From the President’s Desk

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Call for Nominations

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The NYSC Election Committee is: Pat Cihon [pcihon@syr.edu] Chair, Mary Rose Kubal [MKUBAL@sBU.edu] and Anne Friedman [anne@brocC.cuny.edu]

Our Constitutional Nominating Process is as follows:

Note: “All nominations must include either statements with signatures or be in email form using a prescribed format. All nominations must be sent to the chair of the elections committee and those by email must include the word ‘Nomination’ in the subject line. In order to be a candidate, a nominee must have a minimum of six nominations from members of the conference representing at least two chapters or institutions. Retired members in good standing may also submit nominations. Candidates receiving a nomination will be contacted by the elections committee to verify their willingness to stand for election.”

1. If you are interested in any of the above positions, ask NYS members from no less than two chapters or Institutions that they nominate you for the NYSC position that you are interested in by November 15th, 2015.

2. Ask those you ask to please either (1) mail a signature card in the form of the NYSC Election Spring 2016 Mail Form (please check the form at http://nysaaup.org/elections/NYSC_Elec_ tion_Spring2016.pdf) to Pat Cihon P.O. Box 35015, Syracuse NY 13235 or (2) email their nomination to Pat Cihon [pcihon@syr.edu] using the following prescribed format:

Subject line for email nominations must include the word “Nomination”

Your name

Your email contact information

Your institutional affiliation

The person’s name being nominated

The position you are nominating the person for from the list above

3. By January 15th, 2016, forward your bio and election statement again to any member of the NYSC Election Committee.

From the President’s Desk:

A GOOD NEWS/ BAD NEWS YEAR

By David Linton

The 2014-2015 academic calendar might be seen as a “good news & bad news” year for the AAUP and for higher education.

The good news is that the AAUP observed its 100th anniversary, having been founded a century ago. The very fact that the Association has lasted this long is worth celebrating, given the fact that its defense of tenure, shared governance, and academic freedom have been perpetually under attack in various locations throughout those years. While the AAUP has acquired many well-deserved laurels, there has seldom been much time to rest upon them.

Pacif-Lutheran Dec. 16, 2014

Upon full consideration of the record, the briefs by the parties and amici, the Supreme Court’s decision in Yeshiva, and the Board’s 30-plus years applying Yeshiva, we have decided to revise our analytical framework for determining the managerial status of university faculty.

Ultimately, our analysis is designed to answer the question whether faculty in a university setting generally or effectively exercise control over decision making pertaining to central policies of the university such that they are aligned with management. In making this determination, we will examine the faculty’s participation in the following areas of decision making: academic programs, enrollment management policies, finances, academic policies, and personnel policies and decisions, giving greater weight to the first three areas than the last two.

This examination will be considered in the context of the university’s decision making structure and administrative hierarchy, as well as the nature of the employment rela- tionship of the faculty in issue.

Applying this framework here, we conclude that the approximately 39 full-time contingent faculty do not exercise managerial authority on behalf of PLU. They are
Unemployment Insurance and Adjunct Faculty

by Jeffrey Baker, Monroe Community College. Delegate-at-Large – AAUP NYS Conference

Adjunct faculty have frequently had difficulty when applying for unemployment compensation. This is at least in part because this category of employment was not anticipated in the laws and regulations governing the insurance program.

In an attempt to help adjunct faculty, Joe Berry, Beverly Stewart and Helena Worthen in 2008 published a book on the topic with sponsorship from the Chicago Coalition of Contingent Academic Labor and participation by several national organizations including AAUP.

According to the authors, unemployment insurance was established in the 1930s along with several other social programs to provide some economic security to workers when unforeseen circumstances arose. It gradually expanded to cover many types of work, including, in the 1970s, public employment.

While the program was established by federal law, many details were left to the states. Although most seasonal workers were eventually covered, an exception was made for teachers during normal break periods such as summers because they were presumed to have reasonable assurance of returning to work in the next academic year.

At the time, a relatively small percentage of higher education faculty were part-time and not on tenure track, so the assumption was reasonably valid.

Today, more than 75% of classes are taught by various categories of non-tenure track faculty. About 50% of all college faculty are believed to be part-time and working on a term basis. The provisions under which most such instructors are hired include the contingencies under which most such employment is seeking to teach loads it is obvious in this situation that the contingent faculty member does not have a reasonable assurance of continued employment.

However, educational institutions have typically opposed unemployment compensation for such individuals because they contend that a written or verbal assignment of a class or even a letter indicating that the specific assignment does constitute reasonable assurance.

Contingent faculty often do not pursue unemployment compensation claims because of fear that their institution will retaliate by not assigning courses to them in the future. But even when they do make claims, they are often challenged by their institutions, resulting in being turned down by an unemployment claims examiner.

Most do not pursue the matter beyond this point. However, a few have appealed and some court rulings appear to support the claim that there is no reasonable assurance, even when there is a written contract, as long as the contract contains the types of contingencies mentioned above. [Note that the author is not a lawyer and is not offering legal advice.]

The aforementioned book describes the case of Cervisi vs. the California Unemployment Appeals Board, in which the state Appellate Court ruled in favor of the plaintiffs that they did not have reasonable assurance of continued employment.

While this ruling did not seem to set a universal precedent, it did, combined with educational and political efforts, change the direction of how claims are handled in California. However, colleges still resist unemployment payments to contingent faculty, aided by consultants who specialize in opposing such claims. At the same time, the case does not necessarily affect other states that have similar laws.

In New York, contingent faculty have reported varying success with pursuing unemployment compensation. If there is no written or verbal assignment to a course for fall, it would seem that there should be no barrier to making a claim.

A claim can often be made even if the person has other part-time employment because payment can be made for days on which the applicant does not work. Decisions are made on a case by case basis. However, a college may assert that the person is still on the employee roster and may be assigned in the future.

Fortunately, several recent rulings may make it easier to make a claim in New York State. In the first, an adjunct faculty member at Pace University applied for and received benefits for the summer. At the end of the summer, the New York State Department of Labor (NYS DOL) informed the individual that he was disqualified and that the benefits should be no barrier to making a claim.

In an appeal, the individual was represented by a lawyer for the Union of Adjunct Faculty at Pace. The adjunct faculty member won, although the university made a further appeal. But the NYS DOL ruled that the appointment letter did not guarantee employment.

One concern about this case is that although there was a letter of appointment, it does not appear from the available information that a specific class had been assigned. If one had, the outcome could potentially have been different.

The previous case was decided at the administrative level. In 2014, the following case went to court. In Cardin vs. Erie Community College, the Plaintiff sought help recently; NYIT, Technical Carrier Institute (TCI), D’Youville College, and Bard College to attend.

As always we extend this invitation to all NYS AAUP Union members – do please join us. Albany Law School is located at 80 New Scotland Avenue, Albany. More information will be available on our website: www.nysaaup.org.

Unemployment Insurance & Adjunct Faculty

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between 1993 and 2009, 10 times the rate of growth of tenured faculty positions.

Moreover, according to the Chronicle of Higher Education’s annual list of the best compensated private college and university presidents “36 presidents of private institutions of higher learning earned more than $1 million in 2012.” Public colleges and universities are not far behind.

The Chronicle also reported that the median pay overall for public college presidents was $478,896 for 2012-2013 and a 2014 HuffPost post claimed that “The number of public college presidents earning over $1 million more than doubled in the 2012-2013 fiscal year from the year before.” Yet another suggestion for belt-tightening would be to place less emphasis on athletics and more emphasis on academics, but I’ll save that for the topic of my next article.

At the state and national level I am working toward making working conditions better for all academics, with a special emphasis on the special needs and circumstances of women academics and contingent employees. That means I am interested in hearing what you have to say.

Please contact me at sallydhearley@gmail.com with your questions and concerns and I’ll do my best to help.

The Many Faces of the Financial Crisis

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had been assigned two classes for fall but claimed unemployment compensation for the summer. The Unemployment Insurance Appeal Board had previously ruled that because of the contingency of possibly being displaced, there was no reasonable assurance of continued employment.

The college appealed through several levels but the New York State Appellate Division of the Supreme Court, Third Department concurred with the Appeal Board ruling. It also denied a later petition to reconsider or allow a further appeal.

Again, each claim is decided on its own merits; however this ruling may make it easier to counter an argument of reasonable assurance. With enrollments declining and a higher possibility of class cancellations or bumping by full time faculty, it may well be worth pursuing a claim. Even if a claim for the summer is denied, if fall classes do not materialize, a claim can certainly be made then. Bills to change the situation were introduced in both the New York Senate [S75-2013] and Assembly [A7875 and other versions] but no action was taken. If you are concerned about the issue, you can write to your state Senator and Assembly Member.

For more information see the following, see the NYS Unemployment Insurance Website, http://labor.ny.gov/unemploymentassistance.shtml; or the following websites: http://www.unemploymentforalljuncts.com/campaign/; http://www.psc-cuny.org/clarion/june-2013/adjunct-unemployment-benefits or http://cocalinternational.org/information.html

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sought our help recently; NYIT, Technical Carrier Institute (TCI), D’Youville College, and Bard College to attend.

As always we extend this invitation to all NYS AAUP members – do please join us. Albany Law School is located at 80 New Scotland Avenue, Albany. More information will be available on our website: www.nysaaup.org.
The Many Faces of the Financial Crisis

82% with loan balances for their own education. This is especially troubling news since student loan debts can’t be discharged in bankruptcy and federal tax refunds, and up to 15% of wages and Social Security, can be garnished. This leaves an already financially unstable population in even deeper peril.

Needless to say the crisis is real and the time has come to wake up and do something about the many faces of the financial crisis in academia.

The AAUP is working hard to address these issues and make positive changes (see for example the AAUP Update: AAUP and AFT-Wisconsin Stand Together), however more needs to be done.

One suggestion would be for the AAUP to include “Student Loan Debt” under their current list of issues and engage in active and effective organizing at both the state and national level to relieve this crisis at all levels.

At the college/university level we need to re-establish a healthy and sustainable number of tenure-track positions and improve working conditions and pay for contingent faculty.

This will likely mean that belt-tightening needs to take place in other areas, such as administration.

A 2015 New York Times Sunday Review Opinion piece (Campus), reported that “A major factor driving increasing costs is the constant expansion of university administration. According to the Department of Education data, administrative positions at colleges and universities grew by 60 percent

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A Fourth Bite at Nassau Community College's Apple

By Faren Siminoff, J.D., Ph.D., Vice President NCC AAUP and Kimberly Reiser, Ph.D., President NCC AAUP

Nassau Community College has been without genuine leadership since our long-term president Sean Fanelli retired in 2010.

First came Donald Astrab who after two turbulent years and two votes of no confidence by the faculty was terminated from his position by the NCCC Board of Trustees.

Since then we have been under the misguided and disastrous stewardship of Acting President Ken Saunders who has been permitted by SUNY, contrary to their own guidelines, to be both acting president and internal candidate for the NCCC presidency.

This action has created the type of internal partisan pressure that has resulted in two failed presidential searches.

On June 16th the SUNY Board of Trustees unanimously set a sixty day deadline for the NCCC Board of Trustees to appoint an interim president stating that acting presidents are not intended to be in position for more than a year. That SUNY deadline has come and gone and the NCCC Board of Trustees has still not appointed an interim president.

Instead, it appointed the Acting Executive Vice President Maria Concezzi as the “Officer in Charge” and Dr. Saunders as the “Executive Vice-President.”

Ms. Conzatti and Dr. Saunders confirmed our suspicions that this switch in titles was little more than a ploy to continue Dr. Saunders’ insider advantage when in their joint August 21st Faculty interview Dr. Saunders affirmed that “the reversal” was of little import as he and Ms. Conzatti were “like the yin and yang…”

Added to this, the college “extended” the presidential search on June 3, 2015 but “…only applications received by September 1, 2015 can be assured full consideration…” http://www.ncc.edu/aboutncc/president_search/ We cannot help but question the timetable for this essential position.

The renewed call for applications began after the academic year terminated in June and closes right as the semester “resumes in September.”

Furthermore, our Board’s Chair, Dr. Jorge Gardyn, announced that Dr. Saunders was still in the pool despite the fact that his candidacy has been three times rejected, once after Dr. Fanelli retired and twice since the removal of Dr. Astrab.

We now ready ourselves as Dr. Saunders gears up for his fourth attempt to snare the NCCC presidency. Clearly, the message to all new candidates is that they should not waste their time or reputation because the fix is in.

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The NYS AAUP Executive Director’s Report

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journalist’s perspective of the war on public education.

Fifty-three fifty-year AAUP Members were honored during the conference. Jordan Kurland, the longtime associate general counsel, who was involved with ninety percent of AAUP Committee A cases during his tenure, received special recognition for his fifty years of service with AAUP.

The National Committee A recommendation to remove New York City-based Yeshiva University from censure passed at the annual meeting plenary session after considerable discussion.

In 1982 AAUP Committee A recommended censure for Yeshiva University due to the release of three tenured faculty members unable to unionize under the auspices of the NLRB.

The Board, however, explicitly limited its decision to the unusual circumstances of the case, avoiding broader questions involving the unionization of graduate student assistants and others.

The Board concluded that asserting jurisdiction over the Northwestern University football players’ petition seeking union representation rendering the players unable to unionize under the auspices of the NLRB.

The Board emphasized that “this case involves novel and unique circumstances,” repeatedly highlighting the narrow and limited nature of the decision.

The AAUP, in response to an invitation from the Board, had filed an amicus brief arguing that graduate student assistants at Yeshiva were employees with rights to unionize under the NLRB.

In its decision the Board did not address this issue and instead explained that “scholarship players bear little resemblance to . . . graduate students,” and that it was not expressing an opinion on its prior graduate student assistant cases.

Nonetheless, graduate student assistants at The New School and elsewhere have recently sought to unionize, and the AAUP looks forward to again filing amicus briefs supporting graduate student assistants’ rights to unionize under the NLRB.

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New York State AAUP Conference Fall 2015 · October 24-26
The Many Faces of the Financial Crisis in Academia

by Sally Dean-Healey, Ph.D., Vice President, NYS AAUP; Chair, NYS AAUP Committee on the Status of Women in the Academic Profession; District VIII Representative, AAUP National Council

Almost daily we hear news stories about the financial crises in education. Many of these accounts focus on the myriad ways funding, programs, and jobs are being cut. Some of the programs being cut provide opportunities to the very children who need them the most.

For example, in May of this year Illinois Gov. Bruce Rauner submitted his budget plan for ending grants for an “extensively used” alternative education program in McHenry County. The Regional Safe Schools Program serves students in grades six through 12 who have been suspended, face expulsion, or have been involved in ongoing misconduct. In other words, the program serves students who tend to come from disadvantaged households and communities and subsequently fall through the cracks.

Then there is Wisconsin Gov. Scott Walker’s proposed budget which would cut approximately $300 million from the state university Wisconsin education system as well as substantial funding earmarked for health care, food stamps, and public media, while at the same time funding hungry students to build a pro-football stadium. Wisconsin’s debacle doesn’t end there.

At UW-Eau Claire, administrators offered buyouts to a record 325 faculty and staff. A member of the faculty reported eliminating several major eyebrows even though they had active students. These financial crises can be so catastrophic as to result in the closing of entire universities, as was the case with Sweet Briar College, a 114-year old Virginia-based women’s college said to be suffering from “insurmountable financial challenges” or merged, as was the case with 70-year old Tennessee Temple University, a Christian liberal arts college that was slated to merge with Piedmont International University, located 300 miles away.

As you can imagine, these cuts, closures, and mergers can have a dramatic and often negative impact on teachers, students, staff, and even administrators. Moreover they affect entire communities and, as some would argue, our entire nation.

Contingent labor represents another significant aspect of the financial crisis in academia. A 2012 article in the Harvard Business Review entitled The Rise of the New Contract Worker (Erickson) suggests that “More and more people are choosing a contingent work style... over full-time or part-time work.” While the article addresses some of the issues involved with contingent labor, such as “lack of employer engagement,” “lack of benefits such as health and life insurance and disability benefit,” it fails to address some of the very real and day-to-day concerns of contingent employees, such as “Will I have a job next semester?” and “How am I going to pay my bills, including school loans?”

Adjuncts, a term commonly used to refer to contingent employees in academia, now make up the vast majority of college and university faculty. Especially depressing is the fact that here in New York State, permanent faculty positions at SUNY 4-year schools declined for more than a decade until 2013, and have now leveled off at about 40 percent of total faculty (Wagner, Developmental States of SUNY: Institutional Research Data). A 2014 PBS article, When a College Contracts ‘Adjunctivitis,’ It’s the Students Who Lose (Fruscione), reveals that many of today’s adjuncts teach at multiple universities, commute long distances (often hundreds of miles a week), work long hours, and earn an average of $2,500 per course (others are paid slightly more). Simple math reveals that this figure is someone supporting a family of four would have to teach over 9,548 classes a year just to breach the 2014 poverty guidelines.

Fruscione and other contingent employees are part of the adjunct movement to petition the Labor Department’s Wage and Hour Division about what they say amounts to “wage theft,” referring to the fact that contingent employees are only paid for the hours they spend in the classroom and not for the class prep, research, service, writing, and time spent in student-teaching situations (including office hours) that are major components of their work (while these ‘duties’ may not be part of the formal contract language, they remain integral aspects of the academic lifestyle if one desires to be successful).

The situation can be even more dire as we reflect on the real-life stories of contingent faculty. Mary-Faith Cerarsioli is an adjunct professor of Spanish and Italian. Cerarsioli is also homeless. According to the PBS article Homeless Professor Contingent Conditions of Adjunct (Pathé), Cerarsioli, a 53-year old seasoned teacher, has an annual salary of $22,000. Because she teaches on a full load course, she’s been told she is ineligible for public assistance. Cerarsioli’s situation is compounded by the fact that she has a life-threatening kidney disease and a detached retina, resulting in considerable medical bills.

Another recent news report on NPR/WSKG Public Radio, Why Some College Professors Struggle to Get Home Loans (Wagner), focuses on the financial difficulties faced by contingent faculty, including not being approved for a home loan due to lack of job stability. While this instability is as the heart of many of today’s contingent labor debates, Barbara Need discovered firsthand that being a contingent employee made it hard to “plan long-term and make big financial commitments, particularly people like her and her dream of home ownership.

According to Need, two banks turned her down because she works part-time as an adjunct professor at Tompkins Cortland Community College (TC3) and online for a school in Chicago. Her unguaranteed sources of income are a red flag to banks, especially since she is consistent from semester to semester due to “enrollment changes.”

The article reports that Delia Yarrow, a counselor for first-time buyers at Ithaca Neighborhood Housing Services, says “banks want stability” and there are few institutions that are willing to say “yes, we’re going to keep employing this person as an adjunct.” Talk about contingent employment!

Still, there is no way to comprehend the fate of Mary Margaret Vojtko. The 2013 NPR/WSKG Public Radio article, The Sad Death of an Adjunct Professor (Sun, Sanchez), chronicles Vojtko’s story. After 25 years of teaching French at Daquesne, the university did not renew her contract. As a part-time professor Vojtko was earning slightly over $10,000 a year. She also did not have health insurance which, although already an issue in and of itself, became more problematic when she developed cancer and ended up with high medical bills.

After 25 years of Vojtko had hoped to receive “a living wage and some sort of retirement and benefits.” What she got was a destitute, nearly homeless life and a fatal heart attack and age-related macular degeneration. She was only earning around $10,000 a year. She also did not have health insurance which, although already an issue in and of itself, became more problematic when she developed cancer and ended up with high medical bills. And, quite frankly, the current job market leaves a great deal to be desired, especially if someone is looking for a full-time tenure track position.

Students are also affected. A July 2010 story on NPR/WSKG Public Radio, College Students Hide Hunger, Homelessness (Hillard), revealed the reality some homeless UCLA students faced as they “couch surf” at different friend’s rooms, sleep in libraries or locker rooms, and experience food insecurity. These experiences are certainly not unique to UCLA, as I’ve discovered during my own teaching career.Michelle Asha-Coope, of the Institute for Higher Education Policy in Washington, DC, admits that “we’re seeing that even the college presidents and leadership (is) that more and more students are struggling.”

Asha-Coope goes on to say “Some are taking out pretty large amounts of student loans to finance their education as well as their living costs. Some are enrolling part-time, some are even dropping out.”

Besides the obvious repercussions of dropping out, doing so does not erase accumulated student loans, affecting the student, or for their parents.

A 2015 Huffington Post, How Parents Can Avoid Getting Crushed by the Student Loan Crisis (Dash), paints the very real and often dismal picture of parent’s financial struggles for their children’s education. While getting a co-signer can increase the students ability to get a school loan, and even qualify them for a lower interest rate, the reality is that if that parent or daughter cannot pay back the school loans, or passes away, the co-signing parent is held liable for the balance.

As an example, Steve Mason, a senior pastor at Oasis Church in Redlands, California, gained national attention in 2014 after his daughter Lisa, who had accumulated $200,000 in student loans, died of liver failure. Not only did Mason and his wife have to deal with the untimely and unfortunate death of their daughter, Mason, as the co-signer, remained responsible for the entire student loan debt she left behind. Reading his story reveals how severely affected by the student loan crisis.

A 2015 article in Money, Family Finance, You’ll Never Guess the Latest Victims of the Student Loan Crisis (Ross), “A fast-growing number of seniors are hitting retirement with a student debt burden. Even their Social Security is at risk.”

The article reports that, according to the Federal Reserve Bank of New York, “Over the past decade, people over the age of 60 had the fastest growing educational loan balances of any age group” and “The total amount grew by more than nine times, from $6 billion in 2004 to $50 billion in 2014.”

According to the Government Accounting Office (GAO), “Over half of federal loans held by people over 75 are in default.”

The GAO also reported that 18% of Federal student loans for people aged 74 to 77 was for Parent PLUS loans, leaving

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