

NEW YORK Academe

VOLUME 43 NUMBER 2 · SUMMER 2019 · THE NEW YORK STATE CONFERENCE · AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

From the Interim President's Desk

by Mary Rose Kubal

It is an honor to be introducing myself to the NYS AAUP membership as I step into the interim President position. Many thanks to Jeff Baker for his service as President in challenging times. Jeff along with many other current and former NYS AAUP colleagues has been very helpful in facilitating the transition from my brief tenure as interim Vice-President to the Presidential position. Indeed, we have had a major turnover in leadership in the state conference in the past few months.

Leah Aikens of Dutchess Community College (DCC) has graciously stepped up from her position as interim Secretary to fill the Vice-Presidency and the Executive Council just elected a new interim Secretary, **Matthew Murray**, also from DCC.

Thanks to our diligent Election Committee chaired by **Irwin Yellowitz** working with members **Paul MacArthur** (Utica College) and **Aaron McGowan** (RIT), the call for elections just went out (and is reprinted in this edition of NYS Academe).

All three of the positions held by interim officers will be voted on by our membership next spring. Thank goodness our long-serving Treasurer **Pat Cihon** still has two years remaining in his term and our Executive Director **Sally Dear-Healey** has a long institutional memory and keeps detailed records!

The big changes in the organization of the AAUP National will require some big organizational changes in our New York State Conference.

The first challenge is our elections process, which following our current constitution is already underway for 2020. In the recent past we have “piggy backed” on the National’s paper ballot in order to follow Department of Labor (DOL) requirements.

Since National will no longer be doing a paper ballot, we are looking into our options – most likely an electronic ballot. Unfortunately, electronic balloting that meets the DOL standards is fairly expensive (around \$4 a member), so

continued on page 8

National AAUP Re-Organization Approved

At this year’s annual meeting the AAUP and AAUP-Collective Bargaining Congress (AAUP-CBC) voted a package of changes that combines the AAUP-CBC and the AAUP. The AAUP-CBC will no longer exist as a separate entity and its programs will be transferred to the AAUP. This will streamline AAUP’s governance and organizational structure to ensure that the organization is using its resources to support the local chapters and conferences.



The proposed organizational changes were a package and required approval of two motions by the AAUP annual meeting and one, dissolving the AAUP-CBC, by the AAUP-CBC regular meeting.

A Joint Resolution provided the language of the motions and states that they must be adopted in toto, without revision or amendment, by their respective memberships or none would be implemented. Thus, if any of the motions had failed to pass as proposed, any remaining motions would not have been

continued on page 8

State Conference Fall Meeting is at BMCC, October 18-19

The Fall Meeting of the New York State Conference of the AAUP will be held at the Borough of Manhattan Community College (BMCC) on October 18-19.

In addition to the business meeting, this year’s fall meeting will include workshop/educational sessions to review the changes to the national AAUP organizational structure that were adopted at this year’s Annual Meeting.

More details about the fall meeting will be found, as they become available, at the Conference website, (<http://nysaaup.org>), Facebook page (<https://www.facebook.com/NYSAAUPC1>), and in the Fall edition of *New York Academe*.

College of New Rochelle is Winding Down

The College of New Rochelle (CNR), which announced last spring that it would be closing down, will hold its last classes ever on August 10 and its last Commencement on August 20.

The institution's closure comes as it is reported that the College has defaulted on a number of its financial obligations, leaving more than 500 faculty members and staff unemployed and uncertain about their futures.

The College's troubles began in 2016, when college administrators announced they'd uncovered \$31.2 million in unpaid debts that had been hidden from its financial records. These included more than \$20 million in unpaid state and federal payroll taxes.

The College's President, Judith Huntington, resigned and was replaced on an interim basis by Dorothy Escribano, the College's provost. Keith Borge, the College's controller, retired. Subsequently, Borge pled guilty to federal fraud charges arising out of the institution's financial collapse, and will face sentencing on August 28.

The College attempted to stay open by securing lines of credit, negotiating with state and federal tax officials to reduce the penalties and fines incurred and hiring a fundraising firm. In November 2016, the College was able to stave off closure when it received an anonymous \$5 million gift from an alumna. Nevertheless, 32 staff were laid off and



in June 2017, 20 full-time faculty and 12 staff were terminated. In early 2018, the faculty filed a lawsuit against the College, claiming wrongful termination.

In March 2018, the College named William Latimer, a CUNY Dean, as the new President. A year later, the College announced that it would close and that it had worked out a deal with Mercy College that would allow CNR's remaining students to complete their studies at the Dobbs Ferry-based

college. While both institutions stated that it was possible that some CNR staff and faculty members might be hired by Mercy, neither institution has made a public statement concerning the hiring of CNR personnel since the March closure announcement.

LoHud.com.com has reported that CNR has defaulted on loan payments due to a number of creditors. These include payments to the New York State Dormitory Authority, Key Bank, and the Carney Charitable Foundation.

The last 300 full-time staff and faculty and 200 adjunct faculty members have been notified that their layoffs will be permanent.

The College has retained two firms to sell the 15.6 acre campus, and the College is expected to file a Chapter 11 bankruptcy petition shortly after the August Commencement.

AFT Conducts National Contingent Faculty Survey

The national Contingent Caucus of the American Federation of Teachers (AFT) is gathering information about working conditions for contingent faculty at U.S. institutions.

Although the survey authors recognize it is not ideal, this is the first nationwide survey to gather extensive information on contingent faculty.

If you are a contingent faculty member or officer or member of a local faculty group that includes contingent faculty, please participate and/or make the following link available to your colleagues.

<https://www.surveymonkey.com/r/2Z5NKQM>

Call for Nominations for 2020 New York State Conference AAUP Elections

The NY Conference AAUP will elect the following officers in 2020 for the specified terms.

If the election process is completed by the Spring meeting of the New York Conference in 2020, those elected shall take office immediately after that meeting.

If the election process is not completed by the Spring meeting of the New York Conference in 2020, those elected will take office immediately upon the completion of the election process.

President – until 2024

Vice President – until 2024

Secretary – until 2022

Delegate at Large – until 2024

Delegate at Large – until 2024

All AAUP members, except Associate members, living full time in or working in higher education in New York State, who are qualified to vote in national AAUP elections, and who have been AAUP members in good standing as of July 1 of the calendar year preceding the call for nominations are qualified to run for elected office.

The President is the chief administrative officer for the Conference. The President also chairs the Administrative, Executive and Steering Committees as well as the Fall and Spring meetings. He or she appoints the chairs and members of all standing committees with the approval of the Executive Committee.

The Vice President has major responsibility for membership and chapter development. The Vice President is a member of the Administrative, Executive and Steering Committees. He or she replaces the President, if a vacancy occurs, until the next election.

The Secretary maintains the records of the Conference. He or she is responsible for the Minutes of the Fall and Spring meetings and any special meetings of the Conference. The Secretary is a member of the Administrative, Executive and Steering Committees, and is responsible for the Minutes of these committees. He or she replaces the Vice President, if a vacancy occurs, until the next election.

The Delegates at Large are members of the Executive and Steering Committee, and thus are central to decision making in the Conference.

Disclaimer: Due to the restructuring of the National

AAUP beginning in January 2020, some of the charges and responsibilities of officers elected in the Spring 2020 NYS AAUP Conference elections may change accordingly - for example, the Assembly of State Conferences will cease to exist.

We will keep the membership updated as we clarify the ways in which our conference will be impacted by the new structure.

Nomination Procedure

In order to run for any office, a member must submit six nominations from other members of the Conference. These nominations must come from at least two chapters.

The nominations may be in hard copy or e-mail form. The nomination must contain the name of the nominee, the office for which the nominee is running, and contact information for the nominee – mailing address, phone number and e-mail address.

The nomination also must contain the name and chapter of the nominator, and contact information for the nominator – mailing address, phone number and email address. The Election Committee will verify that the candidate's AAUP membership is in good standing.

The nominations may be collected by the nominee and sent in one submission, or they may be submitted individually. In the latter case, the nominee must make sure at least six valid nominations have been submitted.

It is advisable to submit more than the minimum number of nominations. It is the responsibility of the nominee to make sure that the Chair of the Election Committee has received the nominations.

The nominations shall be sent to the Chair of the Election Committee as follows.

Mail: 118 Alpine Drive, Closter, NJ 07624. Mark the envelope Nomination.

Email: iyellowitz@aol.com. The subject line should read Nomination.

The deadline for nominations is November 1, 2019.

Once the Election Committee certifies the nominations, all candidates will be notified of the election procedure.

If you have any questions, please contact the Chair of the Election Committee. Irwin Yellowitz at iyellowitz@aol.com

Change Can Be Difficult, But Sometimes It's for The Best – The Future of the AAUP and the NYS Conference

by Sally Dear-Healey, Executive Director, NYSC AAUP

As most of you know, I also sit on National Council as a District VIII Representative. That means that I have had the opportunity to participate in discussions about the proposed “restructuring” for quite some time now.

What I can tell you from this experience is that 1) This decision has not been easy for anyone, 2) It is based on painstaking research and careful consideration of multiple factors and possibilities, and 3) a lot of very dedicated people have put in countless hours to come up with the best possible solution with an emphasis on what is best for the organization, but especially what is best for its members.

While the vote to restructure was unanimous, quite a few people voiced concern about some of the proposals. As I said, change can be difficult.

Before I go any further, I'd like to

recap the mission of the AAUP. “The AAUP’s mission is to advance academic freedom and shared governance; to define fundamental professional values and standards for higher education; to promote the economic security of faculty, academic professionals, graduate students, post-doctoral fellows, and all those engaged in teaching and research and higher education; to help the higher education community organize to make our goals a reality; and to ensure higher education’s contribution to the common good” (FAQs about Proposed Restructuring of the AAUP’s Organizational Structure, 6/4/2019). That has not and will not change.

One of the things that I see as a positive outcome of the restructuring is the renewed emphasis on ALL ONE FACULTY. The fact is, we are ONE profession regardless of institution type, tenure status, rank, job title, gender, age,

discipline, or collective bargaining status. Toward that end, we are undeniably stronger when we ALL focus on building and supporting chapters and empowering our members and our colleagues to effect change on the campus level. More than ever we need governance and organizational structures that focus on higher education as a common good.

We also need to effectively utilize available resources – such as individual and collective AAUP members, chapter strength, and State Conferences – to achieve that goal.

While collective bargaining remains one of the most effective means for advancing the AAUP’s core principles of academic freedom, shared governance, and tenure, there is also a significant role for advocacy chapters, which have been increasing in numbers. Even though part of the restructuring plan involves combining the AAUP and the

continued on page 6

The Monroe Community College Faculty Association Votes “No Confidence” in Board of Trustees

After having voted no confidence in the college president last year, the Monroe Community College Faculty Association (FA) did the same for the college Board of Trustees.

The resolution reads, in part: **Resolved that:** The members of the Faculty Association of Monroe Community College hereby register a **Vote of No Confidence in the Board of Trustees.**

Our grounds include mismanagement of College resources, lack of transparency and urgency regarding the financial and enrollment crises, negligence in overseeing the student experience, and contempt for College employees, particularly faculty and staff. As with the previous resolution, active members of the FA were joined in the vote by retirees.

The resolution goes on to state that the board has failed to take an active role in overseeing the management and finances of the college, with the result of failing “to serve the local community’s collective good.”

Details of the resolution can be found at the FA website at: <http://mccfa.ny.aft.org/resolution-no-confidence-mccs-board-trustees>

The vote comes after three failed contract negotiations over seven years, unilateral management decisions to change benefits for retirees that are covered by contract, and the college administration spending large sums on consultants and software that has not yielded useful results. According to the Faculty Association, board reaction to the resolution was to question the legitimacy of the vote.

The AAUP Joins Amicus Brief in LGBTQ Discrimination Case

On July 8, the AAUP has joined an amicus brief arguing that workplace discrimination based on LGBTQ status is discrimination “because of . . . sex” and therefore is prohibited by Title VII of the Civil Rights Act.

The brief was prepared primarily by the Lawyers’ Committee for Civil Rights Under Law and the Leadership Conference on Civil and Human Rights, and was joined by other civil rights organizations.

The brief involves three separate cases arising from the termination of employees based on their LGBTQ status, which were consolidated and will be argued before the US Supreme Court. A decision is expected by June 2020.

The amicus brief argues that Title VII, which prohibits discrimination on the basis of race, color, religion, sex, or national origin, applies to workplace discrimination based on LGBTQ status since that is discrimination because of an individual’s sex.

Each of the three cases involved individuals who were fired from their workplaces after the employer learned of their LGBTQ status.

Three separate lawsuits were filed alleging that the terminations violated Title VII’s prohibition against discrimination based on sex. Courts issued conflicting decisions in these cases.

In the lead case, Gerald Bostock, a county employee in Clayton County, Georgia, was fired after his employer learned that he is gay. He sued the county under Title VII for employment discrimination, but a court held that Title VII does not prohibit firing because of sexual orientation.

In the second case, Donald Zarda was fired from his work as an instructor with a skydiving company in New York, and a court found that Title VII does prohibit discrimination based on sexual orientation.

In the third case, Aimee Stephens, a transgender woman, was fired after informing her employer that she would transition to live as a woman. She brought her claim to the Equal Employment Opportunity Commission (EEOC), which investigated and then brought suit against her employer.

In that case, a court held that Title VII protects against discrimination because of transgender status. Because the decisions addressed the same issue, the Supreme Court consolidated the cases.

The court will now have the opportunity to determine whether Title VII applies to sexual orientation and transgender status.

The brief describes the progress made under Title VII toward eradicating workplace discrimination and argues that Title VII bars disparate treatment because of sexual orientation and gender identity.

It also explains that a decision to exclude LGBTQ status from Title VII’s protections would leave LGBTQ people of color unprotected from pretextual racial discrimination because of the intersectionality of identities.

As the amicus brief argues, carving out an exception from Title VII’s protections for LGBTQ individuals would be contrary to its text and other precedents.

It would also would leave those most vulnerable to workplace discrimination without protection, rendering Title VII unable to fulfill its purpose of eradicating discrimination from the workplace.

The consolidated cases are *Bostock v. Clayton County, Georgia, et al.*; *R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC, et al.*; and *Altitude Express, Inc., et al. v. Zarda*.



Change Can Be Difficult, But Sometimes It's for The Best –

continued from page 4

AAUP-CBC into one organization, with the emphasis on ALL ONE FACULTY the AAUP remains committed to working with all faculty and other academic workers to organize collective bargaining AND advocacy chapters. Here at the State Conference level we pledge to do the same.

Another change involves the size of the AAUP National governing board. Instead of large (53 member) Council meetings held in D.C., there will now be a smaller, more manageable governing board made up of three officers, five regional members, and three at-large members.

Also, instead of hosting costly annual meetings, National will be holding biennial meetings. These changes are considered “best practices” for an organization of our size.

Elections procedures will also change. With the restructuring secret ballot elections will be held every two years at the biennial meeting, with delegates voting chapter strength.

This was one of the issues that elicited considerable discussion. The fact is that only about 8% of the membership participated in the last mail ballot election. Given the time involved and cost of running those elections, that was not a viable return on the investment. Instead, the delegate voting system will help to ensure that the voices of all members are heard. If chapters cannot afford to send a delegate, small chapters in a state can form a section and elect one or more delegates (depending on the size of the section) to send to the meeting.

There was also a discussion about how the restructuring would impact the dues structure. The decision was made to roll current AAUP-CBC dues into the AAUP dues paid by collective bargaining chapters.

The goal here is to maintain revenue neutrality so that the AAUP can continue to provide services and support to CBC chapters and continue to engage in organizing new CBC chapters. Note that State Conference dues for CBC chapters will remain mandatory for a chapter to remain in good standing.

Clearly changes at the National level will have a trickle-down effect. More than ever we need the strength of our members and chapters to work together as ALL ONE FACULTY to prevent, deal with, and overcome the many

challenges that faculty face in higher education in today's financial and political climate.

Despite the dissolution of the Assembly of State Conferences (ASC), the State Conferences aren't going anywhere. In fact, their role is even more critical.

Most important, National has assured us that “There are no proposals to change the state conference per capita grants or the state conference development grants” and that there will be “no lessening of support for state conferences or collective bargaining chapters” (FAQs about Proposed Restructuring of the AAUP's Organizational Structure, 6/4/2019).

At our end we are ramping up our services to better serve the needs of our members here in NYS. Toward that end we are/will be offering the following:

- ‘Meet and greet’ site visits to institutions
- Listening Tours (can be on-site or virtual)
- On-site or virtual trainings (specific topic/smaller audiences/learning focus)
- Educational webinars (broad topic/larger audience/lecture focus)
- Bi-annual meetings/conferences
- Targeted and ongoing support in the form of phone calls, emails, letters, financial assistance, etc.

If one or more of these offerings would benefit you as a member or benefit your chapter, please contact me for more information.

If you have an idea for something else we could do to support you, please let me know that too. **I can be reached at: sdearhealeyaaup@gmail.com.**

One of the best ways to get involved at the State Conference level is to attend and participate in our meetings.

This year the fall meeting will be held at the Borough of Manhattan Community College on October 18th and 19th.

Watch for more details on both the NYSC AAUP website (<http://nysaaup.org>), in your email, on our Facebook page (<https://www.facebook.com/NYSAAUPC1>), and in the fall issue of *Academe*.

We look forward to hearing from and seeing you soon.

The Fall Meeting of the NYS Conference of the AAUP will be held at the Borough of Manhattan Community College (BMCC) - October 18-19

More details will be found, as they become available, at the Conference website, (<http://nysaaup.org>), Facebook page (<https://www.facebook.com/NYSAAUPC1>), and in the Fall edition of *New York Academe*

We Can Help You Defend Your Academic Freedom

by *Irwin Yellowitz*, Chair, New York Conference, Committee A on Academic Freedom and Tenure

Academic freedom protects all faculty members, tenured or untenured. If a faculty member in New York State has experienced, or is threatened with, a violation of academic freedom, or of the tenure rights which sustain it, the members of New York Committee A on Academic Freedom and Tenure are ready to help.

We are prepared to receive complaints and provide advice about possible courses of action.

Our first function is to discuss the issues and actions thoroughly with the faculty member.

This involves telephone conversations, e-mail exchanges, and a full examination of the available documentary record. In personnel actions, or any issue that has implications for academic freedom, faculty members should keep accurate and complete records of all relevant correspondence, telephonic and electronic communications, and meetings with colleagues and administrators.

Our counsel is based on AAUP guidelines and our own experience. (See AAUP Policy Documents and Reports, 11th Edition, 2015, “The Redbook”.)

We offer advice on whether the procedures of the institution meet established academic practice, and whether they have been applied properly.

We offer advice on whether the actions taken or contemplated have a prima facie aura of discrimination or malice. Our advice helps faculty members understand their situations better, allows them to maximize the effectiveness of internal institutional procedures, and clarifies the realistic possibilities for outside action.

When NY Committee A believes that a violation of AAUP policies or standards has occurred, it may

- try to arrange a settlement;
- investigate the matter;
- refer the complaint to national AAUP Committee A with a recommendation for a full investigation and appropriate action.

As Chair of NY Conference Committee A, I deal with an inquiry, or assign it to a member of the Committee, who then contacts the person and takes responsibility in the matter.

The full Committee makes all decisions on how to proceed once the facts and issues have been established. Our actions are based on AAUP’s principles as stated in AAUP’s policy statements, and on our judgment of how a particular situation fits with those standards.

How to Maximize Help from AAUP Concerning Academic Freedom and Tenure Issues

If you have an issue that concerns academic freedom and tenure, AAUP is available to consult with you. The following protocol explains how to maximize the help we can provide you.

1. If there is an AAUP chapter, you should first approach it. The leaders of the chapter know the situation on campus, and they may be able to mediate the situation. They also can provide valuable advice.

If there is a collective bargaining agreement in place, the grievance procedure may cover the issue. This will provide an important source of support.

2. If there is no AAUP chapter, or should the chapter be unable to help, you may approach New York Committee A on Academic Freedom and Tenure.

We will be available to discuss the issues fully, and to offer advice. NY Committee A also may recommend to National Committee A of AAUP that it consider your issue.

3. Finally, at any time, you may approach National Committee A on Academic Freedom and Tenure. However, once you do, NY Committee A will step aside.

It is the policy of NY Committee A not to become involved in any matter that has been reviewed, or is under review, by National Committee A.

Thus AAUP offers a variety of means for a faculty member to get valuable advice, and perhaps ultimately to have AAUP intervene in a case.

If you follow the steps outlined above, you will best take advantage of the resources offered by AAUP in this critical area.

If you have reason to consult with NY Committee A, contact the Chair of the Committee: Irwin Yellowitz, Chair, NY Committee A.; e-mail: iyellowitz@aol.com

NYS AAUP Interim President's Letter

continued from page 1

we are considering ending the staggering of our elections (where we elect half our officers and delegates to 4-year terms every two years) to electing our whole slate of officers and delegates every four years. Not an ideal solution, but possibly the only one we can afford.

I want to thank the Election Committee for going far beyond its original charge to come up with a very detailed set of proposed constitutional reforms related to our elections process, which the Executive Committee will consider at our next meeting in early August. The plan is for us to approve a comprehensive set of constitutional reforms and to circulate them to the membership in time for a vote at our fall meeting. As we find ourselves in some uncharted territory, Sally and I have been working with the Election Committee and the National staff to make sure we are following correct procedures. All New York State AAUP members in good standing will be eligible to vote on the proposed constitutional changes at the Fall meeting.

The planning for the Fall meeting at Borough of Manhattan Community College is discussed in more detail elsewhere in this newsletter and Sally has been hard at work lining up some great programming for us. Although this is a challenging time for our state chapter (and higher education in general),

challenges create opportunities. We have a strong and growing leadership including Kimberley Reiser (Nassau Community College) who has gotten our new Committee on College & University Governance off the ground and active in helping local chapters with shared governance issues on their campuses. At our last Executive Council meeting we decided to organize our Fall meeting to provide workshop/educational sessions to educate ourselves and our membership about the implications of the National organizational changes.

I hope to see many of you at the Fall meeting, and for those who cannot attend please look out for communications from us asking for your input. We would love to get feedback from members and local chapters about how the state conference can better serve you as we move ahead with a strategic planning process begun two years ago.

A call will go out soon for members of a strategic planning committee, please consider serving on this or one of our standing committees. An engaged membership is vital to strengthening our state conference and local chapters to defend our shared AAUP principles of academic freedom, tenure, and shared governance.

In Solidarity,

Mary Rose Kubal (St. Bonaventure University)

Interim President

National AAUP Re-Organization Approved

continued from page 1

voted upon and any motions that had passed would not become effective. Information about the process by which the AAUP Council and the AAUP-Collective Bargaining Congress Executive Committee decided to bring these proposed changes to the 2019 annual meeting for a vote is available at <https://www.aaup.org/faqs-about-proposed-restructuring-aaup-organizational-structure>.

The proposed amendments to the constitution, a summary of the proposed constitutional changes, and the Joint Resolution and Constitutional Amendment proviso are available at <https://www.aaup.org/sites/default/files/packet.pdf>.

The amendments to the AAUP Constitution codified changes directed by the AAUP Council and the AAUP-CBC Executive Committee in November 2018. A Constitutional Amendment Proviso establishing the transitional leadership structure for the newly combined organization was included in the motion proposing the amendments.

Other Changes

In addition to the structural change, other changes are implemented. The current governing boards (AAUP Council and AAUP-CBC Executive Committee) of the two bodies (with a combined membership of 53) will transition to a single, smaller board. This board will consist of three officers, five regional members, and three at-large members.

The current members of the governing bodies will be

combined into a single governing body and complete their current terms. The new AAUP governing board should be in place by 2022. The members of this body will be elected by the chapter delegates to the AAUP Annual Meeting, rather than the current mail ballot system, and serve two-year terms. In the last election, only eight percent of the membership participated in the mail ballot, continuing a decade-long trend in AAUP elections.

The Annual Meeting will be replaced by a biennial meeting. The annual meeting costs close to \$200,000 in direct (non-staff) costs to run, and attendance has been declining. In 2018, 180 members attended (many of whom were elected officials of the AAUP).

In addition to the consolidation of the AAUP and AAUP-CBC, the Assembly of State Conferences (ASC) will be disbanded as part of the streamlining of the organization. AAUP president Rudy Fichtenbaum has appointed a state conferences working group to develop recommendations on how the AAUP can best support state conferences going forward. This working group is composed of state conference activists from around the country and is being chaired by ASC chair Brian Turner.

The AAUP Foundation, a 501(c)(3) tax exempt organization that is eligible to receive tax deductible contributions, will not be affected by the combining of the AAUP and the AAUP-CBC.

Inquiries about the changes may be directed by e-mail to executivedirector@aaup.org.