation. We have won back pay even when Albany claimed that back pay was impossible. And we have refused to make concessions such as weakening tenure, reducing job security for professional staff and eliminating salary steps.

At the same time, we have demanded and won fundamental changes in our working conditions to bring CUNY closer to being the public university this great city should have. Sabbaticals at 80 percent pay, paid office hours for adjuncts, paid reassigned time for untenured faculty, three-year appointments for adjuncts, salary differentials for HEOs and CLTs, exceptional benefits, health insurance for adjuncts and graduate employees, paid parental leave, agreement on reducing the teaching load – all of these and more have been won through collective bargaining. Almost all were won against the resistance of those who claimed such advances would never be possible at CUNY. PSC members do not accept the premise that CUNY should always be poor. We do not accept the premise that our students deserve less than the most challenging, intellectually exciting education we can provide.

Despite the gains the PSC has made, we have faced the limits of collective bargaining against the political power of New York City and New York State. Collective bargaining is always a question of power. We all know that there is much that remains to be done to improve our working lives at CUNY, especially as economic austerity continues to press down on the public sector. Salaries still have not recovered from erosion in the 1970s and 1990s, the use of underpaid adjunct labor grows, and University management continually seeks more positions with minimal job security.

The bargaining agenda we present here maps out the PSC's priorities for the current political moment and the future. It continues the effort to effect lasting change in the conditions in which we work – which are the conditions in which CUNY students learn. The change we call for in our working-class university has new urgency now, in Trump's America, where unions, workers, women, people of color and immigrants are under both overt and subtle attack. Most important, the agenda presented here is one we can all fight for, with creativity and militancy and unity.

GRASSROOTS, DEMOCRATIC PROCESS

The bargaining agenda was developed by listening to you, PSC members. The union's bargaining team, all of whom are members of the democratically elected Executive Council, studied the 9,000 responses to the membership survey. We convened rank-and-file working groups throughout the summer to develop proposed demands on such areas as educational technology and the needs of department chairs. We listened to hundreds of members in campus meetings this fall to discuss possible demands. We identified the issues that remain un-

resolved from previous rounds of bargaining and those that will be most strategic now. Throughout, our focus remained on developing a set of demands that would advance a unified agenda and improve the professional lives of our whole membership while paying attention to the needs of each group.

The demands presented here are not simply a list of everything members need or deserve. Instead, they constitute a strategic, focused agenda to take the next steps in a multi-contract fight to reclaim and remake the University. After hundreds of hours of discussion and debate within the bargaining team and scores of other leadership groups, the bargaining agenda was approved overwhelmingly by the Delegate Assembly.

SIX THEMES

The bargaining agenda focuses on six themes or priorities:

- **Make real gains in salaries of all CUNY faculty and staff.**
- **Achieve a breakthrough on adjunct salaries that brings dignity, justice and equity.**
- **Defend against efforts to decrease job security and increase contingency, includ-**

ing when engaged in online education.

- **Protect the union's relationship with members as unions nationally come under attack.**
- **Address the need for gains in equity for certain constituencies within the union.**
- **Consolidate the major structural changes achieved in the last contract.**

To these six themes, we should add a seventh: we need a timely contract. The union has telegraphed to CUNY management that we will not accept delays of five years before they put an offer on the table or months of waiting for retroactive pay. Although we cannot be certain about timing in this uncertain political and economic climate, the bargaining team expects a much shorter process for this contract. What led to the delay last time were policy decisions by New York City and State governments, together with CUNY management's failure to act. The policies have changed, largely as a result of voter pressure. Mayor de Blasio was elected in 2013 and has overturned his predecessor's policy of providing no money in raises for city workers, and Governor Cuomo has approved modest wage increases for state employees. The PSC will still have to campaign all-out to win a good contract in a reasonable time, and the bargaining agenda we have developed is focused enough to achieve that.

POWER

Important as the bargaining agenda is, the most important factor in achieving a good contract is generating and sustaining power. Last time it took thousands of member signatures, scores of protests, hundreds of hours of bargaining, intense pressure in Albany, nearly 100 arrests and a 92 percent "yes" vote on strike authorization to bring the bargaining to a successful close.

What will be required this time? Given the ambitiousness of our agenda, we are unlikely to achieve the contract we want without struggle. But we in the PSC have seen that collective action works, and we will begin that action the day the current contract expires. When we fight for fair salaries and working conditions for ourselves, we are fighting against racist disinvestment in the people we teach. We are fighting for a vision of what CUNY should be, for the conditions of work that make meaningful college education possible. We have a bargaining agenda worth fighting for.



At a packed October 19 delegate assembly, PSC delegates overwhelmingly approved a framework for a new contract.

The PSC bargaining

SALARY

1. SALARY INCREASES: In order to address historic erosion in the real-dollar value of instructional staff salaries, all salary schedules and ranges, and all current annual and hourly salaries for all members of the bargaining unit, including bargaining unit members employed at the Educational Opportunity Centers and in Continuing Education series titles, shall be increased by 5 percent per year, compounded. (Article 24)

2. ADJUNCT SALARY: The hourly salary for teaching adjuncts shall be increased so that total pay for an Adjunct Lecturer on the lowest salary step for one three-credit course equals \$7,000, an amount that represents proportional parity with the full-time Lecturer title. (Article 24)

3. MOVEMENT IN STEPS: For full-time employees, the five-year step shall be converted to a three-year step. For adjunct and hourly employees whose salary schedules are covered in Article 24, movement from the penultimate and antepenultimate steps will take place after one year. (Article 24)

4. ADDITIONAL SUPPORT FOR DEPARTMENT CHAIRS: Department Chairs shall receive additional support through provision of one or a combination of the following: additional salary or summer stipend, additional reassigned time, additional access to support personnel. (Article 24)

5. SALARY SCHEDULE FOR COLLEGE LABORATORY TECHNICIANS: The salary schedule for all CLT titles shall be increased in addition to the across-the-board increases. (Article 24)

6. SALARY SCHEDULE FOR LECTURER AND LECTURER DOCTORAL SERIES: The salary schedule for all Lecturer series employees shall be increased in addition to the across-the-board increases. (Article 24)

BENEFITS

7. WELFARE FUND CONTRIBUTIONS: The University's per capita contributions to the PSC-CUNY Welfare Fund for all active and retired members of the bargaining unit, including employees at the Educational Opportunity Centers, shall be increased. (Article 26)

8. ADJUSTMENT IN HEALTH INSURANCE ELIGIBILITY FOR NON-TEACHING ADJUNCTS: The Adjunct Health Insurance Agreement shall be clarified to establish eligibility for Adjunct Health Insurance for Non-Teaching Adjuncts and Adjunct CLTs who meet other eligibility requirements and who are appointed to work 225 hours in a semester. (Concluding Agreement on Adjunct Health Insurance)

JOB SECURITY AND ADVANCEMENT

9. ADJUSTMENTS TO HEO ASSIGNMENT DIFFERENTIAL PROCESS:

In solidarity,

PSC President Barbara Bowen

cept scarcity



Dave Sanders

new bargaining agenda that will serve as the

agenda

- a) Amend Article 15.4 (f) to require that the labor-management committees at each college meet at least twice per semester.
- b) Amend Article 22.5 (b) to require that recommendations by the College HEO Committee be communicated to the nominee and the labor-management committee within 30 days of submission; and to require that notice of the President's decision be reported to the labor-management committee and the nominee within 30 days of submission.
- c) Amend Article 22.5 (b) to stipulate that HEO-series employees who self-nominate for the assignment differential will be accorded the same level of review as HEO-series employees who are nominated by their supervisors.
- d) Amend Article 22.5 (b) to add the following: "The University agrees that budgetary considerations shall not constitute a ground for issuing a negative recommendation on the discretionary assignment differential. Employees who receive a denial of a discretionary assignment differential shall be entitled to receive a statement of the President's reasons for the decision."

10. ADJUSTMENTS TO THE PILOT PROGRAM OF MULTI-YEAR APPOINTMENTS FOR TEACHING ADJUNCTS:

- a) Amend Paragraph 2 as follows: "An employee who has served as a teaching adjunct and who has taught at least six (6) contact teaching hours per semester

within the same department of the college for 10 of the previous 14 consecutive semesters . . ."

- b) Amend Paragraph 2 as follows: "An adjunct who has received more than one Substitute appointment in the semesters considered for eligibility shall be deemed eligible . . ."
- c) Amend Paragraphs 2 and 5 to require notification of reappointment or non-reappointment to the three-year appointment on or before May 1.

11. ADJUSTMENTS TO LIBRARY FACULTY ANNUAL LEAVE: Article 25.4, "Professional Reassignments," shall be deleted; and annual leave for members of the instructional staff who are employed full-time as Librarians shall be increased. (Articles 25 and 14)

UNION DUES, MEMBERSHIP INFORMATION AND REASSIGNED TIME

12. DUES CHECKOFF: Amend Article 4.1 as follows:

- a) The current Article 4.1 shall become 4.1 (a).
- b) Add 4.1 (b): "Notwithstanding an employee's membership status in the PSC, the University shall adhere to the specific provisions in each dues check-off authorization regarding the duration, renewal, procedure for revocation, amount of dues deducted, and all other provisions agreed to by the employee as stated in the authorization. The University shall notify the PSC of any requests to terminate dues and will provide the PSC a copy of the employee's signed request for termination of authorization."
- c) Add 4.1 (c): "The University shall notify the PSC immediately upon receipt of any FOIL request received by the University seeking information about the names, dues-paying status, addresses and other information about bargaining unit members."

13. MEMBERSHIP INFORMATION: Add a new section to Article 4, including the following:

- a) The University shall provide to the PSC the name, date of hire, employee ID number, title, department, phone number and email address as soon as a new appointment of a member of the bargaining unit is made. Twice annually, the University shall provide to the PSC the names and titles of employees who have retired.
- b) Orientation materials provided by Human Resources offices at all colleges and CUNY locations to full-time and part-time instructional staff in the PSC bargaining unit shall include an electronic link to the PSC website, and PSC member-

ship cards shall be available in all Human Resources offices.

- c) PSC representatives at each college shall be given timely notice of all new-employee orientation sessions conducted by the college and shall be afforded sufficient time to address newly hired employees at such sessions. (Article 5)

14. INCREASED REASSIGNED TIME FOR UNION WORK: In order to provide for proper handling of grievances and implementation of the Collective Bargaining Agreement, given that the University has created several new colleges and schools and that the size of the bargaining unit has increased substantially since the reassigned time allocations were initially established, the PSC shall be granted 120 additional hours of reassigned time per semester. (Article 6)

SUPPORT FOR THE ACADEMIC COMMUNITY

15. IMPROVED TUITION WAIVER PROVISION: Amend Article 29 to provide that:

- a) Children and stepchildren of full-time members of the instructional staff shall be granted tuition waivers for undergraduate courses at CUNY.
- b) The eligibility requirement for tuition waivers for teaching adjuncts shall be reduced from 10 semesters to six, and may be established through service CUNY-wide.

16. PSC-CUNY AWARDS: The annual contribution to the PSC-CUNY Awards program shall be increased by at least \$500,000. (Article 25)

17. ADJUNCT PROFESSIONAL DEVELOPMENT FUND: The annual contribution to the Adjunct Professional Development Fund shall be increased by \$200,000. Non-Teaching Adjuncts who meet eligibility requirements

agreed to by the parties shall be entitled to apply to the Fund. (Appendix C)

18. HEO/CLT PROFESSIONAL DEVELOPMENT FUND: The annual contribution to the HEO/CLT Professional Development Fund shall be increased by \$200,000.

19. HEALTH AND SAFETY: Article 39.1 shall be amended to indicate that an alleged violation of the provision may be grieved up to and including Step 3 of the formal procedure for handling grievances.

EDUCATIONAL TECHNOLOGY

University instruction and employment nationally – and internationally – is being reshaped by the use of digital technology. The use of digital technology and distance learning has enormous potential at CUNY because of the size, diversity and mission of the University and the creative work already underway by CUNY faculty and staff. To ensure that the potential is realized and that academic integrity, educational quality and the rights of full-time and part-time faculty and staff are protected, the Collective Bargaining Agreement must be updated to include reference to the implications of educational technology for the terms and conditions of employment.

20. OUTSOURCING OF ONLINE COURSES: All credit-bearing courses offered by the University that employ distance learning technology, including courses that are fully online, hybrid courses, or courses that blend online and face-to-face teaching modalities, shall be taught by an instructor in a title included under Article 1. (Article 1)

21. SELECTION OF TEACHING MODALITY: In cases in which the appropriate fac-

ulty governance body has not specified the use of a particular modality of teaching or the use of a particular form of distance learning technology (for example, a particular software platform) for a specific course, the instructor shall have the right to choose the modality of teaching and to choose any course management system or platform for the course.

22. "WORK-FOR-HIRE" NOTIFICATION: When an instructor develops a course using distance learning modalities in a "work-for-hire" capacity under CUNY policy, it shall be the responsibility of the University to provide, before the course is developed, written notice to the instructor, separate from the employment contract, clearly setting forth the specific terms governing the ownership of and rights to the intellectual property created. Failure to provide such notice shall have the result that the creator of the course owns the copyright to the course.

23. SUPPORT FOR DISTANCE LEARNING NETWORKS AND TECHNOLOGY DEVELOPED BY CUNY FACULTY AND STAFF: In order to enhance the free exchange of knowledge among colleagues and students throughout the University, a labor-management task force shall be formed to explore ways to increase systemic support for distance learning technology developed by CUNY faculty and staff.

EQUITY AND FAIRNESS

24. WORKPLACE BULLYING: The parties shall develop contractual language that prohibits workplace bullying. (Article 8)

25. CHILDCARE: A labor-management task force shall be formed to explore collaborative ways to address the urgent need to provide improved access to high-quality, affordable childcare for all members of the bargaining unit with childcare needs.

26. HIGHER EDUCATION OFFICERS:

- a) Articles 13.3 (a) and (b) shall be amended to provide that an employee in the Higher Education Officer series who is granted a subsequent reappointment after the fifth year of continuous service in the same title shall receive a Certificate of Continual Administrative Service. Such employee shall not be subject to annual or multiple-year reappointments. (Article 13)
- b) Article 14.3 (a) shall be amended to provide that all persons employed full-time in the HEO title series and the College Laboratory Technician title series, regardless of when hired, shall be entitled to 25 work days per year of annual leave. (Article 14)
- c) The procedures for accrual of annual leave in Article 14.9 (a) shall be revised. (Article 14)

27. GRADUATE EMPLOYEES:

- a) A Graduate Assistant who has completed five years of service in the Graduate Assistant title and who continues in payroll status shall be granted a waiver of doctoral tuition

Continued on page 8



Dave Sanders

Rosa Squillacote, a delegate from the Graduate Center, talks about the demands before the vote.

Contract demands

Continued from page 7

- for up to three years at the CUNY Graduate Center. (Article 29)
- b) Stipends provided as part of graduate fellowship awards to Graduate Assistants on payroll or for incoming graduate assistants shall not be reduced when collectively bargained increases are applied to Graduate Assistant salaries, nor shall movement from a lower-paying to a higher-paying Graduate Assistant title result in a reduction of stipend. (Article 24)
- c) The joint PSC and University committee established in Article 11.2 (b) shall meet at least twice per semester and shall develop University-wide formulas for the employment of Graduate Assistants and other graduate employees, including consideration of ways to enhance opportunities for full-time faculty appointments for

recipients of the PhD degree from CUNY, especially for PhD-recipients from underrepresented racial, ethnic and gender groups. (Article 11)

- d) There shall be additional improvements for Graduate Assistants, including the provision that continuous service in a Graduate Assistant title shall be counted as service towards certain provisions affecting teaching and non-teaching adjuncts.
- e) The parties shall update and improve the salary schedules for Graduate Assistants.

28. NON-TEACHING ADJUNCTS:

- a) Letters of appointment for Non-Teaching Adjuncts shall be issued in a standardized form that includes specification of the number of hours of appointment per week, the hourly rate of pay, and the total number of hours of work per semester. (Article 9)

- b) Non-teaching adjuncts who have worked at least 150 hours per semester CUNY-wide for six consecutive semesters (not including the summer session), and who have been appointed to work at least 150 hours in a Fall or Spring semester, shall be granted a tuition waiver for up to one course that semester.

29. PART-TIME INSTRUCTIONAL STAFF:

- a) The University shall provide the first paycheck of the semester for part-time instructional staff no later than three weeks after the first day of the semester; employees for whom a paycheck is not provided by the paycheck date: 1) shall be compensated; 2) shall be notified of the projected date of their first paycheck; and 3) shall be informed in writing of the projected financial impact of the late payment on their paychecks for the balance of the semester. (Article 24)
- b) Article 10.1 (a) 3 shall be amended to specify a Spring semester appointment date of May 15 for

persons in adjunct titles hired on a semester basis and an appointment date of May 1 for one-year appointments for persons in adjunct titles. (Article 10)

30. CONTINUING EDUCATION TEACHERS:

The Supplemental Agreement on Continuing Education shall be amended to include:

- a) The establishment of a full-time English Language Instructor title for CETs who work at least 20 hours per week with six-month appointments in English Language programs, such as KELI, with terms and conditions equivalent to those of the CLIP and CUNY Start Instructor titles.
- b) Inclusion of CLIP and CUNY Start Instructors in appropriate articles of the Collective Bargaining Agreement.
- c) An hourly rate step schedule, equivalent to the existing CLIP hourly rate schedule, for CETs appointed to teach 20 hours per week with six-month appointments.

- d) Provisions for a grievance/arbitration procedure consistent with Article 20 of the PSC-CUNY Collective Bargaining Agreement.

31. HUNTER CAMPUS SCHOOLS:

Improvements shall be made to various compensation terms that apply to bargaining unit members at the Hunter College Campus Schools.

DISCIPLINARY PROCEDURE

32. The following shall be deleted from Article 21.1: "staff in HEO series titles shall be subject to discharge as provided in Article 21.8, and Adjuncts shall be subject to discharge as provided in Article 21.10." Articles 21.8 and 21.10 shall be deleted. (Article 21)

The Professional Staff Congress reserves the right to amend, withdraw or add to these demands.

Approved by the Delegate Assembly: October 19, 2017.

Bargaining team reflects, looks forward

By CLARION STAFF

The PSC bargaining team spent months reviewing member priorities in crafting the contract demands. Below, several team members reflect on the process, and look forward to the next steps of bargaining with CUNY.

Raising adjunct pay

If CUNY runs on the backs of underpaid adjuncts, then it is time to place that issue front and center for this negotiating cycle. On October 18, at the monthly scheduled meeting of our BMCC chapter, we broke up into small groups to vote on the issues we wish to have the bargaining team take up with CUNY management. Twelve out of these 13 break-outs made \$7,000 per course per semester their number-one issue.

The majority who participated in these groups were full-timers. Their choice demonstrates that at BMCC we are united on this demand. We see it as a priority for the whole union. Salaries for contingent faculty must be addressed, and addressed now. There is no more important demand, especially given the skyrocketing rents and deteriorating public transportation system that compounds the difficulty that adjuncts have in making a living on the current paltry salaries.

Anthony Gronowicz
Adjunct, Political Science/History
BMCC

Prepping for Janus

The Supreme Court has agreed to hear the case *Janus v. AFSCME*, which seeks to invalidate state laws that permit the collection of agency fees or fair share fees from workers who chose not to become union members but still benefit from the job

An inclusive group of unionists



Alia Tyner-Mullings

gains won by a public-sector union. This case is an attack on public-sector workers, an attack on their right to organize and bargain collectively for better wages and working conditions, an attack on their ability to enforce the contract they have won. At base, it is an attack on the very idea that there are some services – education, transit, health care, waste collection and more – that should be provided for the good of the people, not for profit.

In order to remain a strong union so we can beat back this attack, we must organize to get people in the PSC bargaining unit to become members, to remain members and to pay union dues. Our strength comes from having a large committed active membership and from having a healthy treasury.

The demands in the section "Union dues, membership information and reassigned time" will help us do that organizing. So that we can tell newly hired members of our bargaining unit about the gains the PSC has won and invite them to join, we need to know that they have been hired, and how to find them. We need to have time at



Iris DeLutro

new-employee orientations to begin this conversation. The PSC has adopted a new membership card, the blue card that has a separate signature for the member to authorize dues checkoff. We want to reaffirm CUNY's adherence to that authorization. In order to effectively implement and enforce our contract, we are demanding an increase in our allocation of reassigned time.

Sharon Persinger
PSC Treasurer
Bronx Community College

Making CLT gains

In the last round of contract talks, we had a different administration when we started our bargaining in 2010. The city and state did not want to give any kind of package and they didn't want to address retroactive raises. At this point in the upcoming talks, we see that it is a different climate, and we see what the settlements are at the state levels (two state unions have settled contracts with 2-percent annual raises).

The governor has political aspirations, too, so maybe he'll be a bit

more cooperative this time. We're looking forward to strengthening gains for the higher education officers we made in the last contract.

We want to see something happen with the college laboratory technicians. They're the lowest-paid full-time employees in the unit. We have to fix the question of the inequality in salaries. With the CLTs, they've also had an increase in workload. We need to have a gain for the CLTs.

I've been on this team for a while. The process is good, there's committee work, there's consultation, we've been talking to members throughout the process, we've been having meetings at different campuses, there was a survey that went out that identified what was most important for members. We've been very transparent in the process, and inclusive.

Iris DeLutro
Senior Coordinator
Murphy Institute

A personal fight

I am the third generation of my family to both graduate from and work at a CUNY school, but the first time I recall hearing about the PSC was as a student at the Graduate Center. My mother met me in the hallway very excited – the union had just won a victory and it wasn't for full professors, the group of which she was a member. It was then that I realized the uniqueness and inclusiveness of our union.

For me, both the most interesting and challenging part of being on the bargaining team is the many different constituencies that you work to serve. Much of what we do lies in the space between meeting the needs of each one of those groups and supporting the functioning and unity of the union as a whole. Every design, discussion and disagreement is built on the foundation that all of us together make up one union and that

only together can we keep it strong.

I am looking forward to the day when I can go back to Guttman with that same excitement my mother had, and share with them the victories we've all won together.

Alia Tyner-Mullings
PSC Chapter Chair
Guttman Community College

Years of losses

The 1970s and 1990s were devastating decades for CUNY salaries. In those two decades, most titles' salary steps lost between 40 and 50 percent of their value. If our salary steps had stayed even with inflation, today our salaries would exceed or be comparable to Columbia and New York University. And adjunct lecturers would start at \$5,000 per course per semester. We still suffer from the legacy of the 1975 financial crisis and the Pataki years. Since 2000, despite two major recessions, we basically stopped salary erosion and made equity salary and benefits gains. In this contract, we must fight to reclaim lost ground for all faculty and professional staff, both full- and part-time.

Another central demand is to bring the increasing use of online learning under the control of faculty. New studies show that distance learning, when compared to the traditional classroom, is less effective for "at risk" students, is more costly, takes more faculty time to deliver and is more expensive for students. Many of our members know how and when to use educational technology properly. We need contractual guarantees now so that we can control the use of educational technology for our students' benefit, instead of for the profit margins of private corporations or managements' misplaced attempts to cheapen the delivery of education under current austerity budgets.

Steve London
Associate Professor, Political Science
Brooklyn College

Debunking myths about the constitutional convention

By ARI PAUL

On November 7 New Yorkers will go to the polls to decide whether the state should hold a constitutional convention. If voters say “yes,” then elected delegates will have the chance to propose amendments to the state constitution.

Several good-government groups, many of which are to the left of center, are pushing for a convention on grounds it is a chance to enshrine fairer voting rights and home rule for New York City in the constitution, as well as advance guarantees for reproductive rights.

But the risks are too high. Organized labor, along with many other constituencies for working people, is advocating against a constitutional convention on grounds that this is a time-consuming and costly process: New Yorkers would elect more than 200 delegates to attend a constitutional convention for an unspecified amount of time in 2019, where these delegates would each be paid \$79,500 per year for their time even if they already draw a salary for another public office. (It could cost the taxpayers up to \$100 million according to some estimates.) In addition the convention would jeopardize many protections for working people that are currently in the state’s constitution.

Anti-union forces such as the Koch brothers could attempt to eliminate public-employee pensions as well as the right of state workers to collectively bargain. Protections for public schools and social services would also be in the crosshairs of right-wing special interest groups if a constitutional convention is held. While some liberal groups are advocating for a convention as a way to address institutional corruption in Albany, it’s important to state clearly why their arguments are porous. In the PSC’s estimation the risks of a convention to working people are far greater than its hypothetical benefits.

LABOR CAN ELECT PROGRESSIVE DELEGATES

Electing progressive delegates and holding them all accountable is an unlikely task. Consider the following: in New York, a blue state, the Democratic Party doesn’t have enough caucus discipline to keep eight state senators from siding with the Republicans, handing the upper house to the GOP even though the Democrats technically have a majority. If even this small task has proven too difficult, why should progressives think they’d be able to hold more than 200 delegates accountable, let alone elect progressive people to fill these slots statewide?

The delegates will be elected by state senate districts. It is therefore likely that experienced politicians will be well represented in the delegate body and have an outside influence over other delegates. This point is powerfully made by Geoffrey Kurtz, Borough of Manhattan Community College PSC chapter chair.

Vote ‘no’ on Nov. 7 to protect labor gains



PSC First Vice President Mike Fabricant, right, spoke against a constitutional convention at an event in Brooklyn in October. At left is New York Civil Liberties Union Executive Director Donna Lieberman, who is also against the convention.

“Constitutional convention delegates would be elected according to the same gerrymandered state senate districts that have tended to yield a Republican senate in our Democratic-leaning state. Don’t think that this convention would be a civic-minded debate among political scientists and legal scholars, or a revolutionary constituent assembly,” he said.

The points made by Kurtz are underscored by a fact sheet developed by the state AFL-CIO. It points out that the last time the state held a constitutional convention, the delegate body was run not by anti-corruption populists but political insiders. “The Speaker of the Assembly served as president of the convention,” it said. “And of the delegates, 67 percent were lawyers, 25 percent were legislators or former legislators, 15 percent had served in the judicial system and 50 percent had served in a political party office.”

RIGHT-WING GROUPS AREN’T ORGANIZING

The Koch brothers and other national groups will have the necessary incentive to mobilize money and people if the voters return a “yes” vote. These national anti-union groups have been at the forefront of the successful efforts to impose right-to-work laws in states like Iowa and Michigan, as well as banning collective bargaining for state employees in Wisconsin. A constitutional convention opens the possibility for radically diminishing historic protections for labor and public education and would be a tempting target for the right.

Forces inside New York State could also advance an anti-worker agenda should a constitutional convention be called. For example, school privatization forces backed

by hedge fund money and the savvy real estate industry will have much to gain if they elect delegates who have an anti-worker agenda. “The risks of massive infusions of unregulated cash opens the door to corporate hijacking of the process,” said PSC Executive Council member Alex Vitale.

CONSERVATIVES ALSO OPPOSE A CONVENTION

Interestingly, the Conservative Party opposes a convention. Some might suggest that it therefore stands to reason progressives should support one. But some progressive groups, like Planned Parenthood of

New York and the New York Civil Liberties Union, also oppose a constitutional convention because they believe too much is at stake and too much dark money will contaminate the process.

An anti-convention website from Planned Parenthood states, “In these perilous times with DC extremists bent on rolling back our access to reproductive health, having New York protect our rights is needed more than ever. However, we do not see the constitutional convention as a safe way to protect our reproductive rights because we could lose more than we gain. We believe the legislative and consti-

tutional amendment process is the safest and most inclusive way to strengthen our laws and protect all New Yorkers, especially those who are underrepresented.”

Similarly, the NYCLU said, “The constitutional convention would put at risk state protections that in many instances are stronger than those under federal law. This includes free expression, separation of church and state, the rights of criminal defendants – and more. Given the threat to our liberties posed by Washington and the Trump administration, New Yorkers cannot afford to treat civil liberties and constitutional rights as political bargaining chips.”

LABOR COULD PUSH A PROGRESSIVE AGENDA

Given that a Supreme Court decision next year will likely cripple public-sector unions’ spending power, unions like the PSC may not have organizational strength to match the right-wing spending in 2018 or 2019. Unions should be using their energy to organize members and grow. A constitutional convention would only distract unions during an extremely critical moment.

THIS IS THE ONLY CHANCE TO ENACT CHANGE

A constitutional convention is only one way to structurally change the state constitution. Voters would not need to wait another 20 years in order to implement structural reform. As the state AFL-CIO said in its fact sheet: “If two consecutive, separately elected legislatures pass an amendment, the proposed change is sent to the voters for ratification. In 2014 three amendments were approved by voters, and in 2013 five amendments were ratified.”

PSC backs Bill de Blasio for mayor



Mayor Bill de Blasio addressed striking Spectrum workers at a rally. The workers have been on strike for more than five months. The PSC endorsed his re-election campaign.

CUNY organizing amid DACA rollback

By SHOMIAL AHMAD

It didn't take long for CUNY Citizenship Now! to react to the Trump administration's September 5 announcement on eventually rescinding Deferred Action for Childhood Arrivals (DACA), a program that provides temporary relief from deportation. The university-based legal assistance program has been providing citizenship and immigration law services to New Yorkers for more than 20 years, and it has assisted thousands of CUNY students and other qualified immigrants to apply for DACA ever since the start of the Obama administration program in 2012.

"We already have a system in place," Monique Francis, deputy director of Citizenship Now! said. "If something comes up in immigration, we can quickly respond."

RAPID RESPONSE

When news of the first travel ban came out, the group had an attorney on call to answer students' questions. Once the rescinding of DACA was announced, Citizenship Now! reached out to CUNY students and other immigrants whom it had helped with the application. Days after the announcement it held an informative session with a question-and-answer period on Facebook Live that had 14,000 views. After the event, group members gathered the questions they received and came up with an FAQ, with a focus on the questions where there was the most confusion.

Shortly after Attorney General Jeff Sessions announced the end of the program, the Department of Homeland Security issued a memorandum detailing the "winding down" of the program, which would terminate on March 5, 2018. On the day of the announcement, the Trump administration indicated that they would no longer accept new applications. The US Citizenship and

'It's been a roller coaster...'

Immigration Services (USCIS) would process renewal applications, and if work authorization expired between the time of the announcement and March 5, 2018, DACA recipients would have until October 5, 2017, to apply for renewal. Recipients, who could previously apply to travel abroad, would no longer be able to travel abroad.

"It's been a roller coaster of ups and downs, mostly downs," Francis told *Clarion*. Ever since Trump assumed office, Francis said, the group has been reacting to news, whether it's a travel ban on mainly Muslim-majority countries or an administrative glitch that's causing delays in an already backlogged immigration system. "Every time you think that there's going to

be some win for immigrants, you're just surprised by something new."

ADMINISTRATION SUPPORT

For certain applicants the deadline for applying for renewal was October 5, 2017, a month after the Trump administration's announcement, so Citizenship Now! quickly organized four DACA renewal clinics at different CUNY campuses. Support from the nonprofit New Economy Project paid for the \$495 filing fee for qualified applicants.

On October 23 the PSC's parent union, the American Federation of Teachers, joined the NAACP's federal lawsuit challenging the Trump administration's rollback of DACA. The lawsuit claims the federal action violates constitutional rights of due process.

For its part, the CUNY adminis-

tration has forcefully denounced the ending of DACA. The Board of Trustees said in a statement: "The CUNY Board of Trustees fully supports any and all efforts to block the President's misguided actions to wind down DACA. We remain steadfastly committed to protecting and educating students in their pursuit of the American Dream, regardless of their status. The hopes and aspirations of CUNY's DACA students cannot be rescinded, extinguished or otherwise ended by political cynicism."

ONGOING ORGANIZING

CUNY Chancellor James Miliken said, "We are fully committed to the thousands of CUNY DACA students and will do all we can to support them. They represent some of the most talented and creative

Renewal fee covered for many applicants



A dozen volunteers helped CUNY students and others who stopped by a DACA renewal clinic at John Jay College of Criminal Justice. CUNY Citizenship Now! held four DACA renewal clinics in response to the phasing out of the program.

voices in the CUNY community and our city. We will do everything we can to help persuade Congress to shore up support for the DACA community, not undermine it, and CUNY will provide counseling and guidance to help our DACA students with their needs and questions."

Faculty and students at the CUNY School of Law have also been organizing around the issue. Nermeen Arastu, a law professor and co-director of the Immigrant and Non-Citizen Rights Clinic, told *Clarion* that the law school community is taking a multipronged approach toward immigration advocacy.

"Ever since the results of the election we have been planning with our impacted student body and clients to prepare for a scenario when DACA might be taken away," Arastu told *Clarion*.

LEGAL REMEDIES

The school has been providing representation to those who may be placed in removal proceedings, advising on other methods for immigration relief, helping families plan in case they are separated and advocating that undocumented immigrants with expiring status have access to state and local programs.

"We knew we would have to think expansively beyond immigration relief to consider the impacts that this policy change would have on the day-to-day lives of the CUNY community and the immigrant clients we serve throughout the New York metropolitan area," Arastu said.

On Thursday, November 2, the CUNY School of Law will hold a "know your rights" teach-in on immigrants who may be impacted by DACA's termination. The session will be from 5:30 - 7:30 p.m. at the Dave Fields Auditorium at the Law School. For more information, go to tinyurl.com/immigrant-rights-teach-in or contact Nermeen Arastu at nermeen.arastu@law.cuny.edu.

Board delays vote on new CCNY president

By ARI PAUL

The long road to picking a new president for City College has taken yet another dramatic turn.

CUNY's Board of Trustees delayed a vote on October 23 for the confirmation of interim President Vincent Boudreau as permanent president, a move that at the time seemed all but assured. A group of 20 political and community leaders from Harlem – including former Governor David Paterson and former Congressman Charles Rangel – said in a letter obtained by *The New York Times* that they protested Boudreau's appointment.

Politicians protest top pick

"We can collectively attest that he has made no substantial effort to forge nurturing and meaningful bonds with the surrounding community," the email said, according to the paper. "Based upon this horrendous dearth of civic concern, social intelligence, political ingenuity and lack of community engagement, we cannot support this finalist's candidacy for the office of president."

SUPPORT FOR INTERIM PRESIDENT

Boudreau serves as the gap-filler for CCNY at a topsy-turvy time: Lisa

Coico resigned in October 2016 as a result of a federal investigation into financial improprieties by the school's administration. As the PSC chapter previously noted, some faculty had hoped Boudreau, a two-and-a-half-decades-long veteran of CCNY, would become permanent president, but were dismayed to learn last year from the search committee he was not considered for the job.

The college went on to consider Boudreau, but now his candidacy hangs in the balance.

As news broke of the delay in Boudreau's appointment, City College PSC Chapter Chair Carol Huang said she and other faculty members were still in support of his candidacy for the school's top job.

Interim president from CCNY was top pick

"Boudreau's presidency will be a natural transition," she told *Clarion*. "Boudreau was a quick learner during his interim period and has presented plans and directions to cope with the deficit at CCNY. He is able to convince CUNY that CCNY's fiscal difficulty should be viewed more realistically by separating it from the budget of the medical school and creating

a four-year course-offering plan to cope with the tight budget and make sure students will meet their graduation requirements. He has done the groundwork in talking about his plans to many departments and schools."

RECOGNIZING UNION GAINS

Huang added, "In terms of a labor relationship, Boudreau understands that in a college where 85 percent of its budget goes to pay for faculty and staff salaries, the maintenance of the campus has to come from the state. He acknowledged through our last labor-management meeting that the union is an important advocate for the college."

CAMPUS EQUITY WEEK

‘Become an activist earlier’

By ANNE WIEGARD

Editor’s note: As this newspaper went to press, adjunct higher-education faculty around the country, including at CUNY, were gearing up for Campus Equity Week, including a day of action to be held nationwide on October 31. The week, according to its website, “seeks to promote awareness of the harmful consequences of the precarious situation of faculty in higher education, to organize for action and to build solidarity among stakeholders.”

During the 11 years I made my living teaching in so-called adjunct positions in California and New York, twice I was hired perfunctorily when the instructor of record suddenly died less than a week before the class started. Once I traveled straight from the airport after a cross-country flight to be interviewed to teach a class that started the following morning at 8 a.m. At least I was interviewed first. “Just-in-time” hiring practices in higher education have resulted in plenty of people being hired over the phone or via email.

Though I was glad to get the work and such situations warranted extraordinary hiring procedures, something about them struck me as warped. I now understand more fully the far-reaching negative consequences of a system that relies so heavily on both part-time and full-time faculty who lack the due process protections of a traditional tenure-track position. The low status of contingent faculty (anyone whose ongoing employment is “contingent” on factors outside of their control, such as funding and enrollment) has led, among other things, to unprofessional treatment at the hands of administrators who aren’t held accountable – despite the fact that such employees make up about three-quarters of the academic workforce.

“So much for a terminal degree and years of experience teaching” is the mantra that drifts through the thoughts of every adjunct faculty member who lives from paycheck to



PSC members turned up the heat at an October 16 Board of Trustees hearing. Union activists held up signs advocating for \$7,000 per course for adjuncts, one of the demands on the union’s bargaining agenda.

paycheck as I did then, a mantra that over time can make you cynical and bitter if you don’t channel that anger into activism instead. Building mutually supportive relationships with others who are also talking and doing what they can to improve our profession is uplifting.

FACULTY SOLIDARITY

I am deeply grateful to the tenure-track faculty and staff colleagues who have supported my activism. Some of them remember a period of “adjunct hell” they experienced: abysmal pay, no benefits, poor working conditions and nonexistent job security; others are simply motivated by the moral and ethical dimensions of what their

coworkers endure. Adjunct faculty are not the only ones moved by righteous anger about the way that dedicated professionals are treated.

Campus Equity Week (CEW) is a time to come together to do something about this demeaning treatment of the majority of faculty. The campaign has served as a landmark event in the activism calendar since 2001, and this year a grassroots effort has resulted in an arts-based approach that takes it to a new level.

Participating in CEW activities should be important to everyone who cares about higher education; contingent employment practices undermine the whole profession. Above all, CEW affords an opportunity to

organize across our ranks and to cement solidarity at a time when unions are threatened more than ever. Just asking community members to sign a petition can engage them in a conversation that may lead to their further participation in union efforts.

I wish I had become an activist earlier. It would have heartened me and fortified me to be supported by sisters and brothers whom I could turn to when a semester seemed to go on forever or when the consciousness of my marginalized status overwhelmed and demoralized me. The grind of juggling obligations at multiple institutions year-round takes a toll that’s hard to explain to someone who hasn’t had to do it. Just staying on top of all the administrative communications and scheduling at multiple institutions was wearing.

RECOGNIZING PRIVILEGE

I am blessed with good health and physical stamina, but by the end of spring semester every year, the high stress level and exhaustion broke me down. Unlike some of my less fortunate coworkers who had to resort to the proverbial ramen noodles and peanut butter diet over the summer when there was no work – and, for many, no unemployment compensation either – I was fortunate enough to have a recurrent summer session gig.

When I finally obtained one of the union-negotiated full-time non-tenure-track positions on my SUNY campus, it meant that I could remain in the profession. I had reached a point where I believed I could not continue to teach without acquiescing to lifelong poverty and oppression, not to mention compromised physical and mental health. If that full-time job had not come along I would have left the profession, as so many others had done when they could no longer cope.

The full-time position doubled my per-course salary, and after a probationary period it has provided greater job security in the form of three-year term appointments. It enabled me to take on union work. My activism in the national movement to achieve equitable terms and conditions of employment is driven by the memory of those grueling years working in exploitative part-time positions at various institutions. I am ever mindful of how privileged I am in comparison with my adjunct colleagues. Students pay the same tuition to take our courses, but I am paid a living wage, and if I were to be non-renewed, I would receive a year’s notice.

ADJUNCT ACTIVISM

How amazing it is that there are any adjunct faculty activists at all, given the hardships they face! Because I lived that life for a decade, I empathize with the many thousands who feel too precarious, too vulnerable and too overextended to fight back. Of course it would be helpful if more of them would take heart and take part, but shouldn’t those of us who do not have to struggle to make a living from adjuncting lend a hand and do whatever we can to promote their empowerment? Their sacrifices subsidize the profession we are all a part of; without their work, academia would come to a screeching halt.

Anne Wiegard teaches English at the State University of New York at Cortland. A version of this article originally appeared at American Federation of Teachers’ Voices blog.

Adjunct equity: everyone’s issue

Standing for labor in the age of Trump



PSC activists marched in New York City’s annual Labor Day parade in September, supporting the labor movement and pushing for gains for CUNY that would benefit all New Yorkers.



15-MINUTE ACTIVIST

Solidarity with Puerto Rico

A coalition of unions, including the PSC's national affiliate, the AFT, has partnered with the Hispanic Federation and others in a crowdsourced operation to provide safe drinking water for the people of Puerto Rico. (AFT has also funded resources for communities hit by hurricanes in the U.S. Virgin Islands, Florida and Texas.) If the Trump administra-

tion has failed massively, we can respond through our union. A single contribution of \$30 provides an in-home water purifier that requires no electricity. Thousands of CUNY workers and students have been affected by the catastrophe in Puerto Rico. Be part of the solution at Operation Agua: <https://www.aft.org/operation-agua>.

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UNION VIEWS

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FEDERAL

Not just *Janus*: Trump uses the courts to smash unions

By MOSHE Z. MARVIT

On October 7, the Supreme Court heard oral arguments in a trio of cases, captioned as *NLRB v. Murphy Oil*, that examined whether management commits an unfair labor practice when it requires employees to sign arbitration agreements that waive their right to wage class-action lawsuits. The question of whether an employee can give up her right to act in concert with other workers may seem technical, but it implicates the very core of collective action.

During the hearing, Trump's Department of Justice clearly sided with employers, who are calling for significant cutbacks to workers' rights to take collective action.

The significance of this case was evident throughout the oral arguments. On one side the National Labor Relations Board (NLRB) and a University of Virginia law professor argued that the issue implicates the basic employment rights of tens of millions of US workers. On the other side, the Principal Deputy US Solicitor Jeff Wall ("Solicitor") and an attorney for the companies argued that these are technical issues related to contract and civil procedure.

FORCED ARBITRATION AGREEMENTS

The case revolves around a key question: Do forced arbitration agreements that ban collective or class legal actions violate Section 7 of the National Labor Relations Act (NLRA)? That section permits employees "to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection." (This case doesn't affect PSC members at CUNY, as this is a private-sector case.)

The employers' and Solicitor's position is that Section 7 only protects workers' rights to get to the "courthouse door." According to the line of reasoning this side presented in the courtroom, the NLRA gives workers the right to act together at work, but the moment their workplace concerns get to a legal forum, they have no right to continue together. Once they enter the courtroom or arbitrator's chambers, the argument went,

all parties must abide by the rules of the forum, be it the NLRB, the federal courts or the arbitrator. They argued that this principle applies even if those rules require workers to proceed individually.

The problem, of course, is that there is a long history of employers using forced contracts to require employees to waive their rights as a condition of employment.

Justice Ruth Bader Ginsburg invoked this history when she asked the attorney for the employers whether forced arbitration agreements are simply "yellow dog" contracts by another name. This was a reference to contracts where employees agree not to join a union as a condition of employment. ("Yellow dog" contracts were made illegal in the 1932 Norris LaGuardia Act.)

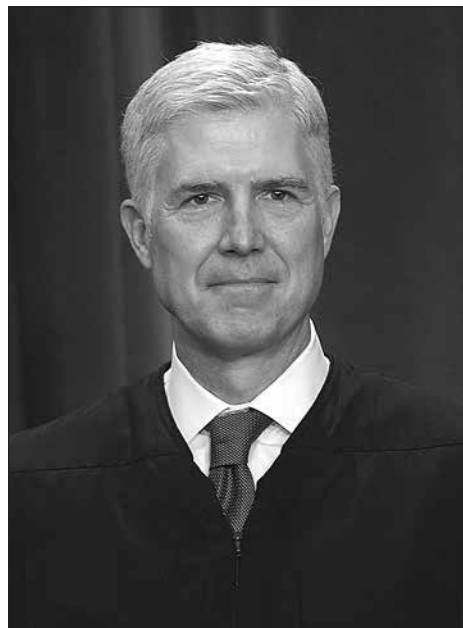
MANAGEMENT-SIDE ARGUMENTS

Justice Stephen Breyer put an even finer point on the matter when he expressed his concern that the employers' position "is overturning labor law that goes back to, for [Franklin D. Roosevelt] at least, the entire heart of the New Deal."

Nonetheless, the arguments of the management-side attorneys appeared to gain traction with conservative justices. This is despite the fact that the employers' side consistently failed to address a key problem: the rules of the forum that they said everyone has to follow are not made by some neutral third party. They are written by the employer, who then makes participation in the forum a condition of employment for the employee to sign the agreement. Research shows that almost 25 million non-union workers have been forced to sign such arbitration agreements.

Yet some justices bought the management-side argument. At one point, Justice Anthony Kennedy, who seemed to be the swing vote in this case, insisted that workers can still engage in collective action because they can simply go to the same attorney and ask her to represent them each individually.

Presumably Justice Kennedy did not intend to imply that the attorney could share



Supreme Court Justice Neil Gorsuch, a Trump appointee, may tip the high court on key labor cases.

the details of each of the cases with each worker, because that would violate the confidentiality clause in many of these agreements. And presumably he did not mean that the attorney could share confidential information, because then there would be no attorney-client privilege protection.

The employers' counsel agreed with Justice Kennedy, and said that even though the confidentiality clause would prohibit the attorney from sharing information among the workers, it couldn't "stop the same lawyer from thinking about the three cases in conjunction." In Justice Kennedy's words, "that is collective action."

COLLECTIVE ACTION CURTAILED

In reality, forced arbitration agreements that prohibit class or collective action have grown exponentially in recent years through a tactical decision by corporations to strip Americans of their rights to liti-

gate their claims together. The NLRB responded in 2012 to the growing use of these forced arbitration agreements by finding that these agreements violate federal labor law.

The liberal justices repeatedly demonstrated that this case is not about the neutral rules of a forum, or technical issues of civil procedure, but about basic concepts of power.

Justice Ginsburg asked the Solicitor, "What about the reality? I think we have in one of these cases, in *Ernst & Young*, the individual claim is \$1,800. To proceed alone in the arbitral forum will cost much more than any potential recovery for one. That's why this is truly a situation where there is strength in numbers, and that was the core idea of the NLRA. There is strength in numbers. We have to protect the individual worker from being in a situation where he can't protect his rights."

UNDOING THE NEW DEAL

Justice Ginsburg was making the point that if workers cannot bring class or collective actions, many who have low-dollar claims will be denied justice because it would cost more to bring their cases than they could possibly win.

The Solicitor's response was telling. He claimed that the different arbitration agreements have different clauses, which deal with issues of costs and fees. In essence, he insisted, the contract takes care of those concerns. And in the final analysis, the employers' attorney and Solicitor explained that the contract – even if it is a forced contract – should trump any possible rights workers may have to bring their actions collectively.

In a sense, this position answered Justice Breyer's initial question: Yes, this case does bring us back to a pre-New Deal framework, and the employers and Trump administration are comfortable with that.

This case is poised to have a far-reaching impact. When the Supreme Court struck down a California law prohibiting consumer arbitration agreements that waive consumers' rights to file a class action, such arbitration agreements ballooned. If the Court similarly holds that workers do not have a substantive right under the NLRA to vindicate their labor and employment rights collectively, then it is likely that soon almost every non-union worker will face even more limitations to real justice.

Moshe Z. Marvit is an attorney and fellow with the Century Foundation and the co-author (with Richard Kahlenberg) of the book *Why Labor Organizing Should Be a Civil Right*. A version of this article originally appeared at In These Times.

Waiving rights to class-action lawsuits