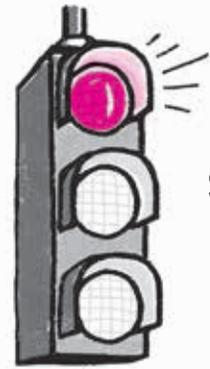


# Clarion

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



FEBRUARY 2016



**CONTRACT**  
**CUNY**  
**stalls talks**

Declares impasse  
with no counter

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Erik Mc Gregor

## NEW YORKERS DEMAND: **CUOMO, FUND CUNY!**

At a rally outside the Manhattan offices of Governor Andrew Cuomo, leaders of community groups from across the city gathered to demand that the state restore full funding to CUNY in order to forestall a proposed tuition hike and award a fair contract to CUNY employees. "Poverty is soaring," said Zakiyah

Ansari (above), advocacy director of the Alliance for Quality Education, at the January 11 rally. "Everyone agrees that education is the key to overcoming poverty." PSC members will meet with state and city legislators throughout February and March to seek a just budget for all New Yorkers. **PAGE 4**

### TAKING ACTION

#### Lobby days and more

Learn how and when to meet with lawmakers, in the city and in Albany, to press the case for full funding for the university.

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### HISTORY LESSON

#### CUNY as a state project

State funding for the university began at its founding in 1961 – not as a result of a fiscal crisis. A historian deflates the false narrative.

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### THE NEXT BIG STEP

#### Strike authorization

Members from across the university discuss why they're voting to authorize the Executive Council to call a strike, if deemed necessary to get a fair contract.

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### IT'S ABOUT MONEY

#### Failure to deliver

PSC President Barbara Bowen explains how the PSC plans to address the impasse maneuver by CUNY management that's slowing contract negotiations.

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## IN BRIEF

**Hundreds of union plumbers offer free services to Flint residents**

Three hundred union plumbers volunteered their services to residents of Flint, Michigan, who, at the direction of a state-appointed emergency manager, had their water source switched to one that created unsafe – and even toxic – levels of lead in their drinking water. The plumbers installed new faucets and water filters at no charge. Many existing faucets in Flint homes cannot fit a filter, which residents need in order to get dangerous levels of lead out of their drinking water.

On one January day, the plumbers replaced faucets and filters in 800 homes, according to the *Huffington Post*. The effort was coordinated by the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, and the trade group Plumbing Manufacturers International, which donated the fixtures.

**Scholarship honors work of PSC founding president**

The deadline is approaching for CUNY students to apply for the Belle Zeller Scholarship, an award established in honor of Belle Zeller, the founding president of the Professional Staff Congress and professor emerita of political science at Brooklyn College. The scholarship honors good character and service to CUNY and the surrounding community for students with at least a 3.75 GPA. Awards consist of yearly in-state tuition for full-time CUNY students, and recipients may receive up to three annual awards. CUNY undergraduate and graduate students and law school students are eligible for awards. The application deadline is April 1, 2016. For more details, go to [tinyurl.com/belle-zeller-scholarship](http://tinyurl.com/belle-zeller-scholarship).

**Honorary degree recommended for juvenile justice advocate**

CUNY's University Student Senate passed a resolution on January 31, 2016, recommending that the CUNY Board of Trustees award the late prison reform advocate Kalief Browder an honorary degree. Accused of stealing a backpack, the 16-year-old Browder was sent to prison at Rikers Island, where he was held for three years without trial. Nearly two of those years were spent in solitary confinement, according to *The New York Times*. Upon his release, Browder earned his GED and enrolled at Bronx Community College. He became a tireless advocate for prison reform, but the psychological damage done by his confinement was inescapable. Browder took his life on June 6, 2015. Citing Browder's case and the "unspeakable violence" Browder endured, President Barack Obama announced a ban on solitary confinement of juvenile inmates in federal custody.

- Shomial Ahmad



LETTERS TO THE EDITOR | WRITE TO: CLARION/PSC, 61 BROADWAY, 15TH FLOOR, NEW YORK, NY 10006. EMAIL: [ASTAN@PSCMAIL.ORG](mailto:ASTAN@PSCMAIL.ORG).

# Paris accord falls short

● What Sean Sweeney predicted during the November 1 panel discussion on the climate change crisis convened by the Retirees Chapter (see Adele Stan's account in the December 2015 *Clarion*) has happened: the Paris agreement was hailed as historic, though it was not nearly as strong as it needs to be.

The main content of the agreement is that the governments of the developing countries accepted the final defeat of the Kyoto Protocol. In Kyoto, in 1997, all the industrialized countries except the United States accepted the principle of compulsory greenhouse gas reductions for them, while the developing countries – which had no part in causing the problem – were exempt for the time being. The US immediately rejected the Kyoto treaty, thereby making it ineffectual in practice, but at least its guiding idea remained alive. Now that is dead, too. Instead, there are no exemptions on one side, and there are only nonbinding and insufficient voluntary pledges on the other.

Is the intention of US policy makers to postpone serious action to halt climate change until it wreaks havoc on the Global South and begins to threaten the possibility of life in North America? If so, it is a very dangerous policy, to say the least.

Adam Koranyi  
Distinguished Professor of  
Mathematics  
Lehman College

**The CUNY students' lawyer**

● For over 25 years, attorney Ron McGuire has defended hundreds of CUNY students pro bono in the name of public education and civil rights. While marching in a "Books not Bombs" protest at the beginning of the Iraq War in March 2003, I was arrested with two fellow Hunter College students, and Ron answered the call to defend us. Though the initial charges against us were very serious, Ron defended our case with great skill and determination, which resulted in the charges rightfully being dismissed. This is just one example of how Ron's advocacy in the courtroom resulted in CUNY students' rights successfully being upheld. He has defended CUNY students who have gone on to become great professors at the university, while two of his student clients, Ydanis Rodriguez and Jumaane Williams, went on to become members of the New York City Council.

Unfortunately, Ron McGuire's work was not fairly compensated in winning the civil rights case *Husain v. Springer*. This case involved journalists at the College of Staten Island's student newspaper being denied their First Amendment rights by the college president. After Ron won

the case in 2007, he was awarded only 5 percent of the considerable cost incurred by seeing the case through to the end – over nearly two decades. This is a travesty given the thousands of hours Ron committed to the case, now the bulk of them unpaid, as he seeks a special hearing before the full Court of Appeals to overturn the ruling. Ron McGuire deserves the support of the entire CUNY community in seeking rightful compensation in this case. Ron has supported our rights for a quarter-century; now it is time for us to support him.

Padraig O'Donoghue  
Manager of Student Support  
and Retention  
Murphy Institute for Worker Education

**Highlight unfair taxation**

● Wouldn't it be instructive for CUNY workers to remind management and the public how much New York City and New York State money is "banked" but not taxed fairly, and if tapped would provide enormous sums for reasonable raises?

I think, for instance, of an October 15, 2012, *New York Times* piece about how owners of multimillion dollar condos are mini-taxed and another, from February 7, 2015, on tax-avoidance schemes that use shell companies to buy up extravagant Manhattan real estate.

How about reminding CUNY management that Governor Andrew Cuomo cut the state "millionaires' tax" in half while he and the legislature gave sales tax breaks to yacht and aircraft owners?

Pop quiz: From 1980 to 2012, how much of the nation's economic growth went to 90 percent of the population? Answer: zero. Much of that money went to billionaires living in our state and city. Shouldn't those mini-taxed fortunes be publicized by the PSC? Millions of those dollars go to foundations, tax-free, that undermine public education in favor of privatization and the crippling of teachers' unions.

Bank robber Willie Sutton was right when he said, "the bank is where the money is." PSC should

be encouraged to rediscover and publicize that the bank's address is Wall Street.

Bill Duncan  
Kingsborough Community College  
(retired)

**PSC First Vice President Mike Fabricant responds:**

*A timely letter! New York Assembly Speaker Carl Heastie introduced legislation at the beginning of February to restore higher tax rates on high-earning New Yorkers. There is clearly a lot of support among Democrats in the legislature for a more fair and progressive tax structure. The plan would lower to \$1 million the income to which the current highest tax rate (8.82 percent) would apply, and would create two new tax rates (9.32 percent and 9.82 percent), which would apply to higher income levels. Note that neither Clarion nor the PSC have shied from broaching this issue; see, for instance, Peter Hogness's report in the April 2015 edition on the sales tax break given yacht purchasers.*

## PSC leads effort for fair teacher prep

At a December 7 Brooklyn town hall meeting on teacher preparation and the high-stakes exams required for certification, professors of education shared research and anecdotal accounts of how New York State introduced expensive tests and videotaping requirements in 2013 that narrowed curriculum and made student-teaching difficult. These hardships particularly hurt student-teachers of color, those of lower incomes, and speakers of languages other than English, making the pool of certified teachers less diverse. Regents Kathleen Cashin and Charles Bendit, co-chairs of the Regents Higher Education Com-

mittee, hosted the event held at St. Francis College, as part of their effort to hear educators and students from across New York State.

More than 100 people attended, including four regents and State Education Commissioner MaryEllen Elia and her staff. Professor David Gerwin of Queens College organized and moderated the event, which included panelists from CUNY, SUNY New Paltz, Teachers College/Columbia University, and Hofstra, followed by an open forum featuring student teachers, cooperating teachers and other educators. Speakers criticized Pearson, the for-profit educational testing company,

as well as former New York State Commissioner of Education John B. King, Jr. (now the acting Secretary of Education in the Obama cabinet) for introducing the exams with no period of transition. Speakers also warned about the new state-imposed GRE and GPA requirements for admission to education graduate programs.

**MOVING FORWARD**

"The PSC continues to work closely with New York State United Teachers, our state affiliate, as well as with United University Professions, the SUNY faculty and staff union, and several regents who share our concerns," said Steve London, the PSC-CUNY university-wide officer who took part in the town hall.

**Teacher diversity suffers under new requirements.**

(L-R) PSC members Steve London (Brooklyn College), David Gerwin (Queens College), Tatyana Kleyn (City College), David Bloomfield (Brooklyn College), Susan Sullivan (College of Staten Island), and Jill Jeffery (Brooklyn College) join Harriet Fayne, dean of the Lehman College School of Education, on a panel to discuss teacher preparation and licensure.

# Cuomo budget sows confusion

By ADELE M. STAN

No sooner had Governor Andrew M. Cuomo released his executive budget on January 13 than the derision began. At issue was an apparent \$800 million in funding cuts to New York City-based programs and institutions, including a demand that the city pick up \$485 million of the tab for running the senior colleges of the City University of New York, around 30 percent of CUNY's overall budget.

At the same time, however, the governor included a \$240 million line item in his budget for payment of retroactive, collectively bargained pay raises for CUNY employees, who have not had a salary increase in at least six years.

"Hey, Blaz, hope you played Powerball!" shouted the cover of the next day's *New York Daily News*, which in its editorial accused Cuomo of giving "a big punch in the face to New York City."

In a statement released to the press, PSC President Barbara Bowen expressed appreciation of the money earmarked for raises, noting, however, that while "the governor called education a 'ladder to climb out of

## New funding and new cuts



Peter Foley/Bloomberg via Getty Images

**On January 13, Governor Andrew Cuomo, shown above, released a budget that includes a \$240 million line item for back pay to CUNY workers, but also appears to cut state funding to the university by \$485 million and calls for the city to kick in the difference. The governor later said "efficiency changes" could be found that "won't cost New York City a penny."**

poverty, ... a \$485 million budget cut would destroy that ladder for CUNY students."

CUNY Chancellor James B. Miliken expressed no concern over the

proposed cost-shifting, saying in a statement that for the university's coffers, the suggested change appeared to be "budget neutral."

Mayor Bill de Blasio described the

governor's budget as "debilitating," vowing to resist the funding cuts "by any means necessary."

The governor soon dialed back his rhetoric, saying that the savings required by the state in its spending on CUNY and health services delivered to city residents could be achieved through "streamlining efficiency" and "policy changes" at CUNY and in Medicaid administration.

"I am taking the governor at his word and I will hold him to that word," de Blasio said when he presented the city's executive budget the following week. Then, on January 26, the mayor appeared before a joint committee of the state legislature in a hearing that *The New York Times* described as "a five-hour slog."

City Comptroller Scott Stringer also appeared that day before the same committee, telling lawmakers that an analysis by his office showed that "if aid to CUNY had grown at the same rate as the state's operating budget over the last seven years, the system would have an additional \$637 million on hand today."

Analysis by the PSC shows that state funding per full-time-equiva-

lent student has decreased 17 percent since 2008.

"It's just a constant, constant austerity, even though we're way past the recession," Bowen said in a January 15 interview with *New York Times* reporter Vivian Yee. "That's why we say that the discussion should be about increasing resources to CUNY after this long starvation, not just who's going to take responsibility for already inadequate funding."

**Funding down 17 percent since 2008**

Bowen is scheduled to testify on February 8 before the state legislature's Joint Education Committee. She is expected to press lawmakers to honor the governor's line item for back pay, but to also call for what she calls "a true maintenance-of-effort provision" to be included in the final budget for CUNY and SUNY four-year schools, as well as an addition of \$250 to base community college aid, adjustments to CUNY's Tuition Assistance Program (TAP), restoration of funds that were cut from programs such as SEEK and ASAP, and inclusion of the DREAM Act in the final state budget. Bowen also said she plans to prevail upon legislators to impose a smaller burden on the city for CUNY funding than the \$485 million for which the governor has called.

The legislature is required to complete the budget deliberation process by the end of March.

# Take the fight to lawmakers

Be part of the action this semester as the PSC works to secure funding for CUNY and our contract through the legislative process. Tell lawmakers of your needs as an educator or CUNY staff member. Attend a lobby day in your borough or in Albany. (Sign up here: [http://psc-cuny.org/2016\\_lobbying](http://psc-cuny.org/2016_lobbying).) Come to a PSC Legislation Committee meeting. Join with your colleagues in the fight for a better life for CUNY students and the whole CUNY community. To find out how to get involved, contact Kate Pfordresher at [kpfordresher@pscmail.org](mailto:kpfordresher@pscmail.org).



Jud Guiteau

elementary school through college. **Thursday, February 4, 7:00 pm** | State of the City Address / Lehman College

Mayor Bill de Blasio will deliver the annual address in which he outlines legislative proposals and policy directions for the upcoming year.

**Monday, February 8** | State Budget Hearing / State Capitol, Albany  
Joint Higher Education Committee hearing on the governor's executive budget. PSC President Barbara Bowen is scheduled to testify.

**Wednesday, February 10, 6:00 pm** | Legislation Committee Meeting / PSC, 61 Broadway, 15th floor  
Join union activists to discuss legislative strategy and urge elected officials to support increased funding for CUNY and issues concerning faculty, staff and students. The committee conducts interviews of candidates for political office and makes recommendations for union endorsements. All members are welcome.

**Friday, February 12 – Sunday, February 14** | Caucus Weekend / Empire State Plaza Convention Center, Albany  
New York State Association of Black and Puerto Rican Legislators' Caucus will hold its 45th annual conference, "Restoring Faith & Justice," where attendees will discuss how to expand and maintain

programs that benefit their constituencies. On Saturday, PSC President Barbara Bowen will participate in a panel discussion on higher education opportunity programs at CUNY and SUNY as part of the caucus weekend activities.

**Wednesday, February 24 & Thursday, February 25** | Student-Faculty-Staff Higher Education Action Day / State Capitol, Albany  
College faculty, staff and students from across the state, including PSC members, will meet with New York lawmakers on Thursday to discuss the need to adequately fund higher education. The PSC, New York Public Interest Research Group (NYPIRG), CUNY University Student Senate (USS), New York State United Teachers (NYSUT) and United University Professions (UUP) are part of the coalition effort.



Jud Guiteau

## MARCH

**Early March (Date TBD)** | Hearings on the mayor's preliminary executive budget / City Hall  
The New York City Council holds hearings for all city agencies in order to ensure that the budget meets New Yorkers' priorities. PSC officers will testify before the council's Higher

Education Committee on Mayor de Blasio's preliminary executive budget. The mayor's executive budget will be released in April. The council and mayor must agree on a final budget by July 1, the start of the next fiscal year.

**Monday, March 7 – Tuesday, March 8** | NYSUT Committee of 100 Lobby Days / State Capitol, Albany  
PSC members join NYSUT educators from across the state to lobby state legislators on important issues, including state funding for K-12 and higher education and legislation impacting union members' interests, such as job security, pensions and health and safety.

**Tuesday, March 15, 6:00 p.m.** | PSC Legislation Committee / PSC, 61 Broadway, 15th floor

**Friday, March 18 – Sunday, March 20** | Somos El Futuro Conference / Empire State Plaza Convention Center, Albany  
Hosted by the New York State Puerto Rican and Hispanic Task Force, the conference convenes lawmakers, academics, business and labor leaders to engage with key issues to address the needs of the Hispanic population in the state.

## APRIL

**(Date TBD)** | CUNY at the Council / City Hall, 250 Broadway  
Together with CUNY's University Student Senate and the student advocacy organization, New York Public



Jud Guiteau

Interest Research Group, PSC members meet with city council members to discuss improving funding for CUNY community colleges and programs, higher education issues and how the council can support the needs of students, faculty and staff.

**Tuesday, April 12, 6:00 pm** | PSC Legislation Committee / PSC, 61 Broadway, 15th Floor

## MAY

**Wednesday, May 18, 6:00 pm** | PSC Legislation Committee / PSC, 61 Broadway, 15th Floor

**Thursday, May 19 & Friday, May 20** | District Lobbying with the PSC / various district offices  
Groups of union members will meet with key elected officials in their district offices. Following up on earlier conversations at the capitol and City Hall, PSCers will press legislators on the importance of adequate higher-education funding and needed legislation to support CUNY faculty, staff and students – and the elected leader's own constituents.

## JUNE

**Wednesday, June 8** | PSC Legislation Committee / PSC, 61 Broadway, 15th floor

# New Yorkers to Cuomo: Fulfill your progressive promise

By CLARION STAFF

As Governor Andrew Cuomo put the finishing touches on his January 13 State of the State Address, community leaders from across the city delivered spirited remarks at a gathering on the sidewalk outside his Manhattan office on January 11 to demand that his proposed budget adequately fund CUNY. Participants tweeted: #CuomoFundCUNY. Lunch-hour crowds learned of the plight of CUNY's students, who are facing a likely tuition increase, and its workers, who haven't seen a raise in six years. (The PSC's contract with CUNY expired in 2010 and, on January 26, CUNY management rejected the union's counteroffer for a settlement of the salary issue by declaring talks at an impasse. See page 7.)

"Thousands of students have signed our petition, calling for more state funding for CUNY so that tuition can freeze at its current rate and faculty and staff contracts can be resolved fairly," said Chika Onyejiukwa, vice chair for legislative affairs, CUNY University Student Senate, at the sidewalk rally.

Arthur Cheliotis, president of Communication Workers of America Local 1180 and a graduate of Queens College, said his CUNY education – then tuition-free – "allowed me, the son of an undocumented alien and a refugee from the Nazis, to make a life in this city."

## BROAD SUPPORT

Zakiyah Ansari, advocacy director of the Alliance for Quality Education, has three children who currently attend CUNY colleges. Each year, she said, she sees the tuition go up, yet she does not see comparable investment in the university. The governor, she added in a written statement, "has consistently failed to keep his promises. He has only provided Pre-K for some, and is still not meeting his promise to fully fund the Campaign for Fiscal Equity. He has even reneged on his promise to increase state aid to CUNY and SUNY when tuition increased."

She continued, "Poverty is soaring. Everyone agrees that education is the key to overcoming poverty."

It is Cuomo's responsibility, she said at the rally, to make sure "that we are truly investing in a system, from birth to college, that ensures that every child in New York State, every child, whether you're an immigrant or not, whether you're rich or poor, has the opportunity" for a quality education.

Jahmila Joseph, DC 37's assistant associate director, addressed the governor directly, noting that the "vast majority" of her union's 10,000 CUNY workers do not make \$15 an hour, a rate that Cuomo has promised other state workers. "So we're asking you kindly to put your money where your mouth is;

## Community leaders take demands to the gov



Rabbi Michael Feinberg

support the students, support the people's university and support the members who are behind me who work for the university," she said.

Jonathan Westin, director of New York Communities for Change, closed out the rally, asserting that New York cannot be the "most progressive state in America" unless students, faculty and staff at public colleges are treated fairly. "We are here to send a message to the governor today to do what's right, do what's best for our students, do what's best for our faculty and do what's best for the staff at CUNY," Westin said.

Other leaders who were unable to attend the rally penned statements of support, which appear below. Several did both, including Zakiyah Ansari, Bill Lipton, Karen Scharff, Jonathan Westin and Rabbi Michael Feinberg.

### José Calderón, President, Hispanic Federation

CUNY is the best vehicle working families in our city have to achieve social mobility. It is an institution that is key to our work and the fulfillment of our mission of empowering Latino families and communities.... We call on Governor Cuomo and the State Legislature to ensure that CUNY has the funding it was promised and needs to carry out its essential role in our city.

### Henry Garrido, Executive Director, District Council 37

The state budget is a statement of priorities and values. CUNY is a jewel that provides a path to upward mobility for thousands of New Yorkers. The governor's leadership would ensure the resources CUNY desperately needs to maintain its

high level of educational excellence. CUNY cannot continue to be a lifeline for working-class New Yorkers if it cannot invest in support for faculty and staff, including some 10,000 DC 37 members who make higher learning possible by providing students with a modern, world-class educational environment.

### Karen Magee, President, New York State United Teachers

PSC's fight is our fight. It's a fight for fairness that resonates with every single NYSUT member who has gone even one day without a new contract or feels disrespected by an employer. NYSUT's officers and every one of NYSUT's more than 600,000 members stand in solidarity with the PSC in its fight to end six years of hardship with a contract that recognizes the exceptional work they do on behalf of CUNY students.

### Vincent Alvarez, President, New York City Central Labor Council, AFL-CIO

CUNY faculty and staff have worked five long years without a contract, and during that time, they have continued to provide exceptional service and instruction to students. CUNY schools are an integral part of the fabric of New York City and they have educated a number of our city's best and brightest minds. The New York City Central Labor Council, AFL-CIO stands with PSC-CUNY in calling on the state to make a real investment in CUNY's future by working to reach a fair contract, and ensuring that CUNY has the funds needed to continue

to attract and retain world-class instructors and staff.

### Mario Cilento, President, New York State AFL-CIO

Young men and women need access to quality education and many of them rely on the City University of New York as an affordable option... The best way to continue providing quality education is by giving the dedicated faculty and staff at CUNY the fair contract they deserve.

### Bill Lipton, State Director, New York Working Families Party

For New York's working families, access to an affordable, quality higher education at CUNY has long held the promise of a better and brighter future and opportunity for future generations. That promise is in danger of being abandoned for CUNY's student population of a half-million, which is majority low-income and students of color. If we are going to build a city and state that works for all of us, full restoration of funding for CUNY is an absolute must. We call on Governor Cuomo to keep his promise to make New York the progressive capital of the nation by restoring full funding to CUNY in the Executive Budget this year and providing a fair contract for all CUNY employees.

### Justin Rosado, Make the Road New York, Borough of Manhattan Community College student

CUNY is home to so many low-income youth of color pursuing



Chika Onyejiukwa, CUNY USS

their education and their dreams. Investing in CUNY is investing in the future of New York City. It's the right thing to do.

### Brigid Flaherty, Organizing Director, ALIGN: The Alliance for a Greater New York

ALIGN urges Governor Cuomo to increase funding for CUNY, a critical institution that plays a pivotal role in educating and providing opportunities for New Yorkers, especially immigrants and people of color. With income and racial inequality on the rise, New York should be investing in CUNY and in the CUNY faculty and staff, who have never wavered on their commitment to providing quality public higher education. Investment in CUNY is an investment in New York State.

### Karen Scharff, Executive Director, Citizen Action of New York

Citizen Action of New York joins the PSC in calling on Governor Cuomo to fully fund CUNY so that every student in NYC has access to a quality college education. Funding for CUNY is a critical step toward reducing inequality, especially for students of color.

### Rabbi Michael Feinberg, Executive Director, Greater New York Labor-Religion Coalition

Every faith tradition calls for the instruction of youth, the education of the coming generation – this is held as a basic religious responsibility, a sacred trust. To make this possible, institutions of higher learning – with CUNY being a prime example – need adequate support and resourcing from the state government. Leaders from the faith community call for a restoration of full funding for CUNY, for tuition support and for fair salaries for the educators.

### Kenny Jawnsen, The Urban Youth Collaborative

As a high school student in New York City, I believe it is important that CUNY provides us all with an affordable and high quality education because so many of us don't



Jonathan Westin, director of New York Communities for Change

have any other options for pursuing higher education.

**David Dyssegaard Kallick**, Senior Fellow, Fiscal Policy Institute

New York State has been gradually starving CUNY for far too long. This year, we should finally turn that around and make sure the state budget includes adequate funding to ensure an affordable, quality education for the hundreds of thousands of New Yorkers who rely on CUNY. Those students work hard and aim high; the governor and state legislature should do no less.

**Charles Khan**, Organizing Director, Strong Economy for All Coalition

To be a progressive leader, you've got to fight inequality with fair-share taxes and strong investments in higher education – and when it comes to CUNY, it's time for Governor Cuomo to lead. We can fight poverty, build economic prosperity and invest in our future by closing loopholes that let hedge funds and billionaires pay lower taxes than teachers and truck drivers, and investing new resources in CUNY professors, staff and students.

**Alex Bornemisza**, Chairperson, NY Public Interest Research Group

We've heard from students from across the state and the message is clear: Freeze tuition and invest in higher education. Tuition hikes were supposed to go to improve our education, but many costs were not covered and stagnant state support did not keep up with inflation. Students are here today to urge the governor to turn the state's rhetoric into reality by really maintaining support for higher education.

**Chika Onyejiukwa**, Vice Chair for Legislative Affairs, CUNY University Student Senate, President, Undergraduate Student Government, Hunter College

CUNY's student leaders will be closely watching the governor's State of the State and Executive Budget Address. We have paid our share over the past five years through tuition increases and now we are asking for investment that we have rightly earned.... We will make sure students' voices are heard loud and clear in Albany this year.

**Kevin Stump**, Northeast Regional Director, Young Invincibles

City-wide, only 22 percent of African-American and 16 percent of Hispanic adults have a bachelor's degree, compared to 57 percent of their white counterparts. Additionally, post-secondary outcomes for low-income youth lag way behind their upper-income peers. If the governor is serious about upward economic mobility for low-income students of color, then he should expand and modernize the Tuition Assistance Program as well as invest in CUNY by restoring per-student funding to pre-recession levels to lower tuition and fund contracts that pay CUNY's faculty and staff salaries.

# Building power, one talk at a time

## Support for a 'Yes' vote

By SHOMIAL AHMAD

At campuses across the CUNY system, hundreds of PSC members are taking their activism into the realm of the personal, talking to their colleagues about the union's upcoming strike authorization vote. These organizing conversations have several aims: assessing members' commitment to a "Yes" vote, building the collective power of the union by determining workplace concerns – from workload to salary – and connecting those issues to the union's five-year battle for a fair contract.

"People have just had enough," said PSC bargaining team member Andrea Vásquez, who has been going door-to-door at the CUNY Graduate Center to talk to colleagues about the vote to authorize the PSC Executive Council to call a strike or other job action. "Even [members] who could not yet commit have usually said they would definitely reconsider if we do not get a good contract soon."

### STRIKE AUTHORIZATION VOTE

CUNY faculty and staff continue to work without a contract, as they have for the past five years, making it six years since they have seen an across-the-board raise. After more than 16 months at the bargaining table and numerous union demonstrations, CUNY management put forth an initial economic offer to the PSC on November 4, the same day 53 union activists engaged in civil disobedience, protesting the lack of progress in contract talks. The offer included a salary increase of 6 percent – well below the rate of inflation – and no back pay for four of the six years (2010-2013) in which members have seen no raises.

PSC President Barbara Bowen characterized the offer as "inadequate" and "unacceptable," saying it amounted to a "salary cut." At a November 19 union-wide meeting, Bowen outlined a plan to broaden the struggle for the CUNY contract, taking the fight to the governor, the community and the membership. During the meeting, which took place at the Great Hall at Cooper Union, participants signed up for training to conduct one-on-one organizing conversations to mobilize members' collective action.

By the start of the Spring semester, more than 1,500 members had signed a pledge stating their commitment to vote "Yes" for a strike authorization, indicating that "[they] are prepared, if necessary, to join a strike, or other job action." (To add your name to the form online, go to [tinyurl.com/strike-authorization](http://tinyurl.com/strike-authorization).) As of mid-January, the PSC has trained more than 350 members on how to conduct personal, one-on-one conversations designed to help organize a strike authorization vote, and more training sessions are scheduled this winter. (See list at the end of this article.)

Cindy Bink, director of coun-



Frank Cioffi (right), professor at Baruch, in an organizing conversation role play with Katherine Johnson (left), lecturer at Borough of Manhattan Community College, at a union training session on January 21, 2016.

selling services at New York City College of Technology, says that engaging in the conversations is a process that is as much about opening her ears to a colleague's experience as it is to providing answers on union issues. It put her in touch with her own commitment to authorize PSC's Executive Council to call a strike if deemed necessary, she says.

"I think that talking about [a strike authorization vote] makes people motivated," Bink told *Clarion*. "It's really about listening to people." When a member discusses her workplace and compensation concerns with Bink, "that's when I want to go out and do something," she says.

On January 6, Bink attended a union training session at City Tech. PSC staff organizers covered ways to approach "intentional" conversations about the issues. Designed in part to learn where colleagues stand on a strike authorization vote, these conversations also address very real fears and concerns members may have about a possible work action.

### DIFFICULT CONVERSATIONS

In the first few weeks of the new year, Bink talked to several of her colleagues at City Tech, putting her training to good use. She says she has encountered a range of reservations from colleagues and Bink doesn't take their concerns lightly. One fear that her colleagues often express, she says, is concern they could suffer a loss in pay if they vote for the strike authorization. Voting for strike authorization does not violate state (or city) law, nor would a "Yes" vote affect a member's salary. It isn't until a member actually takes part in a work action that penalties apply.

However, should the PSC Executive Council call a strike or a work stoppage, the New York State Taylor Law, which prohibits public employees in the state from striking, would then exact a cost to both the union and to individual members who participate in a work action. Under the law, for each day or a part of a day that a

striking employee is not at work, the employee loses two days' pay.

Bink says she understands that there's no magical assurance that she can give to her colleagues, but, she says, she draws on past experience, confident that PSC leaders – as they did when organizing November's arrest-risking disruptive action – will carefully weigh actions and consequences when deciding what strategic move is needed next.

Jonathan Epstein, an adjunct associate professor at John Jay College of Criminal Justice, concurs. "It's important for the union that everyone goes into this with their eyes open," said Epstein, who sees the one-on-one discussions as a chance to address members' questions. Of the 11 colleagues with whom Epstein has conducted conversations, six signed on to the strike authorization pledge, four said they would need more time to make up their minds, and only one was a solid "No," Epstein told *Clarion*.

Mobilizing one's colleagues is not an easy task. For Ronald Platzer, who has worked at City Tech for more than 25 years, his "Yes" vote is a signal to management that a job action is a possibility – a way to apply pressure for a satisfactory settlement of the PSC's contract. At the time *Clarion* interviewed Platzer, he had only had the chance to speak with three colleagues, all of whom declined to sign the pledge. "I'm not surprised," said Platzer, the associate director of the college's SEEK Program. Platzer talked to people he knew, and because of that familiarity, he says he feels that people were honest about how they would vote. But he's pressing on with another three conversations on his schedule. It is important to continue reaching out to his colleagues, Platzer said.

Stephanie Boyle, an assistant professor of history at City Tech, is ready to start the semester engaging in these "difficult" conversations. The tipping point that moved

her to get involved was the November 4 disruptive action, when PSC members blocked the entrance to the CUNY headquarters building in Midtown Manhattan and were carted off by police. (See *Clarion's* December 2015 issue, "Militant action highlights contract fight.")

"I was like, 'Wow, these people got arrested for me.' That really was a game-changer for me," Boyle told *Clarion*. "People were talking about it."

Boyle, who is all-in for joining the fight, says that it is still "a little terrifying" for her to have these conversations. She is in her second year at the college, and she says, she doesn't want to seem like the new person trying to shake things up.

She has had informal conversations with new faculty about the lack of a contract, as well as the recent proposal to settle current contract negotiations put forward by CUNY management (and deemed unacceptable by the union), which included a 6 percent raise with no back pay. One new member told Boyle she assumed the offer was exclusively for back pay, and that it did not really affect her. But, Boyle says, when she began to explain how the amount of raises affects step increases, her new colleague began to reconsider.

For Boyle, the fight for a contract is personal. While at her current salary Boyle says she manages to make ends meet, she knows that any extra expense, any hardship, will push her into real difficulty.

### A BETTER UNION CONTRACT

"If I break my leg, my car insurance goes up, it will severely negatively impact me," Boyle, a single mother, told *Clarion*. In addition to juggling these everyday living expenses, she has been slowly chipping away at her "ominous" student debt. The light at the end of the tunnel for her could very well be a decent contract offer. "I can't believe I went to school for this long [but still have] to struggle," said Boyle.

As a new faculty member, Boyle says that the PSC contract with CUNY amounts to more than a better salary and conditions for her and her colleagues right now; it is the foundation for a better future for faculty, staff and students.

Attend an upcoming organizing conversation training at your campus:

**Monday, February 8** | Lehman College / 3:30 pm – 5:00 pm (CA 201)

**Tuesday, February 9** | Queens College / 10:00 am – 12:00 pm (G Building, Room 200) / 1:30 pm – 3:30 pm (President's Conference Room #1, Rosenthal Library)

**Wednesday, February 10** | Queens College / 12:30 pm – 2:30 pm (G Building, Room 200) / also 3:30 pm – 5:30 pm (President's Conference Room #2, Rosenthal Library) / 6:00 pm – 8:00 pm (President's Conference Room #2, Rosenthal Library)

**Thursday, February 11** | College of Staten Island / 2:30 pm – 4:30 pm (Room 1-P201)

# Why I'm voting 'Yes' on strike au

The PSC is organizing a union-wide vote that would authorize the union's Executive Council to call a strike if, as PSC President Barbara Bowen described it, "after everything else is tried, we cannot achieve a fair solution any other way." The solution sought by the union is a fair contract for the 27,000 CUNY faculty and staff it represents – employees who have gone without raises for six years, and without a contract for over five years. To be part of that solution, you can pledge your support for a strike authorization here: [tinyurl.com/PSC-commitment-form](http://tinyurl.com/PSC-commitment-form). Note that while participating in a work stoppage does incur penalties for public employees under the New York State Taylor Law, there is **no penalty** for voting "Yes" to authorize union leaders to call a strike.

## Lara Beaty (BELOW)

Associate Professor of Psychology,  
Social Science Department  
LaGuardia Community College

I am supporting the strike authorization vote because public education is under attack. By joining with students to demand public support for higher education, we can overcome the contrived austerity agenda that is underfunding CUNY. Our ability to do our jobs and to live in an evermore expensive city depends on it. I love my job, but my current workload makes it hard for me to give students the time they need to succeed.

My research group has been a "high-impact" experience for students, but finding time to devote to the group has become increasingly difficult, and finding time to write has become almost impossible. CUNY needs adequate funding to thrive. Faculty need support; I can no longer afford to attend most conferences. I need to vote "Yes" because my ability to care for my children depends on a raise. I fear I won't be able to live in the city much longer because of the rising cost of rent. Paying for my children to attend college while still paying my graduate school debts seems impossible. What message does it send to our students to see that their professors are struggling to make ends meet? I can't afford to not vote "Yes."



## Shakia Brown (ABOVE)

Assistant Coordinator, Budget Office  
Medgar Evers College

I'm voting "Yes" to PSC's call for a strike authorization vote because we have to stand for equality, integrity and fairness. This is what we have to do to make a statement that conveys why this is so very important. I and my colleagues have suffered for over five years. I love CUNY and what the university stands for. This lack of a fair contract is a horrible injustice to students, faculty and staff. CUNY needs full funding and the time to resolve this matter is now. The wait has been long; justice is overdue. I'm voting to authorize the Execu-



## PSC members tell why they're ready for th

utive Council to call a strike because I want to be valued as an employee, and for the PSC to be valued as a union. We must stand together to make a difference, or risk not being recognized as great workforce that serves CUNY.

I support the union.

## Pamela Stemberg (BELOW)

Adjunct Lecturer,  
Department of English  
City College of New York

When I heard that the union was going to ask for authorization to strike, I was excited. My voice – along with those of my union brothers and sisters – is finally going to be heard. Yes, striking may have financial implications, but living on an adjunct's salary also has consequences. I don't want Governor Cuomo to think that underfunding the CUNY is OK, or that I'm happy



with the way he treats the students and workers of CUNY. I'm voting "Yes" to the strike authorization!

## Luke Elliott-Negri (ABOVE, RIGHT)

Graduate Assistant,  
Sociology Doctoral Program  
The Graduate Center

Even where public sector strikes are legal, union members choose to support such activity only with the utmost care and seriousness. This is to say that I did not come lightly to my decision to support the strike pledge – but I am 100 percent ready to strike, if it comes to that.

CUNY functions through the profound, increasingly ubiquitous exploitation of adjunct labor. When first hired, adjuncts do not make even \$3,000 per course, and after a decade of service, still lack any meaningful job security. Meanwhile, the governor is waging a war of attrition against CUNY, the PSC and especially the working-class students – many of color – who fill CUNY's campuses.

Used in conjunction with other tools – student organizing, community organizing, media strat-



egy, electoral strategy, and the like – well-planned organizing for a strike authorization has the potential to reverse decades of CUNY disinvestment. Our actions can make the fight for public higher education the fight in the state of New York.

Voting "Yes" to authorize the Executive Council to call a strike is the an important step on the path to building the power to end adjunct exploitation and toward winning a high-quality contract for all members. But most importantly for me, it is a step toward the PSC becoming a more powerful champion of the CUNY system in general and the half-million students it serves.

## Jawied Nawabi (BELOW)

Assistant Professor of Sociology and  
Economics,  
Department of Social Sciences  
Bronx Community College

The reason I'm voting "Yes" for the strike authorization is simply that, as a matter of principle, our PSC union contract with CUNY expired in 2010 and they have not renewed it! I find this disregard and disrespect toward the 25,000 hardworking and committed staff and faculty troubling, and I have become convinced that unless our brothers and sisters in the union threaten to strike, our voices for a fair contract and legal-



ly-based demands are not going to be honored. To make CUNY honor our demands, we will need a large majority of our union members to take the next courageous step. During the Spring 2016 semester, I plan to sit down with several colleagues and have one-to-one conversations with them regarding our union's plan to authorize the Executive Council to call a strike. The more we are united in our union, the more we can enlarge our alliances with students and other union and community groups. Finally, voting "Yes" for the strike authorization is about the future of our professional work and affordable higher education in New York City (and the nation) for the millions of students whose only means to move up the economic ladder is through the great opportunities CUNY provides them.



## Amy Jau (ABOVE)

College Laboratory Technician,  
Department of Geography  
Hunter College

I'm voting "Yes" because five years without a contract, six years without a raise, no step increases, increased workloads and responsibilities and no tangible promotional opportunities for CLTs have bled us dry. This contract must deal with all those issues. No longer will we stand for disinvestment in CUNY. No longer will we stand for students being robbed of an affordable quality education, leaving them to owe thousands in debt. No longer will we stand to see our colleagues living in poverty. No longer will we stand to see management rob us of our dignity. As living costs have risen appreciably, our salaries have continued to deteriorate.

Since our contract expired in October 2010, the inflation rate has compounded to 8.1 percent, the annual cost of living has risen to a minimum of \$65,000, and we have seen no contractual salary increases. I'm a CLT working in the lowest paying full-time title of the PSC bargaining unit. Our salaries are between 14 percent and 33 percent

# Authorization

## The next big step

less, respectively, than our faculty and HEO counterparts. The salaries of most CLTs are capped below the cost of living and some earn far below that figure. We deserve livable wages for our services. We must all unite and be strong to put an end to what amounts to wage theft.



**Tahir Butt** (ABOVE)  
Graduate Assistant,  
Urban Education Program  
CUNY Graduate Center

The decision to approve a strike authorization is one we will each make based on our individual circumstances, but also on the prospects for all of us who work at CUNY. With the current contract fight as just the most recent example of unions being bruised and weakened by decades of economic and political changes, a major challenge for us of how it is to reimagine and renew our capacity for collective action. I believe that absent such a renewal, CUNY administra-

tion will remain recalcitrant to our demands and those of our students, even as the state government continues to slash CUNY's budget and undercut its historic mission to serve all the people of New York City. I will be voting "Yes" to authorize the Executive Council to call a strike – should it be deemed necessary – because that capacity to act together remains our greatest hope in the face of all these challenges.

In taking a pledge to strike, I am also committing to the many conversations with my fellow PSC members and CUNY students as we build other campaigns, such as those against possible budget cuts that could be used to both sell us short on a contract and push tuition hikes, and with adjuncts to end poverty wages for the bulk of CUNY's educators. Ultimately, our collective power as a union is only as strong as our ability to organize with the many others who want to defend CUNY and build a better future for all of us.

**Sarah E. Chinn** (BELOW)  
Associate Professor,  
English Department Chair,  
Hunter College

I've been at Hunter since 2001. The semester I started teaching here I was pregnant with twins and quickly found out that there was no paid parental leave, meaning that I would have to either teach my full load or take a semester unpaid, in which case I would have to pay out of pocket for my health insurance. Faced with the possibility of caring for two newborns while teaching three classes, I chose to take the leave, even though I would be taking a major financial hit. I was thrilled when PSC-CUNY successfully negotiated for paid parental leave for full-time faculty so no one would have to go through what I did. Thanks to the PSC, CUNY is a more humane institution. I support the union's call to authorize a strike because in my time at Hunter, it has consistently fought for a better workplace for all of us.



Lindsay Beyerstein



**Deborah Gambs** (ABOVE)  
Assistant Professor of Sociology,  
Department of Social Sciences and  
Human Services  
Borough of Manhattan Community  
College

I will be voting "Yes" on the strike authorization because I believe CUNY faculty and staff need to stand up and fight for fair compensation for the work that we do. I believe that, for the long-term gains a strike could yield, it is worth the risk of fines. While the lack of an annual raise has affected me personally – making my studio apartment rent and student loan payments unaffordable, and requiring that I take in a roommate until our contract is resolved – my reasoning extends beyond my personal situation. There has been no viable rationale presented for why we shouldn't be

fairly compensated. This is a choice that the government and the administration are making. We live in an expensive city, our work is challenging, but we love our work with students and support the mission of CUNY. Why are we being subjected to what is truly a pay cut?

I'm voting "Yes" because when the governor and CUNY refuse to offer us a livable contract, they are sending a message to students: If you don't care about faculty's working and living conditions, you don't care about students' learning conditions. CUNY students deserve to have fairly paid professors who are not overworked and who have job security. They need and deserve faculty who can give them their full energy and attention.

The city and state must acknowledge that CUNY faculty and staff provide an education to students who are contributing members of the city and state. When we vote "Yes," we demand recognition and respect for the work that we do.

**Stephen Pekar** (RIGHT)  
Professor,  
School of Earth and Environmental  
Science  
Queens College

I am voting "Yes" on strike authorization because it is an outrage for any professional, in any field, to remain without a contract for over five years.

I am voting "Yes" because this is a demonstration of disrespect to the devoted thousands of men and

women who educate the next generation of young people.

I am voting "Yes" because our lack of a contract is a slap in the face to the struggling working-class families in New York City who see sending their kids to CUNY as one of the last remaining affordable options for accessing higher education.

I am voting "Yes" because we, the members of PSC, have tried every other option and have been left with *no other choice*. The draconian Taylor Law suppresses and weakens city unions to the extent that the powers that be feel empowered not to negotiate with our union. After five years, the lack of a contract at



CUNY, along with the administration's latest pathetic offer, is strong evidence for this. We must show the management of CUNY that PSC has teeth and that its members are committed to continue fighting until we get a fair contract!

## CUNY stalls contract talks

By CLARION STAFF

In a surprise move a day after its January 25 bargaining session with the PSC, CUNY management petitioned the New York State Public Employment Relations Board (PERB) to declare an impasse in contract negotiations between the two parties.

"If there is an impasse in contract negotiations, it has been created by management," wrote PSC President Barbara Bowen in a message to members. (See page 12.) After receiving an economic offer from CUNY on November 4, which included no retroactive salary increases for four of the six years PSC members have received no raises due to the lapsed contract – a 6 percent raise overall – the union presented a counteroffer on November 19. Instead of responding, CUNY, with no advance discussion, filed for the impasse declaration.

### OUTSIDE MEDIATOR

Bowen noted that in its statement on the impasse filing, CUNY appeared to try to lay blame on the union, despite the fact that management took five years to make an economic offer of any kind. CUNY General Counsel Fredrick P. Schaffer, the university's vice chancellor for legal affairs, cited the PSC's organizing for a strike authorization

vote as a rationale for the impasse filing, even though no strike has been planned and such a vote is well within the bounds of the New York State Public Employees Fair Employment Act (known as the Taylor Law).

While the Taylor Law forbids public employees to strike, it does not carry penalties for a vote such as the one the PSC is organizing that would authorize the union's Executive Council to call a strike, if determined to be necessary. In addition, the law governs other aspects of labor relations for public-sector workers, such as procedures for declaring and overcoming an impasse in contract negotiations.

After one of the parties petitions PERB for an impasse declaration, the board makes a determination as to whether an impasse has been reached. If PERB declares that the parties are indeed at an impasse, the Taylor Law governs the processes for parties to a collective bargaining agreement to seek mediation and arbitration of contract. The first step is for PERB to assign a mediator to assist the parties in their collective negotiations.

If mediation does not resolve the collective negotiations, PERB then appoints a fact-finding board, which

has the power to make public recommendations for the resolution of the contract and to assist the parties in reaching an agreement.

After the fact-finding board makes its report, if the impasse continues, PERB has the authority to take steps it deems appropriate to resolve the dispute. These may include additional recommendations to those made in the fact-finding report, or providing voluntary arbitration for the parties. In the unlikely event that deliberations reach the stage of fact-finding and

either CUNY or the PSC does not accept the recommendations of the fact-finding board, its report would be submitted to the CUNY Board of Trustees, which may take further action to reach an agreement.

While Bowen said that "the PSC is happy to work with an appropriate mediator if it will advance discussions," she added: "the real problem is not mediation; it's money."

In a press statement she said, "Governor Andrew Cuomo has included \$240 million for resolving CUNY contracts in his proposed budget. (See page 3.) CUNY should join the union in fighting to ensure that those funds are part of an overall increase in public investment in CUNY."

**A multi-step process to resolve negotiations**

# Understanding your prescription drug benefit

By LARRY MORGAN

Anyone who follows the news is aware of Martin Shkreli, the arrogant punk who recently bought a pharmaceutical firm with exclusive rights to a life-saving drug, then increased the price by thousands of dollars. (He has since been arrested on other, unrelated charges.)

Not too long ago, several major pharmaceutical firms rolled out game-changing treatment for Hepatitis C. The price tag in the United States for a 12-week course of treatment started at \$84,000, and soon could be twice that. The identical medication is available in Pakistan for \$15. No arrests are pending.

This is the culture of profiteering that dominates the prescription drug business. Overall, the costs of prescription drugs have nearly doubled since the last negotiated increase to PSC Welfare Fund (WF) contributions. If the Fund continues to strive for best practices at the lowest costs, we will find a way to continue our prescription benefit package. But this is no easy task.

## PRIOR AUTHORIZATION EXPLAINED

One way we maintain our benefits at an affordable cost is through the practice of prior authorization by the prescription benefit manager (PBM). CVS/caremark, the Welfare Fund's new PBM, is more diligently applying our longstanding prior authorization rules than did Express Scripts, so those covered through the WF may be subject to new approval requests from CVS/caremark for certain medications if a lower-priced equivalent is available.

## Spring pay dates for adjuncts

### Mark the calendar

#### SENIOR COLLEGES

February 18, 2016  
March 3, 2016  
March 17, 2016  
March 31, 2016  
April 14, 2016  
April 28, 2016  
May 12, 2016  
May 26, 2016

#### \*COMMUNITY COLLEGES

February 12, 2016  
February 26, 2016  
March 11, 2016  
March 25, 2016  
April 8, 2016  
April 22, 2016  
May 6, 2016  
May 20, 2016

\*This schedule does not apply to Kingsborough CC, LaGuardia CC and Guttman CC. These campuses are on a different academic calendar.

## Providing service to members as costs soar

The philosophy behind a prior authorization requirement is that the drug prescribed by a doctor may have a less expensive and therapeutically-equivalent counterpart. The Fund cannot pay for the more expensive version unless there is evidence that less expensive treatment was tried and found unacceptable due to intolerance or simple ineffectiveness. Some members may take umbrage that their doctors' orders are not followed to the letter, but the prescribers aren't invested in the survival and continuance of a viable drug benefit.

### THE PROBLEM

In the United States, the unbridled greed of drug companies is summed up in a statement published in January by pharmaceutical publication *Fierce Pharma* that cited an analyst who told the *Wall Street Journal* that "...the fact that prices continue to go up despite a public outcry – not to mention political pushback, in the form of congressional hearings and price-control proposals – shows just how resilient the US market can be." He added, "Unlike [in] other countries, there's no mechanism whereby regulatory authorities can control price."

Typically, benefit providers such as welfare funds share drug costs with the insured through deductibles and co-insurance, but these are rendered useless by coupons issued by manufacturers and "patient assistance" schemes that benefit some patients while shifting the resulting higher drug costs onto the to the insurance company (or your Welfare Fund) – all for a public relations boost to the drug companies. Efforts expended by manufacturers don't include cost reductions, only an expansion of the field of users – and reluctant payers.

### THE RESPONSE

The most common employer or insurer practice addressing increased costs has been to reduce or eliminate coverage, or to ramp up "cost-sharing" (in the form of higher co-pays or deductibles). Approaches used by others have virtually eliminated retiree coverage – at best, helping with Medicare Part D premiums.

The PSC-CUNY Welfare Fund takes a different approach, choosing a course of action that minimizes financial and therapeutic impact, and tries to encourage smarter use of available drugs. The WF has negotiated partnerships with Medicare that has allowed our over-65 retirees to maintain a high level of benefit with modest cost-sharing that is at times even better than the commercial plan that covers active (still-working) participants. But even this arrangement has seen steep increases in gross charges and a lessening of Medicare offsets.

As reported in the December 2015 issue of *Clarion*, the Welfare Fund Board of Trustees decided to change the fund's pharmacy benefit manager in order to assure that the benefit design allows the continuation of valuable services for all. Our experience with our previous PBM, Express Scripts, showed that it did not adequately capture Medicare subsidies. And there were persistent, ongoing problems with its mail-order service.

### THE NEW VENDOR

On January 1, the Welfare Fund's new pharmacy benefit manager – CVS/caremark for active

employees (and under-65 retirees) and Silver Scripts for Medicare retirees – replaced Express Scripts. We've invested great effort in notifying participants of the change and of the details of the new plan and we've been hard at work transferring utilization data and preparing to administer and adjudicate new claims. Of course, there have been difficulties along the way of the sort that might be expected with any such big change: wrong addresses or surprise encountered by a participant who missed opening the notification mailed to his or her home.

The service was intended to remain unchanged with the transition, but as anything that impacts 40,000 lives and 350,000 prescriptions per year, there are bound to be some differences. One difference we expect participants to regard as an improvement is that, in addition to being able to stick with one's regular pharmacy – be it a small business or an outlet in a national chain – the new program also makes it easier to fill prescriptions in nearly any locality via the vast network of CVS stores throughout the country. The new program also offers the ability to use a CVS store as if it were mail-



order to fill a 90-day maintenance supply, and offers in-store discount cards.

For the past four years, every PBM juggled its formulary (list of covered drugs) in an effort to keep costs in check and maintain a scheme affordable to those covered. CVS/caremark is no exception to this practice; just as Express Scripts did, CVS/caremark notified Welfare Fund participants of any changes to its list of approved drugs and suggested alternatives to participants who were taking medications that are not on the list.

### ADDRESSING CONCERNS

However, we are just learning that some Medicare members may not have been adequately notified and the matter is being addressed with CVS/caremark. The intricate pricing formulation, Medicare D, plus the Welfare Fund wraparound, further complicate matters.

Members who have questions about authorizations or any other aspect of their drug benefit are encouraged to contact customer care service at either CVS/caremark or Silver Scripts. The Welfare Fund website ([pscunywf.org](http://pscunywf.org)), provides links to the websites of CVS/caremark and Silver Scripts. And, as always, personal attention is also available through the Welfare Fund. We appreciate the patience of our members as we make this transition.

*Larry Morgan is executive director of the PSC-CUNY Welfare Fund.*

## Changes to Empire and GHI CBP insurance coverage

### Prior approval in some cases

By CLARION STAFF

Employees and non-Medicare eligible retirees should be aware that there are important changes to coverage through the Empire BlueCross BlueShield and GHI Comprehensive Benefit Plan (CBP) effective January 1, 2016. Benefits and co-pays are not changing, but many services provided on both

an inpatient and outpatient basis, such as maternity care (pregnancy and delivery), radiation therapy and home health care, will now require precertification. This can be done by calling the NYC Healthline at 1-800-521-9574. (This is the same number that has always been used for inpatient precertification and it is on your member ID card.)

If a member is a patient of a provider who participates in the plan's network, the provider will be responsible for taking care of the precertification process. Participating providers have been notified of the changes. Members using a non-participating provider are responsible for making sure that the precertification is obtained by calling the toll-free number.

All precertification requests must be made at least 10 days prior to any scheduled non-emergency service. Written notice of the determination will be mailed to members within 48 hours of Empire's receipt of all necessary information. For more information, including a list of services that require precertification, please visit [www.nyc.gov/hbp](http://www.nyc.gov/hbp).

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## CUNY CONCEIVED &amp; FUNDED AS A STATE PROJECT

# A history lesson for the governor

By STEPHEN BRIER

The ongoing financing and governance of the City University of New York system have been much in the news lately, thanks to Governor Andrew Cuomo. On December 15 of last year, the governor vetoed the maintenance-of-effort (MOE) bill, which had been overwhelmingly approved by both houses of the state legislature. The MOE bill would have committed the state to provide level funding for CUNY and the State University of New York in the coming years. The governor vetoed the bill despite a 15 percent rise in tuition fees and a decline of 3 percent in state investment per student during the five years he has been in office.

Disinvestment in CUNY – and, more generally, public higher education in New York State – has marked Governor Cuomo's higher-education policymaking. That policymaking appeared to take a dramatic turn on January 13, when the governor's Executive Budget message for the 2017 fiscal year called for a major realignment of funding for CUNY's senior colleges. Cuomo proposed that the city assume \$485 million of the \$1.2 billion annual operating budget for CUNY's senior colleges.

## WORLD-CLASS HIGHER ED

The governor justified this substantial state budget cut by indicating that the state's original assumption of responsibility for CUNY's senior college budget was essentially a response to the city's 1976 fiscal crisis. The time for such subsidies has passed, the message suggested, as the city is now awash in money. An alternative explanation for Cuomo's announced desire to transform the state's responsibility for CUNY surfaced on January 17, when the *New York Post* quoted anonymous "high ranking" political sources as saying that Cuomo's ultimate plan was a "dismantling" of CUNY and its merger into SUNY.

In the days that followed, the governor walked back his demand for a \$485 million cut to state funding for CUNY, saying that he and New York City Mayor Bill de Blasio would be discussing CUNY's funding. In the meantime, the governor's executive budget also included a line item of \$240 million for payment of retroactive, collectively bargained salary increases at CUNY.

Whatever the governor's ultimate intentions toward CUNY, an examination of the historical record reveals a very different, more complicated picture of the origins of the fiscal and governance relationships between the state and city with regard to CUNY. New York City's municipal college system originally consisted of four senior colleges (City College of New York, Hunter, Brooklyn, and Queens, the first two founded in the 19th century, the latter two in the 1930s), governed, after 1926, by the city's Board of Higher Education. These four senior colleges were built and subsidized largely, though not entirely, by the taxpayers of the city, with full-time, matriculating day students paying no tuition to attend. This unique municipal college system would confront enormous pressures to expand, however, first with the dramatic post-World War II surge in demand for higher education (driven forward by the GI Bill and the baby



Governor Nelson Rockefeller (right) walks with New York City Mayor Robert Wagner (center) and Brooklyn Borough President John Cashmore in June 1960. Rockefeller oversaw the creation of CUNY by the New York State Legislature in 1961, which involved bringing existing institutions, including Brooklyn College, under the CUNY umbrella with ongoing state funding.

boom) and then with the election in 1958 of Nelson A. Rockefeller as governor.

Rockefeller believed that New York State needed a world-class public higher education system to rival the one that was emerging in California. He therefore expanded what was at the time, a tiny State University of New York (SUNY) system, founded in 1948. He quickly built dozens of new SUNY campuses across the state, which ultimately made SUNY the largest public university system in the country. SUNY's expansion also raised important questions about how the city's existing and much admired municipal colleges might also be expanded. The municipal colleges were increasingly unable in this period to meet the demand for college degrees by city residents, many of whom were poor and working-class students of color. Finally, Rockefeller and state legislators had to decide if the state and city higher education systems should be integrated.

Through a complex series of negotiations, Rockefeller and the state legislature agreed to let the municipal colleges take on an inde-

pendent and expanded role to help the state realize its larger, higher-education mission. Rockefeller signed a state law in 1961 that formed the City University of New York. Hailing CUNY as "a comprehensive public university structure in the city," Rockefeller, working with state legislators, agreed that year to make a substantial state contribution to CUNY's growth, providing one-third of the costs for freshmen and sophomores attending CUNY's four senior colleges, plus one-half of CUNY's debt service costs for capital construction.

## CUNY'S EXPANSION

According to the records of the CUNY Board of Higher Education, New York State increased its annual contribution to CUNY's operating budget from about one-third of the total costs in 1961 to approximately 45 percent by the time Rockefeller left office in 1974. That contribution, along with the creation of the City University Construction Fund in 1964, allowed CUNY to build a dozen new senior and community colleges

across the five boroughs and expand to nearly a quarter-million undergraduates by the early 1970s.

## STATE SUPPORT FOR CUNY & SUNY

New York State's commitment to help fund CUNY obviously expanded significantly in 1976 when Governor Hugh Carey agreed to underwrite CUNY's senior college budget with state funds. But the state's major support of CUNY's operating budget clearly predated the fiscal crisis. Governor Cuomo's assertion that the state's contribution to CUNY should now be reconsidered because of the city's shifting fiscal fortunes undermines the basic rationale for the state's longstanding commitment to provide funding for both SUNY and CUNY, the twin pillars of the state's public university system.

Do we really need to remind Governor Cuomo that New York City residents also pay state taxes and that CUNY's senior colleges are as entitled to major ongoing state support as any of SUNY's various senior college campuses across the state? New York State and New York City must continue to provide CUNY with the necessary operating funds to meet the needs of poor and working-class city residents, whose future success depends on their access to affordable, publically supported and quality higher education.

*Stephen Brier is a historian and professor in the Urban Education PhD program at the CUNY Graduate Center. He is co-author with Michael Fabricant of the forthcoming book, Austerity Blues: Fighting for the Soul of Public Higher Education (John Hopkins University Press, 2016).*

## Friedrichs: Unions' free speech boon

Continued from page 10

– strikes could be launched in the days and weeks after.

Outlets like *In These Times* are great for offering alternative perspectives that contribute to a broadening debate, but I sure as hell hope that the unions that have the most to lose from a "bad" Friedrichs decision, and who have done most of the heavy lifting on winning in court, are also putting together alternative war rooms to figure out Plan B.

The more that we visibly and loudly plan and prepare our response, and calculate the potential upsides of a "bad" decision and maybe (some of us) even get a bit excited about the chaos we can create post-Friedrichs, the more likely that five members of the Court might realize that Alito is pushing for them to make a very big mistake. But if the Supreme Court goes ahead and tears up the current labor law regime in a nakedly partisan act in the middle of a presidential election, then we had better be prepared to create the chaos that the Court is inviting.

*Shaun Richman is a former organizing director for the American Federation of Teachers. His Twitter handle is @Ess\_Dog. He is a proud alumnus of Queens College. This article first appeared online at [inthesetimes.com](http://inthesetimes.com).*

## A higher-ed mission for the state

## THE RIGHT TO STRIKE

*Friedrichs*: Unions' free-speech boon?

By **SHAUN RICHMAN**  
In These Times

As the spring semester starts up at the City University of New York, union activists continue the painstaking work of preparing for a strike authorization vote. Faculty and staff at CUNY have been working without a contract for over five years. While Governor Andrew Cuomo disinvests in the primary college system for working-class New Yorkers, management proposes salary increases that amount to decreases after inflation.

The parallels between the struggle to save CUNY and the struggle over the future of Chicago Public Schools are obvious, with one major exception: it is totally illegal for teachers to strike in New York. The last major union to violate the draconian Taylor Law, Transport Workers Union Local 100, was fined \$2.5 million for waging a 60-hour strike that shut down the city's subway and bus system in 2005. On top of that, the union's ability to collect dues money was suspended for a year, its president jailed for 10 days and each individual striker was fined two days' pay for each one day on strike.

But in an interesting twist, the anti-union *Friedrichs v. California Teachers Association* case currently under consideration by the Supreme Court could actually lay the groundwork for making public employee strikes in New York and elsewhere constitutionally protected free speech.

## SHUTTING OUT UNIONS

One could understandably be confused about how a collective protest that involves refusing to work could even be illegal in a country that prides itself on its supposed pursuit of life, liberty and whatnot. How is a strike and picket line not a constitutionally protected exercise of free speech and free assembly? And how is prohibiting workers from striking not a violation of the Thirteenth Amendment's protection from involuntary servitude?

Early on in our nation's history, conservative courts treated unions as criminal conspiracies and strikes as interfering with employers' property and contract rights and with congressional responsibility to regulate interstate commerce. Rooted in imported English common law and beginning as early as 1806, these instances of what early unionists derided as "judge-made law," should be regarded as a betrayal of the American Revolution.

As detailed in William Forbath's *Law and the Shaping of the American Labor Movement*, unions' legislative agenda during the 19th and early 20th century was basically to get the government and courts out of labor disputes. Unions sought to have labor legally defined as "not a commodity" and to restrain judges from issuing injunctions against pickets and boycotts, with mixed results.

By the time the National Labor Relations Act (NLRA) was passed to encourage and regulate collective bargaining, its framers recognized that if they rooted the act's authority in the First Amendment, it would not be found constitutional by the conservative Supreme Court. And so labor rights in this country are rooted in the Interstate Commerce Clause, which is why they are so wonky.

Public sector unions, whose ability to function is immediately at stake in the *Friedrichs* case, are not covered by the federal labor act. Instead, many states passed laws that are modeled on the NLRA, but with a crucial difference: when bosses get to pass laws that apply to *their* employees (which, if you think about it, is exactly what public sector labor law represents), they're guaranteed to make it even more unfavorable than private sector rules.

Unsurprisingly, many states make strikes by public sector employees like the CUNY faculty and staff totally illegal, or else severely restrict them. Many states also make

Alito – are lodging a wildly expansive argument that *every* interaction that a union has with its government employer is *inherently* political. Bargaining demands, grievances, labor-management committees, job actions: all of it, goes the *Friedrichs* argument, is political, thereby making the collection of agency fees compelled political speech.

Let's think about some of the implications of this argument. For starters, the Taylor Law that tells CUNY faculty and staff that they will be fined and their leaders imprisoned if they strike seems clearly to be a coercive restriction on their chosen method of political speech. If the Professional Staff

more of a burning desire to talk about! But they can't – at least at the bargaining table.

However, once those bargaining sessions between unions reps and their government employers are redefined by the Supreme Court to be political speech, any law restricting what can be said, what items can be raised, seems to be a restriction by the government on those union members' free-speech rights. Perhaps the New Jersey Education Association and American Federation of Teachers New Jersey locals should celebrate their new rights with a coordinated campaign to lower class sizes across the state?

Perhaps most deliciously, the right-wing *Friedrichs* effort is in direct opposition to Governor Scott Walker's offensive agenda in Wisconsin. Walker's anti-union Act 10 did a lot of nasty things to public employees, some of which will continue to stand. It took away payroll deduction and forced unions to annually recertify as the collective bargaining agents for their members.

But what mostly caused union membership to plummet in the state was that certified unions were prohibited from bargaining over anything of substance; not just raises that exceed inflation, but duties, hours and work schedules and every other everyday issue that workers want to have a voice at work about.

If Justice Alito gets his way, then Scott Walker is suddenly massively violating the free speech rights of Wisconsin public employees. I humbly suggest that every union still certified demand to bargain the day after the decision. They could throw their old contracts on the table and sue every school board and state agency that refuses to discuss those items. I'd also suggest that they begin drawing up some new picket signs.

## LABOR NEEDS PLAN B

The hubris and general stupidity of Justice Alito – who tried and failed to get this ruling in last year's *Harris v. Quinn* – and the vast right-wing conspiracy of union-busters who raced this case through the courts in less than a year, perhaps shouldn't be surprising. They just want to kill the unions and they're used to getting their way.

But, in their narrow-minded pursuit of denying unions in the public sector agency fees, they are mindlessly about to *just hand to us* free speech rights that conservative jurists and politicians have studiously avoided granting to union efforts for over two centuries.

Unions' and their allies' public messaging against the *Friedrichs* assault has focused on how it is an assassination on the labor movements, a nakedly partisan attempt to weaken a field operation that helps turn out votes against the GOP and how it will deprive many thousands of working people – particularly women and workers of color – from a pathway to a better life. And all of that is true. And unions have put together a very robust defense against *Friedrichs*, with an impressive array of supporting briefs, that is right on the facts, right on the legal precedents and right on the politics.

But labor also needs more people engaging in a debate about what, in theory, could come the day after an adverse *Friedrichs* decision. That shouldn't be limited to toying with the legal implications of the Court's logic, but also what kind of mobilizations, boycotts and – dare we dream?

Continued on page 9



PSC members rally outside of CUNY Chancellor James Milliken's apartment building on October 1, 2015.

many union demands illegal, either by statute or by judicial decisions. The *Friedrichs* case, by inserting public employees' First Amendment rights into collective bargaining, could give unions a very useful tool for reversing many anti-union measures that are on the books.

## COLLECTIVE BARGAINING = SPEECH?

Public employees have actually enjoyed a degree of free speech protections at work for some time, making them the only workers in America who do. Remember, the First Amendment only prevents the government from restricting a citizen's rights of free speech and assembly. Since public employees work for the government, their employer is constitutionally forbidden from restricting or coercing their political speech.

Historically, this has been limited to actual political speech (supporting a candidate, wearing a political button, speaking in the press and the like). Unions have carefully kept their political funds and activity separate from the agency fees that they collect from the public employees they are required to represent by law. Right-wing efforts to fight the ability of unions to collect dues and fees by arguing that the political activity of public employee unions is compelled political activity have been decisively rejected since 1978.

So, in order to overturn this long-settled precedent, the parties behind *Friedrichs* – egged on by Justice Samuel

Congress is hit with any penalties for either planning or going through with a job action, one hopes they can time their appeals to reach higher level courts after the *Friedrichs* decision comes down in June.

Across the river in New Jersey, another state with strong unions and shitty labor law, the scope of items that unions are even *allowed* to raise at the table is restricted by statute and a number of horrible court decisions.

One area of restriction is a strong prohibition on pattern bargaining (i.e. one bargaining unit aligning its demands with another bargaining unit's settlement). The most farcical example of this is Rutgers University, where management habitually creates new job titles that they argue fall outside the bounds of the existing faculty bargaining unit.

When the union organizes these new groups (adjuncts, post-docs, summer and winter instructors), management threatens legal hellfire and judicial damnation when the union seeks the same rights and benefits for all their members. The union could, however, propose one contract, comprehensive of all of the job titles it represents, in the next round of bargaining and tell the state university to go ahead and take them to court when they stick to their guns.

More galling: teachers unions in New Jersey are prohibited from even raising demands around class size and staffing levels. I can think of few issues that teachers have

## Planning for the day after the decision

## CONSERVATIVE JUSTICES SIGNAL ANTI-UNION OUTCOME

# Friedrichs oral arguments raise alarm

By JAKE BLUMGART

Here is the fourth article in our series examining the issues raised in *Friedrichs v. California Teachers Association*, a case currently before the US Supreme Court that could have profound implications for the future of public-sector unions such as the PSC.

If the questions asked by the Supreme Court justices during oral arguments offer any indication, the outcome of *Friedrichs v. California Teachers Association* (CTA) could dramatically alter the fate of public-sector unions. Experts believe that the labor movement is likely to face an unfavorable ruling when the decision is handed down this spring.

"It seems like this is going to be an open-and-shut case for this Supreme Court," Penny Lewis, academic director of Labor Studies at CUNY's Murphy Institute, told *Clarion*.

At oral arguments conducted on January 11, the four liberal justices seemed largely in sympathy with assertions made by the lawyers representing organized labor and the state and local governments who bargain with unions. But members of the Court's conservative majority (with the exception of Justice Clarence Thomas, who, as usual, did not speak) signaled a willingness to accept arguments against the union position.

## DEFINING POLITICAL ACTIVITY

Although the questions posed during oral arguments do not always forecast the eventual voting patterns of the Court, prominent Court-watchers are predicting a tough outcome for the unions.

At stake are the "agency fees" (sometimes called "fair-share fees") that require every worker in a bargaining unit to pay a fee to cover the costs incurred by the union that is required to represent them for the services provided to employees in the unit, such as collective bargaining and grievance proceedings. American labor law requires unions to represent every employee in a bargaining unit, regardless of the worker's membership status in the union. Non-members, however, are exempt from paying for a union's political activities, usually deemed to mean lobbying or participation in election campaigns.

Part of what is being argued in *Friedrichs* is the very nature of a "political activity." The handful of public-school teachers who – together with the Christian Educators International Association, a right-wing organization that seeks to bring religion into public schools – brought the suit against the CTA contend that bargaining for better wages and working conditions constitute political activities. The petitioners in *Friedrichs* argue that virtually any activity public-sector unions engage in is political.

Forcing non-members to subsidize the work a union is required by law to do on behalf of all employees, the plaintiffs argue, is an intrusion on their right to free speech. (See the September 2015 issue of *Clarion*, "SCOTUS case could gut unions.")

The radical reinterpretation of existing law that the petitioners are arguing would overturn the ruling of *Abood v. Detroit Board of Education*, a 1977 case that cemented the legality of agency fees. Because precedent in prior Supreme Court decisions came down on the side of organized labor, the petitioners who seek to overturn *Abood* actually asked all the lower courts to rule against them without a trial. (Lower courts



Lacy Barnes, a college educator from California, addresses union members outside the Supreme Court on January 11, 2016, as the Court heard oral arguments in the case of *Friedrichs v. California Teachers Association*. Barnes started an online petition to the Center for Individual Rights, the conservative law group representing the anti-union plaintiffs, urging it to stop attacking workers and their right to join a union. It has been signed by more than 100,000 people.

cannot rule against a Supreme Court decision, and the lack of trials in lower courts sped the case to the Supreme Court docket.)

The widespread adoption of agency fees came about in the 1970s, after public unionism became pervasive, and was meant in part to subdue the more militant tendencies in the movement. Because of the shaky legal ground on which public-sector unions stood at that time – the National Labor Relations Act only applies to the private sector – many labor leaders felt that strikes and activism were needed to prove, to both the membership and the employers, the seriousness of the nascent unions. In 1977, the year *Abood* was decided, there were 298 major work stoppages. But in the *Friedrichs* oral arguments, the term "labor peace" was not used once by either side, perhaps because in 2014 there were only 11 major work stoppages. No year since 1977 has seen as many strikes again.

"The specter of working-class revolt has receded, the strike rates have dramatically decreased, and the power of unions has dramatically decreased," Lewis said. This Court, Lewis explained, is not under the kind of political pressure to ensure stability felt by the Burger Court in the 1970s. "The idea that you would have to use a concession like agency fees to forestall disruptions is off the table," she said.

## WHERE JUSTICES STAND

Court-watchers had speculated that either Justice Antonin Scalia, who has previously expressed sympathy for some of the arguments advanced by the union-side lawyers, or Justice Anthony Kennedy, a Reagan appointee known for breaking ranks with his fellow conservatives, would prove favorable to the labor side. But during the argument of the *Friedrichs* case, both men strongly hinted that, despite the slender legal reed on which the petitioners' case rests, they are ready to buy into the argument that anything a public employee union does, no matter how quotidian, is inherently political.

"The problem is that everything that is collectively bargained with the government is within the political sphere, almost by definition," Scalia, who was also appointed by Ronald Reagan, said during oral arguments.

Kennedy appeared to concur. "It's almost axiomatic," he said. "When you are dealing with a governmental agency, many critical points are matters of public concern."

Chief Justice John Roberts, appointed by George W. Bush, appeared to be in the same camp, asking California Solicitor General Edward Dumont, who represented the state on the same side as the union, to name an issue covered by collective bargaining that is not "a public policy question." Dumont offered up the examples of "mileage reimbursement rates" and "public safety."

"It's all money..." Roberts replied. "That's how much money is going to have to be paid to the teachers. If you give more mileage expenses, that costs more money... And the amount of money that's going to be allocated to public education as opposed to public housing, welfare benefits, that's always a public policy issue."

Justice Sonia Sotomayor revisited this argument during the rebuttal offered by Michael Carvin, the lawyer for the petitioners. Sotomayor, who was appointed by Barack Obama, noted that certain uses of agency fees, such as employee training for workplace and fire safety, are clearly non-political. But Carvin would not concede the point.

Even these uses "are basic to our democracy," Carvin said in his rebuttal to attorneys representing the union and the State of California, "and that's why we have an absolute right not to subsidize it." In other words, the plaintiffs' lawyer was saying that the very imposition and conduct of such training was political.

"They do fire training. They do safety training," said Carvin of the union. "Can you think of something that's more a matter of public concern, that's more of an ideological point, that's more important? And yet they dismiss these as somehow prosaic issues."

He then took aim at teacher training conducted by unions, noting that among so-called "education reform" circles, the class size of such trainings is a matter of concern, implying that those paying agency fees may not agree with the limits imposed on class sizes. "The unions have their right to take their side of that view," Carvin argued. "What they don't have," he said, "is a right

to demand that the other side subsidize their views on these essential questions of basic public importance."

Justice Elena Kagan, also an Obama appointee, repeatedly pointed out the bizarre nature of the *Friedrichs* case, which does not build on any existing case law. Instead the basis for the petitioners' case seemed to be conservative disdain for *Abood* expressed by Justice Samuel Alito, a George W. Bush appointee, in decisions in two recent cases: *Knox v. Service Employee International Union* (2012) and *Harris v. Quinn* (2014). Because there is no factual record for the *Friedrichs* – no actual case law on which to base it – it is instead being fought on highly theoretical, philosophic and political grounds.

## OVERTURNING PRECEDENT

If *Abood* is overturned, the agency-shop arrangements of public-sector unions will be thrown into question. Although the exact ramifications of such a loss are not immediately clear, there is little question that public-sector unions would lose substantial amounts of revenue. The Court could even make union membership an "opt-in" proposition in public-sector unions. Yet the unions will still be required to perform the same duties and provide the same services, whether or not those they represent deign to pay for them.

The result will be hugely taxing and, in some cases, insupportable. The political and workplace power of these unions will wane, at least in the short- to medium-term, until such time as the unions recalibrate their organizing strategies.

"I tell my students – and I like to think – that [the Supreme Court justices] aren't political actors," says Frank Deale, professor of constitutional law at the CUNY School of Law. "I'd like to think they have respect for precedent, they have respect for their own decisions, and the Constitution, and respect for the reliance over a certain number of decades on established law. But maybe they'll just run right over it. It certainly does look that way."

Jake Blumgart is a reporter and editor based in Philadelphia. He contributes to publications including *Slate*, *Vice*, *Next City*, *the American Planning Association*, and *the Philadelphia Inquirer*.

## A radical reinterpretation of current law



## 15-MINUTE ACTIVIST

### Join PSC lobbying efforts

The state and the city will finalize their budgets in the coming months. Adequate CUNY funding for the university, its students and the PSC-CUNY contract hangs in the balance. Governor Andrew Cuomo included \$240 million in his Executive Budget “to support retroactive salary increases,” and we need to hold state leaders to this promise and ensure that proposed state

funding cuts remain off the table.

More money – not less – should be invested in CUNY. Concerted pressure on lawmakers is crucial in the coming weeks. Your university, your students and your contract depend on it.

Sign up ([psc-cuny.org/2016\\_lobbying](http://psc-cuny.org/2016_lobbying)) to do your part in PSC’s targeted political campaign.

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# Show CUNY you’re not buying it

By **BARBARA BOWEN**  
PSC President

## Impasse petition redefines chutzpah

On January 26, with no advance discussion with the PSC, CUNY management declared that contract negotiations are at an impasse.

Their temerity is breathtaking.

This is the same CUNY management that refused for five years to make an economic offer to the union, and then proposed a salary cut when the offer finally came.

This is the same CUNY management that has made one and only one economic offer, refused to make an economic response to the PSC’s 14 percent counterproposal, and then promptly declared impasse.

This is the same CUNY management that has failed spectacularly to win contract funding from New York State, and then refused the union’s offer to make a joint public statement about the need for more support.

This is the same CUNY management that consistently rejected the union’s requests for round-the-clock bargaining, and then complained about how many issues are unresolved.

### LACK OF POLITICAL WILL

I am tempted to say that CUNY management has redefined chutzpah.

If there is an impasse in contract negotiations, it has been created by management. The declaration of impasse and the statement that went with it appear designed to portray the union as unreasonable and suggest that the problem in negotiations is merely a matter of discussion – when the real problem is management’s failure to deliver on economics and their position that we should accept a salary cut.

Despite his repeated pronouncements about the priority of settling the PSC contract, Chancellor James B. Milliken has failed to exhibit the political will to get the deal done. Milliken has been unable – or perhaps unwilling – to secure the funding necessary for a contract that, at the very least, keeps up with inflation or matches the modest raises provided to all other public employees in New York. As a result, he has failed the



PSC President Barbara Bowen joins with the crowd in a chant urging the state to adequately fund CUNY at a press conference outside the New York City office of Governor Andrew Cuomo on January 11, 2016.

thousands of people who work for CUNY and imperiled the quality of education for CUNY students. The gap between the imagination and fierceness I see every day in members’ work and the intellectual laziness of the CUNY administration is staggering.

Regardless of CUNY management’s motives in declaring impasse, however, the PSC leadership is open to any legitimate approach that could lead to a fair and speedy resolution to our contract. CUNY management has requested that the Public Employment Relations Board (PERB), which acts almost as a court of law for union disputes, assign a mediator “to assist the parties in their efforts to reach a new labor agreement.”

The PSC is happy to work with an appropriate mediator if it will advance discussions. Should a mediator be assigned, we will do our utmost to make mediation productive. But a declaration of impasse also has the potential to create enormous delay. If PERB does find that the parties are at impasse (a likely outcome once one party makes a declaration), time will be required to assign a mediator, familiarize the mediator with the issues, and allow the me-

diator to work. If mediation fails, the parties then enter into a process of fact-finding. Fact-finding for complicated contracts like ours can take up to a year. And the end-product of the fact-finding is a non-binding recommendation for settlement of the contract, not an agreement made by the parties themselves.

The PSC is adamantly opposed to anything that would slow the resolution of the contract. Management may have the luxury of enjoying their large salaries while waiting for a raise, but we do not. There are PSC members who have been evicted from their apartments because they could not meet increases in their rents and PSC adjunct members who have to rely on food stamps. We cannot wait. The union will continue to demand bargaining sessions directly with CUNY, and we will continue to work aggressively with Albany and City Hall for the funds we need.

The real issue in this contract is not mediation; it is money. What CUNY management should be doing instead of slowing down negotiations with a declaration of impasse is working with the PSC to secure the funds

necessary for decent raises and restoration of CUNY’s budget – without reliance on further tuition increases.

There is a rare opportunity this year. In a breakthrough for the PSC, Governor Andrew Cuomo included in his budget proposal a line item for \$240 million “to support retroactive salary increases needed to ensure fair and affordable agreements with CUNY’s labor unions.” That

### Inadequate funding for PSC contract

addition is the direct result of PSC advocacy and pressure. The proposal is complicated, however, because it is linked to a massive proposed cut in state funding for CUNY and a call for the city to make up the difference. The governor almost immediately issued a “clarification” that the cost-shift “won’t cost New York City a penny.” Mayor Bill de Blasio repeated this promise at [DATE TK] legislative hearing on the state budget, where he also called for a new contract for the PSC.

We have from now until April 1, when the final budget is due, to gain support in Albany for budget that includes both the \$240 million for retroactive raises and an increase in overall state funding. At a bargaining session on January 25, the union

team called on management to seize the opportunity presented by the earmarked retroactive money and work with us to get the contract done by the end of March. They declined.

Management may not have the will to fight for CUNY faculty, staff and students, but the union does. Start now: sign up at [psc-cuny.org/2016\\_lobbying](http://psc-cuny.org/2016_lobbying) to do your part, whether it is a phone call to a legislator or a visit to a local office or a trip to Albany. Every action counts.

### PUBLIC STRIKE VOTE

Here is the real lesson from CUNY management’s attempt to blame the union for their own failure to gain the necessary funds for a fair contract: public action by the union has public power. Management’s statement about its filing at PERB cites “the PSC’s publicized campaign strategy to seek a strike authorization vote and a public commitment by its members...” Of course it’s public! What is the power of a strike authorization vote if not as a public statement of strength and unity? The union will negotiate with every drop of energy we have and we will do everything we can to achieve a fair contract without a strike, but we cannot and will not apologize for organizing our membership to stand up for what we deserve.

Now more than ever, it is important that we vote “Yes” to give the union’s Executive Council the power, if needed, to call a strike or other job-action. What gives the PSC leverage in negotiations in Albany, City Hall and CUNY’s corporate headquarters is our track record of being strategic, acting together and being willing to take risks for what we believe in. More than a thousand people signed up when I invited members to pledge their “Yes” vote on strike authorization. Today, I am inviting you again. We need all the power we can generate because we are up against a management that thinks we deserve a salary cut and a state government that has pursued a policy of austerity. CUNY’s response to our strike authorization vote tells us how much power that vote has. Join me and more than 1,700 of your fellow PSCers today in announcing that you will vote “Yes.” Every name makes the union stronger. Add yours at [tinyurl.com/PSC-commitment-form](http://tinyurl.com/PSC-commitment-form).

Erik McGregor