

Clarion

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FEBRUARY 2013



TEACHING LOAD

Time for a change

John Jay faculty seek recognition for research time.

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Pat Arrow

TEACHING PSC-CUNY 101

CANDIDATES' SCHOOL

Marcia Newfield, VP for Part-Time Personnel, speaks during "PSC-CUNY 101," a two-hour seminar on public higher education and CUNY for candidates running for New York City Council in 2013, held at the PSC Union Hall on January 26. The thirty-three candidates were provided with detailed analysis and encouraged to

become effective advocates for CUNY faculty, staff and students. The PSC will be active throughout 2013 as it works with labor and community allies to shift New York City away from the politics of austerity. For more, see a roundtable interview with five members of the union's Legislative Committee. **PAGE 10**

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President resigns

Medgar Evers College President William Pollard announced his resignation after a rocky term in office. Faculty and staff say the college is in crisis. **PAGE 2**

HISTORY LESSON

Looking at the reel Lincoln

Steven Spielberg's new movie about the 16th president explores the passage of the Thirteenth Amendment, which outlawed slavery. A historian takes a closer look. **PAGE 11**

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Rejection on many fronts

From the annual convention of the Modern Languages Association (MLA) to an array of faculty governance bodies, Pathways continues to meet resistance. **PAGE 7**



FRACKADEMIA

SUNY shuts Shale Institute

SUNY Buffalo has its reputation called into question after launching, and then closing, an institute with close ties to the oil and gas industry. **PAGE 4**

Brooklyn College backs academic freedom

By PETER HOGNESS

As *Clarion* went to press, PSC President Barbara Bowen joined others in supporting Brooklyn College President Karen Gould's defense of academic freedom after BC's political science department came under attack for co-sponsoring a forum on the BDS movement, which calls for boycott, divestment and sanctions against Israel. The college came under fire from critics who wrongly equated the department's co-sponsorship with endorsement of the speakers' views. Political Science Chair Paisley Currah noted that the department "welcome[s] – indeed encourage[s] – requests to co-sponsor speakers and events from all student groups, departments and programs."

In her February 4 statement, President Gould said:

"Students and faculty, including

academic departments, programs, and centers, have the right to invite speakers, engage in discussion, and present ideas to further educational discussion and debate. The mere invitation to speak does not indicate an endorsement of any particular point of view, and there is no obligation, as some have suggested, to present multiple perspectives at any one event.... Providing an open forum to discuss important topics, even those many find highly objectionable, is a centuries-old practice on university campuses around the country."

In a February 5 editorial, *The New York Times* said it "strongly defend[s] the decision by Brooklyn College President Karen Gould to proceed with the event, despite withering criticism by opponents and threats by at least 10 City Council members to cut city funding for

the college. Such intimidation chills debate and makes a mockery of the ideals of academic freedom."

In her letter to Gould, Bowen wrote that the PSC appreciates her "holding firm, even when under fire, to the principles of free speech and academic freedom." Defending the University's ability to serve as a home for open debate "is upholding the role of

The PSC, NY Times & Bloomberg all on the same side

the university as a public good," wrote Bowen. "The entire society gains when ideas – both good and bad – are exposed to the light of public discourse." This is one of many reasons, she said, that "the PSC-CUNY Collective Bargaining Agreement makes academic freedom a contractual right."

In a separate letter to a group of elected officials, the PSC president reminded them that "academic freedom

is precisely the freedom to express a position even when that position is deeply unpopular." The officials had written to Gould, demanding that the political science department withdraw its co-sponsorship of the forum. Bowen said they should retract that demand, adding, "A college president who stands up for academic freedom at CUNY – where academic freedom has come under repeated assault in recent years – should be applauded by 'progressive' politicians, not bullied."

MAYOR SPEAKS OUT

On February 6, Mayor Bloomberg spoke up in support of both the college and the political science department. "I couldn't disagree more violently with BDS as they call it, boycott, divestment and sanctions," the mayor told reporters. "But I could also not agree more strongly with an academic department's right to sponsor a forum on any topic that they

choose. I mean, if you want to go to a university where the government decides what kinds of subjects are fit for discussion, I suggest you apply to a school in North Korea."

The mayor rebuked City Council members who had explicitly threatened Brooklyn College's funding over the incident: "The last thing that we need is for members of our City Council or State Legislature to be micromanaging the kinds of programs that our public universities run, and base funding decisions on the political views of professors. I can't think of anything that would be more destructive to a university and its students."

Text of Bowen's letters and more information are available at www.psc-cuny.org.

Bowen invited PSC members to write to *Clarion* (see below, left) with their own points of view. An academic union, she noted, is always home to many different opinions.

MEC president resigns, but stays

By JOHN TARLETON

Medgar Evers College President William Pollard announced his resignation on January 30. His departure came after three-and-a-half rocky years in office and mounting problems at the college this semester, culminating with the school being warned this November that its accreditation was at risk.

The news was widely welcomed at the college. "We had an incompetent president," said PSC Chapter Chair Clinton Crawford. "There were no more arguments that he should stay."

But while many faculty and staff were cheered at the prospect of a new president, they also voiced concerns that Chancellor Matthew Goldstein

Faculty want interim leader

has not designated an interim president. Instead, Pollard is to remain in office until the search for his successor has been completed, a process that could take six months or longer.

"We need to have an interim president so we can deal with the immediate problems we face in regard to accreditation," said Sallie Cuffee, chair of the Medgar Evers College (MEC) Faculty Senate, who noted that CUNY has often named interim leaders after presidential resignations.

After Pollard was named president of MEC in 2009, he and his newly appointed provost, Howard Johnson, quickly alienated faculty,

students and community supporters of the college. Faculty votes of no-confidence were approved by wide margins in December 2010 and again

in April 2012, the latter by a vote of 136 to 13.

In the Fall 2012 semester, Medgar Evers College went through a series of crises. Problems with the campus computer labs meant they could not be used for the

first three weeks of the semester, and a number of students received notices that they were behind on tuition payments that were supposed to have been covered by financial aid. Ongoing cuts to the college's

Pollard's record marked by mounting problems.

Learning Center had reduced its number of tutors by half. On Oct. 17, several hundred students walked out of their classes and held a rally in MEC's main plaza, demanding better student services and the resignation of Pollard and Provost Johnson.

With an 8% decline in student enrollment and its own projections of a \$3-million deficit, on October 3, the Pollard administration directed department chairs to formulate plans for reducing Spring course offerings by as much as 30%. The administration backpedaled on course reductions after protests by the PSC and Faculty Senate, but the college was shaken. The downward spiral continued in November when the Middle States Commission on Higher Education officially warned MEC that its accredi-

tation was at risk, due to a failure to comply with three of the 14 criteria used by the Commission. MEC is required to provide a monitoring report on September 1 of this year, documenting that it meets all 14 standards. If the Commission determines that the college has made insufficient progress, the school can be put on probation, which can be followed by either suspension or removal of accreditation.

"It's going to take many years for the damage to be repaired properly," Crawford said.

SEARCH PLANNED

In a January 30 statement, Chancellor Goldstein announced that a presidential search committee had been formed that included seven members of the Board of Trustees and Lehman President Ricardo Fernandez. Faculty and student representatives remain to be appointed. The statement affirmed that Pollard would continue as president until a successor was chosen.

Brenda Greene, professor of English at MEC and executive director of the college's Center for Black Literature, served on the search committee that selected Pollard in 2009. That panel began meeting in April of that year and brought finalists to campus by May, a schedule that Greene says was too hasty: CUNY should learn from that experience, she told *Clarion*, and be sure to allow time for a full and thorough search process. Meanwhile, she said, CUNY should install an interim president who can rally a demoralized campus.

Student activists who mobilized opposition to Pollard last fall also want an interim president, and they are backing former Brooklyn Congressman Major Owens for the position. Owens is currently a distinguished lecturer in MEC's Department of Public Administration.

PSC Chapter Chair Crawford said an interim president could help bring the campus together to face the challenges ahead. "It's our institution and we need to make sure to protect it," he told *Clarion*.



LETTERS TO THE EDITOR

WRITE TO: CLARION/PSC, 61 BROADWAY, 15TH FLOOR, NEW YORK, NY 10006.
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School bus drivers' strike

● When it comes to school buses, do you think that the cheapest driver is the best driver – no matter how inexperienced, tired or stressed out they might be? If that's your view, then by all means don't support the school bus drivers' union in its strike to maintain seniority protections.

But if you're a New York City public school parent, and it's your child on that bus, you may want seniority to count for something. You may not want to put a low-wage, high-turn-

over workforce behind the wheel. If you think union busting is bad for our kids' safety, call Schools Chancellor Dennis Walcott and tell him.

Kristin Lawler, assistant professor
College of Mount St. Vincent
[& former member of the PSC]

Concurs with the kudos

● Reading in the January *Clarion* about the accolades the paper has received during 2012, I must agree. Of the three union publications that I receive, it is the only one I read cover-to-cover. *Clarion's* staff deserves the honors!

Paul Sheridan
Brooklyn College (retired)

Solving the mold problem



Labor, faith and community leaders gathered at City Hall January 24, to call on Mayor Bloomberg to use Superstorm Sandy recovery funds to hire more than 600 skilled union workers to address mold problems that have prevented thousands of New Yorkers from returning to their homes since Hurricane Sandy.

Letters to *Clarion* may be on any topic, but should be less than 200 words and are subject to editing. E-mail your letter to *Clarion* editor Peter Hogness (phogness@pscmail.org) or fax it to 212-302-7815.

Seeking change in teaching load

By JOHN TARLETON

Monica Varsanyi, an associate professor at John Jay College, worries that many of her most talented and research-productive peers are fleeing for opportunities at other universities. Especially after using up the reassigned time that the contract provides to junior faculty, she says the 4/3 teaching load makes it hard to sustain research or give students the individual attention they deserve.

History Department Chair Allison Kavey is so stressed from her workload that she has cracked two molars while grinding her teeth at night. She says many of her colleagues also suffer from insomnia, cracked teeth and other stress-induced ailments.

Kavey and Varsanyi are part of a new generation of full-time faculty hires who have rejuvenated John Jay in the past seven years, drawn to a college seeking to boost its research profile. Now younger faculty members are joining with their colleagues in a campaign by the campus PSC chapter, to press the college administration to reduce the effective annual teaching load to 18 hours. They say the change would improve both their teaching and their scholarship.

'BEST WORK'

"We want this so we can keep our best faculty and so our students can get our best work, not our exhausted work," Kavey says.

"What we are fighting for goes to the heart of the mission of the college," adds Nivedita Majumdar, associate professor of English and acting chair of the college's union chapter.

In its demands for a new contract, the PSC has called for contractual teaching load requirements to be reduced CUNY-wide, to support both research and faculty activities aimed at improved student retention and graduation rates (see *Clarion*, Dec. 2010). The contract currently sets teaching requirements for full-time faculty at 21 hours for senior colleges and 27 hours at community colleges. (The one exception is City Tech, a senior college with a contractual teaching load of 24 hours. City Tech faculty are seeking parity with CUNY's other senior colleges; see *Clarion*, April, Aug. & Sept. 2012.)

Faculty at John Jay back the union's contract demand, but say that their college needs to take its own measures now. Within the current 21-hour requirement, the PSC chapter wants John Jay's administration to provide three hours of reassigned time, in recognition of time spent on unsponsored research.

Such acknowledgement is common at several other CUNY senior colleges. "The current policy in our School of Arts and Sciences is that if you're clearly engaged in research, you've published a couple of articles in the last couple of years, you should get the time," said Glenn Petersen, sociology and anthropology department

Recognize research time, John Jay profs say



History Department Chair Allison Kavey (center) and distinguished professors Gerald Markowitz (left) and Blanche Cook (right) signed a union petition that calls on the college to reduce the effective annual teaching load to 18 hours.

chair. Faculty members working on a book or other longer-term scholarly project are included as well.

This is an advance in equity within Baruch, Petersen explained: until recently, reassigned time for unsponsored research was common at Baruch's schools of business and public affairs, but much harder to obtain within its Weissman School of Arts and Sciences. After pressure from the liberal arts faculty on the college administration, now it is being made broadly available to research-active faculty at Weissman as well. "This is a real boost for faculty morale," said Petersen.

At the community colleges, where the 27-hour teaching load is CUNY's heaviest, PSC leaders told *Clarion* that expectations for research have been on the rise. Recognizing this in their teaching load is essential, union leaders said.

At John Jay, a petition in support of change has so far been signed by more than 250 of the college's full-time faculty or about 70%, including chairs from 15 of 23 departments. Majumdar says 30 chapter members volunteered to gather signatures, both by speaking at departmental meetings and by holding one-on-one conversations with colleagues. "The level of participation has been unprecedented," she says. "Interest in the union has never been so strong."

COST

The cost of the reform, Majumdar says, would be less than 2% of John Jay's annual operating budget. "They can find the money," she insists. Other senior colleges have addressed this problem, Majumdar said – and as John Jay defines itself more and more as a research institution, it must do the same.

John Jay College has seen a slew of changes in recent years as it approaches its 50th anniversary. The

school admitted its first all-baccalaureate class in 2010, and several new liberal arts majors have been introduced. Fifty percent of full-time faculty have been hired in the past seven years, and a 13-story vertical campus equipped with state-of-the-art classrooms, new cyber lounges, computer labs and cutting-edge science facilities opened in 2011.

In March 2011, the college told the Middle States Commission on Higher Education that as John Jay has prioritized "promoting and recruiting a research-oriented faculty" in recent years, the result has been "a dramatic increase in grants and sponsored research, as well as a faculty that dominates professional meetings on criminal justice."

Amid such changes, the 4/3 teaching load has come to seem increasingly archaic and has left John Jay faculty deeply frustrated. "The college is reinventing itself in a new and positive way. But in this new climate, teaching load cannot be the one thing from the past that is unassailable," says Majumdar. And in fact, the college's 2011 statement to Middle States conceded that "maintaining the balance [between scholarship and teaching] is increasingly a challenge."

The release last fall of a faculty survey by the Harvard-based Collaborative on Academic Careers in Higher Education (COACHE) underscored faculty frustration at John Jay. The survey profiled John Jay and five peer institutions – Hunter College, Queens College, CSI, SUNY Buffalo State College and the University of Wisconsin-Parkside. Among this cohort, John Jay ranked lowest on all 11 benchmarks deemed critical to faculty success. Teaching load was ranked as the worst aspect of working at John Jay by 53% of respondents, with lack

of support for research (17%) and too much service (16%) second and third. Compared with other schools in the survey, twice as many faculty at John Jay said they were dissatisfied with their teaching load.

They were shocked," Kavey says of John Jay's administration. "They thought the report would show how happy we all were."

Kavey, an associate professor who began working at John Jay in 2005, said the challenge of the 4/3 course load is compounded by class sizes of as many as 40 students, a high percentage of students who lack college-level skills and the college's lack of academic counselors. Kavey said she gives extra writing assignments to her students to boost their skills, though it means more grading work for her.

Difficult working conditions in turn spur the most research-ambitious faculty to seek out better prospects, Kavey says. They often leave even before they come up for tenure. "As soon as people get good grants, they leave. They treat this place like a post-doc."

Varsanyi, an associate professor of political science, gained tenure in November. Her research on state and local immigration policy in the US was buoyed by junior faculty reassigned time guaranteed under the collective bargaining agreement, as well as two National Science Foundation grants. This allowed her to carry a 2/2 course load. Next fall, she is slated to teach a full course load for the first time, a prospect she is worried about.

JAY-WALKING

"I really love my job, but the 4/3 load is very daunting. It challenges everything we do at John Jay," Varsanyi says. "I don't want to take shortcuts in my teaching or in my service. I want to maintain high quality in everything I do."

Varsanyi took the course load petition back to her department and quickly gathered the signatures of nearly all of her department's 21 full-time faculty – the only exceptions being those who were away on parental leave or sabbatical.

Varsanyi says she too is witnessing the exodus of her peers from John Jay. "I just got an e-mail two minutes ago from a colleague who took a position at Syracuse in part because of the lower teaching load," she told a *Clarion* reporter in the middle of a phone interview. "My concern is that all these talented junior faculty hired in the last five or six years will go on the market and try to leave because they are highly productive scholars and the 4/3 teaching load presents an untenable situation."

Distinguished Professor of History Gerald Markowitz says that young faculty members carrying a 21-hour annual course load face additional hurdles such as growing demands for student assessment and committee work.

"It makes it difficult for junior faculty to sustain their research agendas after they've used their contractual reassigned time, and it's an obstacle to tenured faculty research as well," says Markowitz, a member of the chapter executive committee.

"Reducing teaching load is good for everyone," said Distinguished Professor of History Blanche Cook. "It means more time for research and more time for students." CUNY's teaching loads, she told *Clarion*, are well above the national norm for full-time faculty.

DOUBLE STANDARD

Majumdar said the outcry at John Jay has caught the attention of the college's leadership. On January 22, she and Markowitz and chapter executive committee member John Pittman met with John Jay President Jeremy Travis and Provost Jane Bowers to exchange views.

According to Pittman, one obstacle to change is CUNY central administration's use of metrics that place a premium on colleges increasing the average amount of time tenured faculty spend in the classroom. While having more full-time faculty in the classroom has pedagogical merit, Pittman said, this can best be achieved by creating additional full-time faculty lines – not by making unreasonable demands on current full-timers.

"They want to have it both ways," Pittman said of CUNY. "They want you to get lots of grants and do research, and they also want you to be in the classroom more."

Piecemeal measures, warns Majumdar, will not solve anything. The squeeze felt by John Jay faculty is a college-wide problem, she says, and requires a college-wide solution. "The response can't be more leave time," doled out to a select few, she explains: that leads to favoritism and will not move forward the college as a whole. "The solution has to be more structural."

Ultimately, Majumdar says, any prospect for change rests in the actions of a mobilized faculty: "The response of the administration is going to be directly proportional to the pressure we put on them."

Dave Sanders

SUNY Buffalo shuts Shale Institute

By JOHN TARLETON & PETER HOGNESS

SUNY Buffalo shut down its Shale Resources and Society Institute (SRSI) late last fall, after months of controversy over the Institute's relationship to the gas and oil industry. "Research of such considerable societal importance cannot be effectively conducted with a cloud of uncertainty over its work," wrote University President Satish Tripathi in a November 19 statement. It was the culmination of a dispute that raised questions about corporate influence on academic research in an era of deep cuts in state support for public higher education.

"The Institute was promoting itself as an independent, non-biased scholarly project, but it was acting as something entirely different," said Martha McCluskey, a SUNY Buffalo law professor and a member of the UB Faculty Senate's executive committee during 2011-2012.

The controversy unfolded against the backdrop of a nationwide boom in natural gas production, thanks to a new technique known as high-volume horizontal hydraulic fracturing, or "fracking." Drillers inject millions of gallons of water, sand and an array of chemicals thousands of feet into the earth to unlock previously unreachable gas reserves. The fracking boom has been accompanied by growing concerns about its impact on underground water supplies and the health of impacted communities. While the chemicals used in fracking include a number of carcinogens, their exact composition has never been made public, thanks to an exemption to the Clean Water Act approved by Congress in 2005 at the urging of former Vice President Dick Cheney.

FIERCE DEBATE

The debate over fracking has become especially fierce in New York, where trillions of cubic feet of natural gas are estimated to lie beneath the central and southern parts of the state in a geological formation known as the Marcellus Shale. This includes areas from which New York City obtains most of its fresh water supply.

A moratorium on fracking is currently in force in New York State. Citing prospects for economic growth, supporters of the oil and gas industry are eager to see Governor Andrew Cuomo overturn this drilling ban, while many fracking critics would like to see it made permanent. Cuomo is expected to announce his position in mid- to late February.

In the spring of 2011, with debate on the issue heating up, SUNY Buffalo hosted an eight-part lecture series on fracking. It received \$12,900 in sponsorships from the gas and oil industry and exclusively featured pro-fracking speakers.

Marcus Bursik, professor of geology and a former department chair, defended the lecture series. "The seminar series was mostly started... to give necessary information to geology students about how the oil

Industry ties questioned



SUNY Fredonia's Shale Research Institute, a forerunner of the institute at Buffalo, "thanked" corporate supporters by featuring their logos on its website.

and gas industry works," Bursik told *Clarion*. He said about half of SUNY Buffalo's geology majors go on to work in the oil and gas industry, while the other half go into environmental consulting.

Absence of industry critics from the series was not a problem, Bursik said: "If I teach a class in aeronautics...does that mean I am obliged to teach a class in how not to fly?"

The lecture series did not acknowledge its sponsors, noted Jim Holstun, a professor of English at SUNY Buffalo. "I had never seen anything like it," he told *Clarion*.

The Shale Resources and Society Institute was launched in April of the following year. One of its two co-directors was Robert Jacobi, a professor of geology at SUNY Buffalo who is employed by the natural gas company EQT as its senior geology advisor. Last year EQT drilled 127 new wells in the Marcellus Shale areas of Pennsylvania and West Virginia; in 2013 it plans to drill 153 more.

The other co-director was consultant John Martin, a former New York state energy official, who was hired at \$72,000 per year for a quarter-time schedule. His company, JPMartin Energy Strategy LLC, describes itself as providing "strategic planning [and] government/public relations services to the energy industry."

McCluskey told *Clarion* that when the SUNY Buffalo administration established the Shale Institute, it circumvented the committee process in the College of Arts and Sciences as well as the Faculty Senate.

"At every turn, it developed outside of the normal channels expected by faculty," McCluskey said.

The Shale Institute's first report, released on May 15, asserted that state regulations in Pennsylvania had made fracking less risky. The report contended that strict regulation in New York would protect local residents from any dangers posed by fracking. SUNY Buffalo sent out a widely circulated press release featuring the institute's conclusions.

But later in May, the Buffalo-based Public Accountability Initiative (PAI) issued a critique of the Shale Institute report. Among PAI's findings:

- While the report claimed that between 2008 and 2011 Pennsylvania had lowered the odds of major environmental impacts from fracking, its own data tables showed that the opposite is true. "The rate of incidence of major environmental events actually increased from 2008 to 2011, from 0.59%, or 5.9 per 1000 wells, to 0.8%, or 8 per 1000 wells," concluded PAI.

- All four of the co-authors of the Shale Institute report had financial ties to the natural gas industry.

- Parts of the Shale Institute report were lifted almost word-for-word from an explicitly pro-fracking report issued by the right-wing Manhattan Institute in 2011. That report was written by three of the co-authors of the SRSI report.

- The original press release for the report stated that it had been peer-reviewed, a claim that was later retracted.

"It was an incredibly shoddy piece of work," Holstun said of the Shale Institute report. "It makes eighth-grade arithmetic errors."

Bursik told *Clarion* that criticisms of the report's errors were overblown. "People make mistakes all the time in the sciences," he said.

On the erroneous claim that the report has been peer-reviewed, Bursik said, this "wasn't anything sinister." Co-director John Martin, he explained, thought that running his work by trusted friends and colleagues was the same as peer review. Noting that Martin has a PhD in urban and environmental studies, Bursik asked, "Who could have predicted that he wouldn't know what peer review means?"

Ronald Bishop, a lecturer in chemistry and biochemistry at SUNY Oneonta, told *Clarion* that Pennsylvania has failed to protect its residents from fracking's negative effects. Bishop said that people living near these wells have experienced rashes from exposure to warm water while washing dishes or taking a shower, as well as increases in respiratory and pulmonary ailments from airborne particulates. Increases in some chronic diseases may not appear for another 15 to 20 years, Bishop said.

In June, SUNY Buffalo officials said that critics of the Shale Institute were trying to "dictate the position taken by...faculty members," a charge Holstun rejects. "Academic freedom doesn't mean imperviousness to debate or to correction of mistakes," he said.

The SUNY Buffalo administration has denied that money from the natural gas industry funded the Shale Institute. But in the press release that announced the Institute's formation, co-director John Martin states that the Shale Institute "plans to seek funding from sources including industry and individuals." Minutes of a May 15 meeting discussing Institute fundraising noted that "funding is still slow and sponsors have not committed yet."

A smaller Shale Research Institute at SUNY Fredonia, established three years earlier, received funding from a half-dozen companies in the oil and gas industry, and it featured their logos on the "Support" page of its website (see image above). "When a corporation gives you a gift, you want to say thank you," a SUNY Fredonia spokesperson explained to *The New York Times* in June.

BUSINESS COUNCIL

The Business Council of New York State had welcomed the founding of the SUNY Fredonia institute in 2009: "This type of academic and industry partnership... can balance the often inaccurate and outdated information that opponents of development feed to the media," wrote Business Council blogger Jennifer Levine.

A SUNY Fredonia spokesperson told the Buffalo weekly *Artvoice* that all funding for its Shale Re-

search Institute was channeled through the private Fredonia College Foundation. Critics of SUNY Buffalo's Shale Resources and Society Institute suspect that it may have similarly received industry donations routed through the University of Buffalo Foundation, which was covering John Martin's salary as Shale Institute co-director. The privately run UB Foundation has a \$736.3 million endowment, by far the largest of any SUNY school, which Holstun refers to as a "secret pot of money that can be used for laundering corporate contributions." Officially private-sector entities, the UB Foundation and the Fredonia College Foundation are both exempt from New York's Freedom of Information Law (FOIL). Proposals to extend FOIL to cover college foundations have stalled in the State Legislature in recent years.

UB CLEAR

As criticism of SUNY Buffalo's Shale Institute mounted, a group of faculty, students and community allies founded the University of Buffalo Coalition for Leading Ethically in Academic Research (UB CLEAR) to rally opposition to the Institute. "It has damaged UB's hard-won reputation and credibility as a major research university," the group said in a June 2012 press release. That same month, after the *Times* article appeared, the website of SUNY Fredonia's Shale Research Institute went offline.

Over the summer, UB CLEAR led a campaign to pressure the SUNY Board of Trustees to intervene, sponsoring a faculty petition that called for greater transparency in the Shale Institute's operations. Meanwhile the Shale Institute controversy was gaining national attention: an online petition campaign by CREDO Action garnered more than 11,000 signatures calling for the Buffalo institute to be shut down.

On September 12, the SUNY Board unanimously passed a resolution calling on SUNY Buffalo to explain the Shale Institute's origins and the role of natural gas companies in its workings. The Buffalo administration responded with a 162-page reply defending its past actions, but the controversy refused to die down.

Seven weeks later, SUNY Buffalo finally changed course, and the Shale Resources and Society Institute closed its doors. Its smaller predecessor at SUNY Fredonia is apparently out of business as well: in January 2013, a Fredonia spokesperson told *Clarion* that its Shale Research Institute has gone "on hiatus," with no plans to reopen. "This is an important chapter in a much larger fight for academic integrity and transparency," the Public Accountability Initiative declared after SUNY Buffalo's decision was announced, and SUNY Buffalo professor Martha McCluskey agreed.

"If we don't maintain our academic core and purpose, what's the point?" she told *Clarion*. "Industry can pay for its own public relations."

Photo illustration: Internet Archive, M. Aguilar

Cuomo proposes flat CUNY aid

By PETER HOGNESS

In his proposed state budget for next year, released on January 22, Governor Andrew Cuomo offers relatively flat state funding for CUNY, and continues to depend on increased tuition to cover most increases in CUNY expenses. With CUNY still feeling the effects of a generation of disinvestment, PSC leaders responded that more state support is needed. The union also voiced concerns about proposed new programs that would tie workforce development funding to “performance measures” and to a greater role for private industry in public higher education.

Under Cuomo’s plan, state aid for CUNY senior colleges is roughly flat except for an additional \$35 million to cover mandatory cost increases in fringe benefits. But some other increases in mandatory costs are not covered. For example, CUNY’s requests for \$9 million to pay for higher energy expenses and \$3 million to \$4 million for increased building rental costs were not included. Revenue from the annual senior college tuition hike of \$300 would cover an additional authorization of \$61 million for other spending increases.

‘HARMFUL’

“The PSC opposes annual tuition hikes as a funding strategy,” said the union’s first vice president, Steve London. “The tuition increases have harmful effects on college access because they are not offset by increased financial aid for many students. Importantly, to provide

Promotes links to industry



Gov. Andrew Cuomo delivers his 2012 State of the State speech.

the true funding needs of CUNY through tuition dollars would bankrupt students.”

Proposed per capita base aid from the State to CUNY’s community colleges aid is also flat, at \$2,727 per full-time equivalent student, but total spending on community college base aid would go up a bit, due to increased enrollment since last year’s state budget was passed.

Beyond these basic elements of CUNY funding, Cuomo’s proposed budget for 2013-2014 included some new programs designed in ways that the PSC said were troubling. “The Governor’s budget address put a major focus on community colleges’ workforce development roles to the exclusion of their other important missions, and would give private industry a worrisome

amount of influence over certain community college degree programs,” London said.

A new “Next Generation NY Job Linkage Program” would require that all credit-bearing certificate programs, and all AAS and AOS degree programs, be linked closely with local industry as a prerequisite for receiving public funding. The job linkage program would also make available to CUNY a \$2-million “performance-based” incentive award based on “student success measures.”

This narrow focus would set a dangerous precedent, London said, and leaves important questions unanswered. CUNY has in the past made some important missteps when it tried to tie its programs too closely to short-term job market trends. For example, City College closed its School of Nursing in the mid-1990s, shortly before the advent of a major nursing shortage.

The executive budget proposal would also devote \$55 million to a new “NYCUNY 2020” competitive grant program, modeled after a SUNY program that began two years ago. “Projects will be selected in a competitive manner, based on economic impact, advancement of academic goals, innovation and collaboration,” the Division of Budget said. The statement said NYCUNY 2020 will serve as a regional economic development initiative, but gave few other details.

PSC members will be working to influence final decisions on the state

budget by meeting with legislators in Albany and in their local district offices in NYC. Goals include restoration of funding for key programs like campus-based child care.

PSC questions new funding formula for AAS & AOS degrees.

“For Albany to make the right decisions on CUNY’s budget, lawmakers need to hear firsthand about working and learning conditions at our University,” said PSC President Barbara Bowen. This year’s “spring advocacy calendar” has changed to put a greater emphasis on visits to legislators in their local district offices.

GET INVOLVED

If you would like to join in one or more of these events, you can sign up online at tinyurl.com/PSC-2013-budget-campaign:

- In-District Meetings in NYC – Feb. 7-8
- NYSUT Committee of 100 Advocacy Day, Albany – Mar. 4-5
- NYSUT Higher Education Advocacy Day, Albany – Mar. 11-12
- Student/Faculty/Staff Higher Ed Action Day, Albany – Mar. 12
- Other In-District Meeting dates in NYC to be announced

Transportation, food and hotel costs for the March 4-5 and March 11-12 Albany trips are covered by the PSC’s state affiliate, NY State United Teachers. Members can also ride back and forth to Albany with students on the buses for the Mar. 12 day. If you have questions, contact Amanda Magalhaes in the PSC office (amagalhaes@pscmail.org, or call 212-354-1252).

New push for New York DREAM Act

By JOHN TARLETON

While President Obama and Congress try to reach an agreement on comprehensive immigration reform this year, undocumented immigrant students in New York are pushing for legislation that would provide equal access to the state’s Tuition Assistance Program (TAP), regardless of immigration status.

Immigrant student activists have fought for over a decade to win Congressional approval for the federal DREAM Act, which would provide a path to citizenship to many undocumented immigrants who entered the US before the age of 16 and intend to pursue a college education or serve in the military.

PARTIAL BOOST

While they have not yet won passage of the bill, the “Dreamers” – as the DREAM Act’s advocates are known – got a partial boost last June, when President Obama gave undocumented immigrant students the opportunity to apply for a two-year legal status with the option to extend their status for another two

Immigrant students organize

years. While continuing their efforts to sway Congress, New York’s Dreamers have recently turned their attention to Albany.

Undocumented immigrant students are eligible for in-state tuition in New York if they meet certain conditions, but are barred from accessing TAP, a disparity they say must be addressed. Three states – Texas, California and New Mexico – currently make state financial aid available to undocumented college students.

“Fifty-nine years after *Brown v. Board of Education*, we have students who are put in a separate and unequal status in New York,” said Raneen Zaman, advocacy coordinator for the New York State Youth Leadership Council, an umbrella group for undocumented students in the state.

In 2012, the proposed New York State DREAM Act failed to gain traction in either house of the Legislature. On January 16, Speaker Sheldon Silver, Assemblymember

Francisco Moya and Assembly Higher Education Committee Chair Deborah Glick introduced their version of the New York State DREAM Act, which is backed by a coalition of undocumented youth, unions (including the PSC) and immigrant, community and faith-based organizations. In addition to providing access to TAP for undocumented students, the bill would also incorporate a privately financed Dream Fund that would provide scholarships and extend access to 529 college savings accounts by allowing the use of taxpayer identification numbers. A companion bill has been introduced in the Senate by Jose Peralta.

Silver told the *Daily News* that the Dreamers are New Yorkers who are likely to someday become citizens, and that it is a mistake to ignore their needs. “We should want them to become productive members of society, and we’re preparing them for that,” he said.

Senator Jeffrey Klein has said he will introduce a similar measure, which would be financed by a dedicated funding stream from casino licensing fees – it thus depends on a proposed constitutional amendment to establish up to seven new casinos in the state.

The State currently spends \$885 million a year on TAP. A report last year from the Albany-based Fiscal Policy Institute (FPI) estimated that the DREAM Act would cost \$17 million a year and would help about 5,500 undocumented students, the majority of whom attend CUNY.

A call for equal access to tuition assistance

“It would make a big difference in the lives of these students,” said Donna Gill, a 20-year veteran HEO at Hunter who has worked in the Bursar’s Office, the Registrar’s Office and in financial aid. Gill said undocumented students drop out of school more often due to financial than academic issues, a trend that has been exacerbated by annual tuition hikes of \$300 a year.

“The money is there,” Gill added. In a state with as much wealth

as New York, she said, “it’s more about priorities.”

In its report, FPI noted that students who go on to obtain a four-year college degree end up earning, on average, \$25,000 more per year than individuals with only a high school education. This translates into an extra \$3,900 a year in state and local tax payments.

“This is about New York getting more skilled, educated graduates who can continue building up the state,” said Zaman.

PERSUADING CUOMO

Governor Cuomo did not include funding for the DREAM Act in his executive budget released January 22. But Zaman is hopeful that the governor and at least a few Republicans in the narrowly divided State Senate will come around. Last year, the NYS Youth Leadership Council organized a nine-day, 154-mile walk to Albany over spring break to publicize their cause. Participants made a point of visiting more conservative areas whenever possible. This year, Zaman said, the group may walk across Long Island, home to a surging immigrant population and several “swingable” Republican state senators.

“To get this bill passed, we need New Yorkers behind us,” Zaman said.

'Reinventing college': hope or hype?

By SCOTT CARLSON & GOLDIE BLUMENSTYK

Last year, leading lights in for-profit and nonprofit higher education convened in Washington, DC, for a conference on private-sector innovation in the industry. The national conversation about dysfunction and disruption in higher education was just heating up, and panelists from start-ups, banking, government, and education waxed enthusiastic about the ways that a traditional college education could be torn down and rebuilt – and about how lots of money could be made along the way.

During a break, one panelist – a banker who lines up financing for education companies, and who had talked about meeting consumer demands in the market – made chit-chat. The banker had a daughter who wanted a master's in education and was deciding between a traditional college and a start-up that offered a program she would attend mostly online – exactly the kind of thing everyone at the conference was touting.

For most parents, that choice might raise questions – and the banker was no exception. Unlike most parents, however, the well-connected banker could resolve those uncertainties with a call to the CEO of the education venture: "Is this thing crap or for real?"

REINVENTION FOR WHOM

In higher education, that is the question of the moment – and the answer is not clear, even to those lining up to push for college reinvention. But the question few people want to grapple with is, For whom are we reinventing college?

The punditry around reinvention...has trumpeted the arrival of MOOCs [massive open online courses], "badges" [certificates of accomplishment designed to replace grades], "UnCollege" [which urges "hacking your education" outside of school], and so on, as the beginning of a historic transformation. "College Is Dead. Long Live College!" declared a headline in *Time* magazine's "Reinventing College" issue in October 2012, which pondered whether massive, open online courses would "finally pop the tuition bubble." With the advent of MOOCs, "we're witnessing the end of higher education as we know it," pronounced Joseph Aoun, president of Northeastern University, in *The Boston Globe* last month.

Read beneath the headlines a bit. The pundits and disrupters, many of whom enjoyed liberal-arts educations at elite colleges, herald a revolution in higher education that is not for people like them or their children, but for others: less-wealthy, less-prepared students who are increasingly cut off from the dream of a traditional college education.

"Those who can afford a degree from an elite institution are still in an enviable position," wrote the

Making the most of MOOCs

libertarian blogger Megan McArdle in a recent *Newsweek* article, "Is College a Lousy Investment?" For the rest, she suggested, perhaps apprenticeships and on-the-job training might be more realistic, more affordable options. Aoun, in his *Globe* essay, admitted that the coming reinvention could promote a two-tiered system: "one tier consisting of a campus-based education for those who can afford it, and the other consisting of low- and no-cost MOOCs." And in an article

job is to study the effectiveness of ideas that are emerging or already in practice.

He believes that many of the new ideas, including MOOCs, could bring improvements to higher education. But "innovation is not about gadgets," says Stokes. "It's not about eureka moments... It's about continuous evaluation."

The furor over the cost and effectiveness of a college education has roots in deep socioeconomic challenges that won't be solved

them to maneuver through the system, and it is already tough."

[Some] economists, like Robert Reich, argue for more investment in apprentice-based educational programs, which would offer an alternative to the bachelor's degree. "Our entire economy is organized to lavish very generous rewards on students who go through that gantlet" for a four-year degree, says the former secretary of labor, now a professor of public policy at the University of California, Berkeley. As a country, he says, we need to "expand our repertoire." But it's important that such a program not

be conceived and offered as a second-class degree, he argues. It should be a program "that has a lot of prestige associated with it."

With few exceptions, however, the reinvention crowd is interested in solutions that will require less public and private investment, not more. Often that means cutting out the campus experience, deemed by some a "luxury" these days.

Here's the cruel part: the students from the bottom tier are often the ones who need face-to-face instruction most of all.

"The idea that they can have better education and more access at lower cost through massive online courses is just preposterous," says Patricia McGuire, president of Trinity Washington University. Seventy percent of her students are eligible for Pell Grants, and 50% come from the broken District of Columbia school system. Her task has been trying to figure out how to serve those students at a college with the university's meager \$11-million endowment.

Getting them to and through college takes advisors, counselors and learning-disability experts – a fact McGuire has tried to convey to foundations, policy makers and the public. But the reinvention conversation has had a "tech guy" fixation on mere content delivery, she says. "It reveals a lack of understanding of what it takes to make the student actually learn the content and do something with it."

Amid the talk of disruptive innovation, "the real disruption is the changing demographics of this country," Trinity's president says. Waves of minority students, especially Hispanics, are arriving on campus, many at those lower-tier colleges, having come from schools that didn't prepare them for college work. "The real problem here is that higher education has to repeat a whole lot of lower education," McGuire says. "That has been drag on everyone."

Much of the hype around reinvention bypasses her day-to-day challenges as a president. "All of the talk

about how higher education is broken is a superficial scrim over the question, 'What are the problems we are trying to solve?'" she says. The reinvention crowd has motivations aside from solving higher education's problems, she suspects: "Beware Chicken Little, because Chicken Little has a vested interest in this. There is an awful lot of hype about disruption and the need for reinvention that is being fomented by people who are going to make out like bandits on it."

Siva Vaidhyanathan, a professor of media studies and law at the University of Virginia and a frequent commentator on technology and education, believes that some of the new tools and innovations could indeed enhance teaching and learning – but that doing so will take serious research and money.

SOCIAL CONTRACT

In any case, he says, the new kinds of distance learning cannot replace the vital role that bricks-and-mortar colleges have in many communities.

"To champion something as trivial as MOOCs in place of established higher education is to ignore the day-care centers, the hospitals, the public health clinics, the teacher-training institutes, the athletic facilities, and all of the other ways that universities enhance communities, energize cities, spread wealth and enlighten citizens," he says. "Not only is it not about the classroom, it is certainly not just about the direct delivery of information into people's lives. If that's all universities did, then publishing and libraries would have crushed universities a long time ago."

Unfortunately, Vaidhyanathan says, the discussion of college reinvention represents a watering down of higher education's social contract – a process that has been in the works for decades. "What it is going to take to reinvigorate higher education in this country," he says, "is a strong political movement to champion research, to champion low tuition costs as a policy goal, to stand up against

the banks that have made so much money lending for student loans, and to reconnect public institutions to their sense of public mission."

"That is going to be a long process," he says. "It has taken 20 years to press universities down into this cowering pose, and it is going to take 20 assertive years to get back to the point where Americans view American higher education the way the rest of the world does."

Scott Carlson and Goldie Blumenstyk are senior writers at Chronicle of Higher Education. A longer version of this article originally published December 17 in CHE (tinyurl.com/ReinventingCollege).



about MOOCs, *Time* quotes David Stavens, a founder of the MOOC provider Udacity, as conceding that "there's a magic that goes on inside a university campus that, if you can afford to live inside that bubble, is wonderful."

But if you can't, entrepreneurs like him are creating an industrialized version of higher education that the most fervent disruptionists predict could replace mid-sized state institutions or less-selective private colleges. "I think the top 50 schools are probably safe," Stavens said.

Higher education does have real problems, and MOOCs, badges...and other innovations have real potential to tackle some of them. They could enrich teaching, add rigor, encourage interdisciplinarity, reinforce education's real-world applicability, and make learning more efficient – advances all sorely needed.

STATE FUNDING CUT

But the reinvention conversation has not produced the panacea that people seem to yearn for. "The whole MOOC thing is mass psychosis," a case of people "just throwing spaghetti against the wall" to see what sticks, says Peter Stokes, executive director for postsecondary innovation at Northeastern University's College of Professional Studies. His

with an online app. Over decades, state support per student at public institutions has dwindled even as enrollments have ballooned, leading to higher prices for parents and students. State funds per student dropped by 20% from 1987 to 2011....

RICH AND POOR

Meanwhile, the gap between the country's rich and poor widened during the recession, choking off employment opportunities for many recent graduates. Education leading up to college is a mess: public elementary and secondary systems have failed a major segment of society, and the recent focus on testing has had questionable results.

If the future of MOOCs as peddled by some were to take hold, it would probably exacerbate the distinction between "luxury" and "economy" college degrees, says [Robert Archibald, an economics professor at the College of William and Mary and an author of *Why Does College Cost So Much?*]. Graduates leaving high school well prepared for college would get an even bigger payoff, finding a place in the top tier.

"The tougher road is going to be for the people who wake up after high school and say, 'I should get serious about learning,'" Archibald says. "It's going to be tougher for

Tough going for Pathways

By PETER HOGNESS

CUNY's central administration wants its Pathways curriculum on general education to be securely in place by Fall 2013. But as the Spring 2013 semester began, that time frame was looking more difficult to achieve.

Pathways, the administration's overhaul of rules on general education and transfer, took another hit in January when delegates of the 30,000-member Modern Language Association (MLA) sharply criticized the initiative in a January 6 resolution during their annual meeting in Boston. "The association came out in support of [CUNY] faculty, arguing that the administration had bypassed faculty governance and overridden professors' rights to determine curriculum," reported Inside Higher Ed.

"All specific Pathways courses have been proceeding through traditional mechanisms of faculty governance," insisted Executive Vice Chancellor Alexandra Logue in a December 17 letter to the MLA. But CUNY faculty say that's not the case.

"Our English department has not voted for Pathways composition courses, and those courses have not gone through college governance," said Mary McGlynn, chair of the English department at Baruch. Commenting on the response across CUNY, McGlynn said, "There's been so much pressure on the presidents and provosts to submit these courses [to central administration], even if not approved by the departments or by college governance."

A PSC lawsuit filed in August says that it is illegal for administrators to ignore college governance meetings and make their own private decisions about which courses to approve. Such actions, the union says, violate New York's Open Meetings Law (see *Clarion*, Aug. 2012).

REFUSAL

Some CUNY college senates, such as those at Brooklyn College or College of Staten Island, have not approved any Pathways courses. Some, such as Hostos Community College, have approved some proposed courses but not others. "The greatest pressure for a re-think of the misguided structure of Pathways comes from governance bodies that decline to approve Pathways courses," said PSC President Barbara Bowen.

The MLA resolution, approved by a vote of 108 to 2, concludes by "affirm[ing] the right of CUNY's faculty...to determine curriculum and graduation requirements, and to withhold implementation of any curriculum that has not been recommended by the appropriate faculty governance body."

"It was a deeply sympathetic audience," said McGlynn. "They were particularly concerned by the threats and coercions that faculty

Fall 2013 implementation may be hard to reach



Delegates at the Modern Language Association's annual convention in Boston approved an anti-Pathways resolution by a vote of 108 to 2. In the January 6 statement, MLA delegates affirmed the right of CUNY faculty to "withhold implementation of any curriculum that has not been recommended by the appropriate faculty body."

at various CUNY colleges have experienced" as administrators have applied pressure to take and win favorable votes (see *Clarion*, Oct. & Dec. 2012).

NATIONAL PETITION

Several college senates have endorsed the call by the University Faculty Senate and the PSC for a moratorium on Pathways implementation, to allow time for a full and open discussion of transfer issues. A national petition, with 5,600 signatures so far, asks for a "moratorium on further implementation of Pathways until an atmosphere free of coercion is established and academically sound alternatives can be considered."

"Suddenly, there are all these directives, all this pressure: 'You must vote on this, you must approve that.' Where is the urgency on this coming from?" Bowen said at the PSC's January 24 Delegate Assembly. "It's coming from management, and its own artificial timetable. But it's faculty who are responsible for the curriculum. We are responsible for its quality."

With management still facing problems in winning faculty support, many at CUNY are skeptical that the plan can be implemented on schedule. "The truth of the matter is that Pathways will most likely not be implemented, at least not in the way or to the extent that CUNY administration wishes, in Fall 2013," wrote BMCC student Maruf Hossain in a comment on the college's website, after BMCC's administration announced that Pathways is

ready to go. Hossain is vice chair of United Leaders of CUNY, an organization of students in SEEK and College Discovery programs.

In January, the PSC told New York's Public Employment Relations Board (PERB) that CUNY management's push to win approval of Pathways courses has violated State labor law. CUNY has attempted to "negotiat[e] terms and conditions of employment, specifically workload requirements, directly" with English departments at three CUNY community colleges. Workload, the complaint points out, is "a mandatory subject of bargaining" with the union, and under State law the PSC is recognized as the exclusive bargaining agent for CUNY instructional staff.

NEGOTIATIONS

At issue in the PERB charge is management's pursuit of negotiations with English departments at several CUNY colleges over workload hours in freshman composition classes. Resistance to Pathways has been particularly strong in CUNY's English departments, most of which have long taught introductory composition courses on the basis of a "3/4" formula: a class that receives three credits, but meets for four hours a week. But Pathways lowers the total number of credits that can be required in general education classes – and an administration directive last year stated that "all courses in the [Pathways] Com-

mon Core must be three credits and three hours."

CUNY's English Discipline Council, representing English department chairs from across the University, argued that the 3/4

More nays for Pathways at MLA in Back Bay.

structure was a "best practice" that must be maintained; banning it would "undermine established pedagogic practices within CUNY." Four hours a week are needed "to prepare students adequately for the challenges of academic writing in their undergraduate careers," the Council said. It argued that cutting instruction in introductory composition by 25% would impair student performance in future classes – which would impede student transfer, not enhance it.

Faced with English departments that refused to approve Pathways-compliant composition courses, college administrations twisted arms, and, in some cases, tried to cut deals to gain favorable votes. They offered several different options, inconsistent from one college to the next and changing over time. In one offer, the class would be offered on a 3/3 basis, but faculty could hold a "conference hour" (essentially an extra office hour). Or perhaps the fourth hour could meet in a classroom, but students would not be required to attend. Or student attendance during the fourth hour would be mandatory, but the session could not include the entire class.

The PSC's PERB charge cites attempts to negotiate workload

requirements for composition classes with English departments at LaGuardia, Queensborough and Bronx Community colleges. CUNY is expected to file its response to the charge later this spring.

In late January, the PSC sent CUNY a formal request to bargain on these issues. "If the administration at these colleges is prepared to offer, and pay for, four hours of workload credit for these three-hour courses, it may be possible to negotiate a side-agreement that would formalize this structure," said Bowen. "But not in ad hoc agreements with individual departments whose chairs have been subject to enormous and unfair pressure; instead, these talks must be with the union as a whole. That's the way to do what is best for students."

LAGUARDIA VOTE

Issues raised by the PERB charge were a factor in a January 23 vote by LaGuardia's English department, in which a Pathways-compliant composition course again failed to win the department's approval, even though this version was not burdened by as many odd restrictions as past proposals.

With 43 department members present and voting (by secret ballot), the revised course proposal drew 20 votes. With 23 who voted not to endorse it (15 voting no and 8 abstentions), the proposal failed.

In a sign of the conflicting pressures and sentiments faculty are feeling in the Pathways debates, the department overwhelmingly approved a resolution asking the LaGuardia College Senate to adopt a moratorium on Pathways implementation, by a vote of 37 to 4, with two abstentions. Thus, even most of those who favored the composition class deal are asking their college senate not to act on any Pathways courses.

SHARPENING CONFLICT

"These votes are consistent with the PSC message over the past year. In its work with faculty governance, PSC has been emphasizing the importance of collectivizing the voice and power of faculty to maximize their influence and minimize the vulnerability of individual faculty members and departments," said PSC Treasurer Michael Fabricant on hearing of the LaGuardia votes.

With 80th Street facing its own self-imposed deadline of February 25 for submission of Pathways courses, faculty can expect conflicts over Pathways to sharpen. "Management is likely to be even more aggressive this semester than in the Fall," Fabricant told union delegates in January. "We will win or lose on Pathways based on faculty engagement, one campus at a time."

Seattle teachers boycott test

By SARAH JAFFE

The role of high-stakes standardized tests in K-12 education has dramatically expanded in recent years, shaping teachers' workdays and narrowing what is taught to the confines of a test. Now, high school teachers in Seattle are saying "No."

On January 10, the staff of Garfield High School voted unanimously to refuse to administer the Measures of Academic Progress (MAP) test to their ninth-grade students. They've held firm since, even as the superintendent of schools has threatened them with a ten-day, unpaid suspension. Meanwhile, teachers at other Seattle-area schools have joined their boycott.

ALLIES

"Garfield has a long tradition of cultivating abstract thinking, lyrical innovation, trenchant debate, civic leadership, moral courage and myriad other qualities for which our society is desperate, yet which cannot be measured, or inspired by bubbling answer choice 'E,'" wrote Garfield High history teacher Jesse Hagopian in a *Seattle Times* op-ed.

Garfield High's Parent-Teacher-Student Association and student government are both backing the teachers, and the teachers' union, the Seattle Education Association (an affiliate of the National Education Association), has been holding phone banks and rallies in support. NEA president Dennis van Roekel called the teachers' stand a "defining moment within the education profession."

As the boycott has become national news, it has attracted support around the country. A letter in solidarity with the Garfield teachers has been signed by close to 5,000 educators, authors and activists, including former US Assistant Secretary of Education Diane Ravitch; Chicago Teachers Union President Karen Lewis; Jonathan Kozol, author of *Savage Inequalities*; Deborah Meier of the Coalition of Essential Schools; Pedro Noguera, professor of education at New York University; PSC President Barbara Bowen and more than a dozen faculty members at CUNY. American Federation of Teachers President Randi Weingarten issued a statement of support, which is posted on the AFT's Facebook page.

(You can sign the petition at tinyurl.com/Seattle-test-petition.)

FIRM STAND

The Seattle teachers' firm stand has been "amazing," Jean Anyon, professor of social and educational policy at the Graduate Center, told *Clarion*. "There have been very few groups that have decided to defy these tests," she pointed out. "In terms of an outright boycott by a [n entire] school, if it's not the first, it's close to it."

The MAP test was acquired for about \$4 million by Seattle's schools superintendent while she

Slam distortion of education

was on the board of the company that sells it; a state audit in 2011 found that she committed a serious ethics violation by failing to disclose this fact. Ninth and tenth graders in Seattle already take five additional tests required by the state, and eleventh and twelfth graders take three. The MAP is not

required by the state and doesn't affect students' grades – but it is used to evaluate teachers, who point out that many students do not take the test seriously.

Additionally, the MAP is a computer-adaptive test (CAT), which means that if the student gets a question wrong, the next one is easier; if she

gets an answer right, the next one is harder. "Students who are...sick of assessments find out quickly that if they choose random answers, the questions get easier," writes assessment expert Jem Muldoon.

Ira Shor, a professor of English at the CUNY Graduate Center who writes on composition theory and urban education, said that many tests used in K-12 assessment "produce unreliable, unreproducible and even faked results. Yet these tests are used to judge what students know and how well teachers are doing their job."

RISING CONCERNS

"All over the country, parents, teachers, superintendents, lawyers and university folks have been signing petitions and publishing articles about the grotesque misuse of high-stakes testing," Michelle Fine, distinguished professor of psychology and urban education at the Graduate Center, told *Clarion*. But those protests have gained little traction, she added – in part because the Obama administration "has really endorsed the overuse of high-stakes testing on students, on teachers and on schools."

Teachers' opposition to the resulting distortions of education has



History teacher Jesse Hagopian of Seattle's Garfield High School.

NYSUT Relief Fund reports

By CLARION STAFF

Immediately following the onslaught of Superstorm Sandy, the American Federation of Teachers (AFT) set up a Disaster Relief Fund on behalf of all affected locals, including PSC, to provide cash assistance to members who experienced losses as a result of the storm. Money collected nationally has been distributed among funds established by AFT state affiliates, including New York State United Teachers in New York. And NYSUT has set up its own fund to collect additional money and administer responses to members' applications (www.nysut.org/members_6990.htm). PSC President Barbara Bowen said, "We want our members to know that the whole union wants to help, as we have in prior disasters like hurricanes Katrina and Irene, in addition to PSC reaching out to affected members."

Small grants aid members in wake of Sandy.

Close to 1,000 helped so far

To date, nearly \$300,000 has been contributed to NYSUT's Fund by union members regionally and nationally, and by outside groups. NYSUT has received nearly 2,000 applications for grants and has responded to almost half of them with grants of about \$250 each. Grants are to cover losses or basic necessities that are not covered by an applicant's insurance policy or FEMA. As several affected PSC members have noted, every little bit helps.

NYSUT Manger of Accounting and Reporting Jeff Lockwood told *Clarion* that NYSUT plans a new fund-raising effort among members because the Fund has not yet collected enough to cover all the applications to date, and the applications keep coming in at a rate of 25 a day. In the meantime, NYSUT staff have been working diligently to process applications fairly

and equitably. Among other things, NYSUT has been calling each applicant to confirm that the application has been received.

HOW TO APPLY

To date, 38 PSC members have applied for grants and nearly half of those have been responded to with grants from the NYSUT Relief Fund. All member applications need to be signed by the PSC President, so PSC is asking everyone applying to send their notarized application to the PSC Office (keep a copy), and PSC will forward it to NYSUT. To apply, go to the PSC website and download an application form (www.nysut.org/members_6990.htm), fill it out and get your signature notarized, then send it to the PSC Office, 61 Broadway, 15th Floor, New York, NY 10006, ATTN: Patricia Young. If you have any questions, contact Patricia Young at 212-354-1252.

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been on the rise, and misuse of testing was a central issue in the Chicago Teachers Union strike last fall.

Seattle teachers have until February 22 before the threatened suspension would kick in. The superintendent has also announced that he'll organize a task force to investigate possible alternatives to the testing regime and the MAP in particular, but the teachers are refusing to back down. Ravitch and other supporters have vowed to raise money for them if they are suspended.

"We know that high-stakes tests are being used to redline the poor and working class out of access to a quality education, and are used to get rid of teachers" in ways that are hard to justify, said Fine. She and many other scholars of K-12 education hope that the boycott will spread.

TRS news

On January 30, Governor Cuomo signed into law a provision that is good news for many PSC members in the NYC Teachers' Retirement System (TRS).

The measure allows PSC members who have TRS Tier I & II status to continue receiving an 8.25% interest rate on an investment account known as the "fixed return" through Fiscal Year 2016. These members have the option to invest in the "fixed return" in their primary pension plan (known as their Qualified Pension Plan, or QPP).

Also affected are PSC members in any TRS pension tier who have a Tax-Deferred Annuity, or TDA – a supplemental retirement account funded by voluntary before-tax payroll deductions.

Tax rate update

As of January 1, 2013, the effective rate for the Social Security payroll tax has returned to its normal level of 6.2%.

During 2011 and 2012, this normal tax rate was temporarily reduced by 2%. Adopted by Congress as a limited economic stimulus, this "payroll tax holiday" meant a short-term boost to Americans' take-home pay. Always designed as a temporary measure, this 2% tax holiday expired on December 31, 2012. As a result, your paychecks for 2013 are showing an increase of 2% in deductions for Social Security taxes, as the tax reverts to its historic rate of 6.2%.

In another change for 2013, Social Security taxes are now paid on income up to a threshold of \$113,700, up from \$110,100 last year.

CLOSED VS. OPEN ACCESS

Backing new ways to publish

By SAMIR CHOPRA
Brooklyn College

Aaron Swartz was a programmer, a founder of Reddit and an early designer of the technology behind subscriptions to blogs and podcasts. Aaron Swartz was a hacker and an Internet activist, an architect of the Creative Commons system for sharing access to creative work, and a leader in defeating the Stop Online Piracy Act and its carte blanche for corporate and government censorship online. Aaron Swartz committed suicide on January 11 of this year, and his work and his death should give everyone in academia reason to pause and reflect.

Thanks to an over-zealous federal prosecution, at the time of his death Swartz was facing charges with a possible 35 years in prison and a million dollars in fines. His supposed crime? Downloading millions of academic articles from the JSTOR repository with the intent to make them freely available on the Internet. (JSTOR provides online access, for a fee, to more than 1,000 journals.)

SWARTZ'S 'CRIME'

Swartz's mass download from JSTOR was reminiscent of his 2008 "attack" on PACER, an online system that charges a fee for access to public court documents created at public expense. As his friend Cory Doctorow recalled, with the aid of software that "allowed its users to put any case law they paid for into a free/public repository," Swartz "spent a small fortune fetching a titanic amount of data and putting it into the public domain." For this he was investigated and harassed by the FBI, but never charged.

In the JSTOR case, there was at least one crucial difference: Swartz never disseminated any of the downloaded articles. For this and many other reasons, it's not at all clear that Swartz's downloading constituted a crime. There was no evidence his downloads caused physical harm to MIT's very open network or any economic harm to JSTOR – and JSTOR itself declined to press charges.

To their eternal shame, MIT involved the federal authorities and never asked them to back off. MIT "could have stopped this [prosecution] cold in its tracks by saying they were not the victims of a crime, and they didn't do that," Swartz's partner, Taren Stinebrickner-Kauffman, told the *Los Angeles Times*.

"The government used the same laws intended to go after digital bank robbers to go after this 26-year-old genius," said Chris Soghoian, a technology analyst at the American Civil Liberties Union. But in fact, Soghoian said, stealing millions of dollars via computer is not the same as sharing an academic article with the public – even if the latter may violate a website's terms of service. Legislation proposed by Rep. Zoe Lofgren, days after Swartz's death, would revise federal law to recognize that distinction.

To put the absurdity and immorality of Swartz's prosecution into perspective, consider the case of HSBC. Despite the fact that this bank admitted to laundering billions of dollars for Colombian and Mexican drug cartels, violating the Bank Secrecy Act and the Trading with the Enemy Act, the Justice Department pursued no criminal prosecutions. Rather than insisting that bankers go to jail, the government settled for a \$1.9 billion fine – five weeks of income for HSBC.

The prosecution of Swartz and his

tragic death highlight the skewed priorities of our justice system and the pernicious effects of copyright regimes run amuck. For those of us who work in academia, it obliges us to consider the scandalous state of academic publishing.

Most research monographs and journal subscriptions are expensive; and rare is the academic who does not find that the hunt for a journal article online is blocked by a paywall. Though we inhabit a world in which the distribution and dissemination of information is easier by the day, some very old stumbling blocks remain.

Why is this archaic system of production and distribution still dominant? How does it work? It works because academics, ironically enough, underwrite it with our unpaid labor. We conspire to make things harder for ourselves in ways that are damaging to our universities. It works because academics collaborate with a system whose incentives and interests are not aligned with our own.

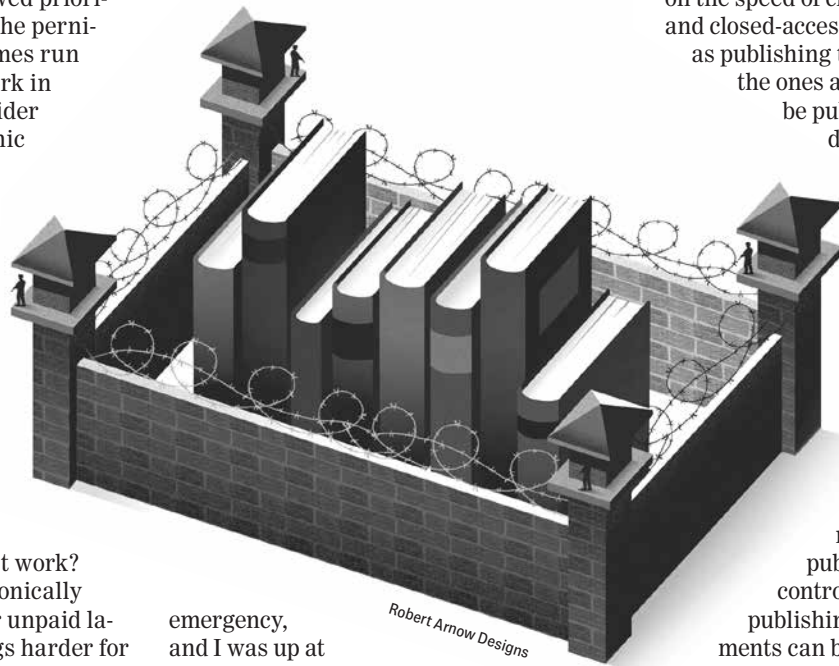
Consider, as an example, Elsevier, a publishing house known for "premier" journals like *Cell* and *The Lancet*. It is able to sell those journals at high prices because they include results of research conducted by university academics the world over, much of which is publicly funded. Elsevier does not pay for the research, it does not pay for the papers to be written. The editorial boards of Elsevier journals are staffed by unpaid academics, who then ask other academics to serve as unpaid reviewers. By "unpaid," I mean of course that faculty are not compensated by Elsevier for their work on its journals – but this work also gets little or no recognition in academic workloads. (It is only tangentially acknowledged by promotion and tenure boards.)

PAYWALLS

Once a research paper is accepted for publication, it is sent back to the author – who typesets it (using perhaps a style sheet provided by the publisher), prepares a camera-ready copy and sends it back for publishing. In return for this uncompensated labor, the publishing house makes authors sign forms handing over copyright, then prints the article in a journal that it sells for thousands of dollars per year to the very universities where its authors, reviewers and editors do their work. In effect, Elsevier sells academics' unpaid work back to them, at an increasingly unaffordable cost.

Once published, the material is not open-access anymore; it is closed behind a paywall. If your library, at say, an underfunded public university like the City University of New York, is experiencing budget problems, you may be out of luck. If you are a taxpayer who funded this research, but don't have access to a journal's subscription, you are out of luck again.

Here's what happened to Jonathan Eisen, an evolutionary biologist whose brother is a co-founder of Public Library of Science (PLOS), a prominent open-access scholarly journal: "Even with my brother starting PLOS...I didn't understand why this was a big deal. And then we had a family medical



emergency, and I was up at 3:00 [am]...next to my wife in the hospital room, surfing the web...trying to find information about a particular medical treatment. And I couldn't get access to the damned papers!"

Eisen stresses that he is not a utopian: "Nobody is saying that publishing is free. What people are saying is that...taxpayers and the government are [already] paying for this. So why can't we do it in a way where the knowledge is distributed broadly, as opposed to where the knowledge is restricted?"

Some open-access journals post any paper that meets very basic quality standards, relying on new forms of online peer review to identify the most important work. Others have editorial boards that serve as more restrictive gatekeepers, deciding what is worth publication. What all open-access journals have in common is that they do not charge for access to knowledge.

What can academics do to support this kind of change? Most straightforwardly, they can start by refusing to support the current system. On January 21, 2012, mathematician Timothy Gowers of Cambridge announced he would no longer publish in Elsevier's journals or serve as an Elsevier editor or referee. This boycott has now been joined by thousands of other academics. (I don't referee any more for Elsevier, though I have in the past, and I won't send any papers to its journals.) Thanks to the furor created by three Fields Medal winners – Gowers, Terence Tao and Wendelin Werner – participating in the boycott, many are increasingly aware that academic publishing is a racket that relies on self-exploitation. Bear in mind that in 2010, Elsevier reported a 36% profit on revenues of \$3.2 billion.

Not every publisher is an Elsevier. But others come close, and for-profit, closed-access publishers are all using the same dysfunctional model.

To disrupt this system requires work. The overarching problem is that in the academic world, traditional printing presses still command the greatest power and prestige. Online publication counts for little in institutional decisions, even as it increasingly becomes a forum for cutting-edge scholarship, even when PLOS is cited on the front page of *The New York Times* as routinely if it were *Nature*. The dissemination of research is changing, but the tenure

and promotion process within universities is not. And unfortunately, so long as university promotion and tenure boards refuse to give due weight to open-access publication, academics will hesitate to publish in those forums – and this will act as a serious drag on the speed of change. As long as Elsevier, and closed-access presses like it, are seen as publishing the "prestigious" journals, the ones academics really want to be published in, the current dysfunctional system will hang on.

So, university promotion and tenure boards need to pay closer attention to open-access journals and presses. They need to acknowledge the new models for academic publishing and peer review now exist, and must be taken seriously. University administrations must act to bring academic publishing back within the control of the academy. Modern publishing's production requirements can be financed by a consortium model, which would fund the work that professors and graduate students do on the editing, review and distribution of journal papers and research monographs. The work they do on these publications should be counted as part of their workload and should be reckoned with in their promotion and tenure decisions. Universities can provide institutional backing for open-access publication fees – and many already do.

But most pressingly, senior academics, especially those with full professorships and tenure, need to take the lead. The academy runs on the Matthew Principle: those that have, get more. If this present situation is to change, those that have the most need to give away the most. They need to lend their reputation and prestige to open-access journals and presses so that the profile of those journals can be raised, and articles they publish will start to receive appropriate weight in career decisions.

MOVING PRESTIGE

Change will come when those who have sufficient power, those who can easily get their fifth book published again by Cambridge University Press, will finally say, "I choose to make my book open-access and make it available online."

Senior academics need to follow the call of Harvard's Faculty Advisory Council, and "move prestige to open access." This is a reputation economy, and those that are wealthy need to spread the joy, as it were. It is impractical to expect junior academics to take the lead in this regard.

Other reforms are possible: all federally funded research, not just some, should be subject to an open-access requirement; copyright law should be amended for academic research; and so on. But first and foremost, the university must reform itself. Stop collaborating with the traditional model, and by using and promoting open-access models of publishing, help them to become the norm.

Samir Chopra is an associate professor at Brooklyn College. He studies the relationships between law, technology & philosophy.

What do you think about open access and the future of academic publishing? Clarion would like to hear your views. Send letters to the editor or proposals for op-ed articles to our editor, at phogness@pscmail.org.

The life & work of Aaron Swartz

PSC and New York City's 2013 elections

This year's New York City elections could mark a turning point in city politics. Clarion spoke with several members of the PSC's Legislative Committee about what's at stake in 2013, the PSC's plans, and how members can get involved. Discussion participants included committee members Iris DeLutro, Ron Hayduk, Geoff Kurtz, Eileen Moran and Cecelia McCall.

CLARION: On January 26, the union held this year's "PSC-CUNY 101." Thirty-three candidates for City Council attended. Tell us, what is PSC-CUNY 101?

CECELIA MCCALL: It's basically a seminar for City Council candidates – a two-hour crash course about CUNY and its issues. We have different presentations and we run down key facts and statistics about the University: who goes there, how it began, what's CUNY's role in the city today. And we have a serious discussion with the candidates about their importance to CUNY and why we need them to be advocates for the University.

EILEEN MORAN: We aim to present CUNY's budget issues in a very clear way, one that will stick with the candidates when they become legislators. For instance, there's a pie chart that shows what share of CUNY's budget was paid for by student tuition 20 years ago, and how big a share they're paying now. It goes from 12% to around 40%, then we connect that with the fact that so many of our students are poor – and yet they're being asked to shoulder this burden. We show candidates the facts in a way that they'll remember.

IRIS DELUTRO: When new councilmembers take office, we want them to really be well-versed in CUNY's issues; we want them committed to protect City University and its funding.

MORAN: PSC-CUNY 101 has also had a ripple effect. A lot of the candidates who attended when we've done this in the past did not win their race for Council – but later they were elected to the State Legislature. Very often there might be two people or three people we like, all running for the same seat, and this process means that all of them get this exposure, both to the PSC and to CUNY.

MCCALL: In 2001, the first year we did PSC-CUNY 101, there were a lot of open Council seats. The fact that there was such a big turnover was a source of strength for us, because all of these newly elected people got to know us from the start.

Most of them tended to have a grassroots background, they were rooted in their communities. The PSC was on the ground, we were in touch with them during the campaign and they got to know us fairly closely.

A good example is Ydanis Rodriguez. He had been a student activist at CUNY, and then a public-school

Shifting NYC's politics away from austerity



Members of the PSC Legislative Committee meet in January to make plans for the coming year.

teacher. When we first supported him back in 2001, he didn't win. But he got elected a few years later, and then became chair of the Council's Higher Education Committee.

That's the kind of result we'll be looking for again this year as we interview candidates. We want to keep building those kinds of relationships.

CLARION: What stands out about the NYC elections in 2013?

MORAN: First, the fact that there will be so many open seats. No one in citywide office is running for reelection, and probably more than a third of the City Council seats are up for grabs.

DELUTRO: A big reason for so much turnover this year is the impact of term limits. Whatever you think of term limits, the fact that so many new Council members are coming in is a good opportunity for us in the PSC. It's an opportunity to affect the direction of city politics.

GEOFF KURTZ: That gets at the second thing about this year, which is that some good things have been happening in New York City politics, and that's creating some new possibilities. This year we've got a chance to start moving the city away from the austerity agenda that's been so dominant.

After the 2009 election there was a cohort of City Council members who formed a Progressive Caucus, as an attempt to have an organized counterweight to the mayor and to corporate interests. One of the founders, by the way, was Ydanis Rodriguez. The group included a number of other people the PSC had endorsed, and a lot of them were close to the Working Families Party (WFP). They've pushed for measures like legislation for paid sick days, and they've been speaking out on issues like stop-and-frisk.

Now in this election, this Progressive Caucus is actually campaigning to increase its membership – recruiting candidates, starting to

actively support candidates. That's really exciting. It's a big deal.

MORAN: What's important is that those endorsements will be based on a set of common principles. The Caucus is going to release a common platform soon, which it's been developing with labor and community groups from all over the city. The PSC has been part of those discussions. It's an agenda that expresses some shared commitments – it says that we don't have to accept an austerity agenda, that we have a choice.

KURTZ: Absolutely.

MORAN: Because New York City is not broke. This is one of the richest cities in the world. We have the money to pay for the services we need, and it's not hard to figure out where the money is. But the people who have the most money are not paying their share in taxes – and that's a problem. This is a big point of agreement between the Progressive Caucus and the PSC.

KURTZ: This whole question of austerity and fair taxation is a place where politics hits you in the pocketbook. These elections will affect the state of municipal labor relations, and that affects us in the PSC. We have a chance this year to elect a new generation of labor-friendly councilmembers. That's pretty exciting. And the mayoral election is also important for us, because it's going to set the climate for public-employee contract negotiations. Right now every municipal union is working under an expired contract.

RON HAYDUK: Like Eileen mentioned, the PSC has been part of the discussions on developing the Progressive Caucus platform. It'll be something like "Thirteen big ideas for NYC in 2013," and it's a good list: our public schools and public higher education, transportation, affordable housing, how rebuilding

is going to happen after Sandy. All things that affect our daily lives.

But what's just as important as the specific issues is that it's come out of a process with unions and grassroots community groups. In the same way that the Working Families Party is a coalition of labor and community-based organizations, the Progressive Caucus platform expresses an increasing desire of different groups to work together on a joint agenda. And that reflects some broader trends.

MCCALL: On all these issues, Occupy Wall Street really changed the conversation. It made people focus on the fact that there's a real class struggle going on, even if the media doesn't like to talk about it. Suddenly people were talking about economic inequality and how it's getting worse, how that's bad for our society. "We are the 99%" – that really touched a chord, and I think it still resounds.

And Occupy isn't dead. Occupy has been out in Red Hook and the Rockaways with Occupy Sandy. Occupy has been organizing for debt relief; they're doing all kinds of things.

HAYDUK: The Occupy movement helped to open that space where labor and community groups have been coming together and starting to flex our muscles. The energy that created has led to some coalescing elsewhere. Look at last year's May Day march for labor and immigrant rights – it was the largest in years, and groups that have not always worked well together worked together to organize that.

So, this kind of motion is also reflected in the Progressive Caucus agenda. And this kind of coalescing is a top priority of the PSC's political strategy. Whether it's with Occupy, or May Day, or taking part in the endorsement discussions of the WFP and the NYC Central Labor Council, we want to encourage unions, community groups and progressive

activists to come together around a common agenda.

KURTZ: That's a critical point. The PSC isn't big enough to change New York City politics by ourselves alone. But with the active, engaged membership of the PSC in solidarity and coalition with other partners, with our labor friends and community-based organizations – that's how we'll have the greatest impact. That's also how we can work to keep politicians accountable.

Whether someone positions themselves as a moderate, or a progressive, or a liberal, who's to say what they will actually do when they get into office? They'll be under tremendous pressure from Wall Street, from the real estate industry, from the tabloid editorials, from the right. Unless we apply pressure of our own, we can't expect a good result.

So yes, we want to prevail, we want to get the best possible candidates elected. But we also want to make sure that we've got the capacity to work with our allies and hold them accountable.

MORAN: And that's a real benefit of developing the Progressive Caucus platform. It's says, "This is what our philosophy commits us to." It's taking a stand. So that's something we can go back to after people are elected.

CLARION: So what is the PSC planning for the months ahead?

DELUTRO: We'll be hosting a mayoral candidates' forum this spring, and every PSC member is strongly encouraged to attend! We want a good turnout, to show candidates that we are a significant organization – but also because this is part of the PSC's endorsement process.

KURTZ: That's right. We'll be discussing the 2013 elections at chapter meetings this spring. So if we have a good number of members at the mayoral forum, they can come back to their chapters and make it part of a larger conversation about what our union should do in this election.

DELUTRO: Later in the spring, the Delegate Assembly will vote on endorsements in citywide races and the Executive Council will make endorsements for City Council. The Legislative Committee makes recommendations for all these races, and we're interviewing candidates now. Members who'd like to be part of the candidate interview process – and not just for one candidate, it has to be all of them – should contact the committee.

But our endorsements won't mean anything if we can't put people in the field to help those candidates win. We'll need people to phone bank, to knock on doors, to stuff envelopes – if you want to help, there's something you can do. And we *will* need your help.

To get involved, contact Amanda Magalhaes at the PSC office (amagalhaes@pscmail.org, or 212-354-1252).

ENDING SLAVERY

History, politics & fiction

By JAMES OAKES

Suppose it was predictable that a historian would have mixed feelings about Steven Spielberg's *Lincoln*. Tony Kushner's screenplay is smart, the cinematography is gorgeous and the acting – notably Daniel Day Lewis's – is terrific. But *Lincoln* is also based on several dubious premises about the significance of the events it depicts and about the respective roles of President Lincoln and Congress in the passage of the Thirteenth Amendment. I liked it as a movie; I wish I could say it was good history.

Lincoln is unusually sophisticated in the way it weaves its themes into a compelling narrative. One of these themes is the relationship between the struggle to abolish slavery and the related, but distinct, struggle for racial equality.

The movie opens with two black Union soldiers, one recently enslaved and the other a free man from Boston, discussing the war with the President. They are very different people, these two men. They dress differently, they speak differently and what they have to say to Lincoln is different. For the Bostonian, the racial discriminations suffered by black soldiers – first the unequal pay and now the lack of promotions – is foremost in his mind. The recently freed slave is clearly frustrated by these complaints. He is fighting for his freedom, not for a promotion. This is no abstract distinction. The ferocity of battle depicted in the film – of black soldiers in unyielding hand-to-hand combat with white Confederates – stemmed from the fact that if they were captured, the black soldiers would not be treated as prisoners of war. They would either be executed or re-enslaved. Screenwriter Kushner is already making his point: racial equality is a critical issue, but right here, right now, it was not an issue that the Civil War would resolve. Slavery was. The two were closely related, but not identical.

ABOLITION

This is the same point former slave turned activist Elizabeth Keckley makes to Lincoln late one evening on the White House porch. The President asks her what “your people” will do when the war is over, and, in one of the most moving scenes in the film she answers, “What my people are to be, I can't say. Negroes have been fighting and dying for freedom since the first of us was a slave. I never heard any ask what freedom will bring. Freedom's first.” First slavery must end, she says, then we can talk about what comes later.

Whether or not these are sentiments likely to have been expressed by African Americans at the time, Kushner's historical and political point is right on target. He's saying: let's get slavery abolished, then we will settle the meaning of freedom. The struggle over racial equality was destined to take center stage once the war was over, but in order for it to be addressed, slavery must first be destroyed.

Thaddeus Stevens in *Lincoln* comes to terms with the same fact of political life in January, 1865. Despite his admirable commitment to racial equality, Stevens too must shelve that larger, broader project of racial equality – for the time being – because slavery must be abolished first. Kushner returns to the theme near the end of the movie. As Stevens listens to the black woman beside him



Daniel Day-Lewis plays Abraham Lincoln in Steven Spielberg's new movie about the 16th president.

reading the second article of the Thirteenth Amendment aloud – the clause empowering Congress to enforce emancipation by appropriate legislation – the lips on Tommy Lee Jones's face curl ever so slightly into a smile. Article I secured emancipation; armed with Article II, he would set about to enforce it.

PARTY MAN

Kushner distinguishes the struggle for racial equality from the struggle to abolish slavery while at the same time recognizing how closely related they were. Few historians have managed this as well, and few commentators have even noticed it. What most people focus on is a second theme – the paradoxical “nobility” of down-and-dirty politics.

Among those of us who've studied Lincoln closely, it's not news that the 16th president was, in his heart of hearts, a politician. He was a party man – at first a devoted Whig and, when that party collapsed, an equally devoted Republican. He worked tirelessly to maintain party unity; he crafted his own positions to insure that they aligned neatly with the official positions of his party. When during the secession crisis Lincoln was pressured to issue a formal statement clarifying his own position, the only thing he would say was that he was a Republican and that his views were those of his party. Those in search of heroes who “rise above politics” will find little inspiration in Lincoln's biography.

Spielberg's movie takes dead aim at this anti-political strain in contemporary America. For many people, “politics” is the antithesis of “principle.” Politicians are compromisers, trimmers, people interested in getting and holding onto power rather than using government to pursue the greater good. Lincoln upsets this dichotomy – he is the hands-on, backroom politician, the party boss who pursues power and uses it for one of the noblest ends in our history – the abolition of slavery. He demands compromise, but only in pursuit of great principles. He brings together the radicals and conservatives within his own party so that they may defeat the enemies of emancipation. It is what commentators admire about Lincoln, and I certainly share their admiration.

Nevertheless, the movie develops this theme in troubling ways – ways that compel

Kushner to depart from the known historical facts of the Thirteenth Amendment. Most disturbing is the film's narrow conception of how politics work. Several historians have complained that *Lincoln* gives no credit to the slaves, whose determination to be free played an integral role in the process by which slavery was destroyed. Kushner responded in a December interview on the PBS show *Moyers & Company*: “I don't accept the idea that the only thing to tell about emancipation is that the victims of oppression are always the authors of their own emancipation, because it's not the case. Frequently people that are severely put upon and severely oppressed don't have the means...to rise up and destroy [oppression] on their own.”

While there is some truth in this, it scarcely accounts for the large body of scholarship demonstrating the importance of slave resistance during the Civil War. You don't have to argue that the slaves “freed themselves” to recognize – as Lincoln and his fellow Republicans themselves recognized – that slaves fighting for their own freedom were “indispensable” to Union victory and therefore indispensable to emancipation.

Yet even on its own terms – not as the broad story of how slavery was destroyed but as the smaller, though fascinating, tale of Lincoln and Congress in January of 1865 – the film operates from a cramped conception of how politics work. Indeed, the movie does not fully jettison the anti-politics it attempts to critique, for *Lincoln* is the story of a man on a white horse, a singular political genius, who goes down into the muck but only to drag everyone else out of it. Lincoln's fellow Republicans squabble among themselves and Lincoln corrals them into order. He flatters, he twists arms, he promises patronage, he even sanctions bribes – in his determination to bring the radicals and the conservatives within his own party into line. Lincoln sees what Thaddeus Stevens, in his unswerving radicalism, supposedly cannot see: sometimes the best way to get to “true north” is by going around the swamp, not straight through it.

This is not history, its pure fiction – and its fiction in the service of some fairly troubling notions of politics. Do Kushner and Spielberg want us to sanction bribery and political corruption in the name of the great-

er good? They most likely don't endorse such methods in contemporary politics. And neither did Lincoln in his time. The evidence that bribes were offered in exchange for votes on the Thirteenth Amendment is sketchy; evidence that Lincoln sanctioned bribery is simply non-existent.

Most troubling of all is the fabrication of a division among Republicans over the Thirteenth Amendment. There was no such division. From the moment their party settled on the amendment in early 1864, they formed a solid, virtually unbroken bloc in support of it. *Lincoln* has Lincoln herding the cats within his own party, forcing Congressional Republicans into line for the final vote. In reality, Lincoln never mentioned the amendment until after Congressional Republicans had endorsed it and after his own party put it into the 1864 platform on which he ran for re-election.

THADDEUS STEVENS

The depiction of Thaddeus Stevens perfectly captures both the strengths and weaknesses of *Lincoln*. In films about the Civil War, going all the way back to D. W. Griffith's notorious *Birth of a Nation*, Stevens has been portrayed as the very essence of demonic fanaticism. *Lincoln* goes a long way toward correcting that image. Tommy Lee Jones plays Stevens as a deeply committed radical, whose radicalism is in the service of the noble cause of racial equality.

Yet Stevens was, like Lincoln, a skilled political operator, a sharp lawyer and a brilliant parliamentarian. *Lincoln* depicts Stevens as the leader of the radicals, but he was much closer to being the leader of the Republicans in the House. Stevens chaired the powerful House Committee on Ways and Means and his fellow Republicans made him majority whip. Among the radicals, he was least in need of a basement-kitchen lecture from Lincoln on when to push and when to pull back. Yet his shining moment in the film comes when he defers to Lincoln's pressure to tone down his racial egalitarianism for the sake of the Amendment. The truth is that Stevens was respected as a leader of his party because his party was united in support of abolition, and nobody in Congress was more skilled at securing that goal than he was.

PRESIDENTIAL POWERS

Stevens was notoriously sarcastic in debate, and in the film it's cathartic to watch him bury his Democratic opponent under a barrage of insults. But Stevens was also the first Republican in Congress, back in August of 1861, to justify emancipation as a military necessity under the War Powers of the Constitution. Stevens's point was crucial: the laws of war are embedded in the War Powers Clause of the Constitution, and those powers are shared by Congress and the President. This division of powers, Stevens insisted, was the essential protection against executive tyranny. Presidents can't simply invoke the War Powers to do anything they please; they must be guided by what Congress allows. By contrast, the lecture on War Powers that Kushner puts into Lincoln's mouth is a veritable brief for the “unitary executive.” Lincoln explains to his cabinet that he and he alone decided to overrule the state laws protecting property because he needed to do so in order to save the Union. Stevens made no such bloated claims for an imperial presidency. Spielberg and Kushner seem to endorse such claims. If that's a defense of the nobility of politics, I'd just as soon do without it.

James Oakes is a distinguished professor of history at the CUNY Graduate Center. He is most recently the author of Freedom National: The Destruction of Slavery in the United States, 1861-1865.

What's right & wrong with *Lincoln*



15-MINUTE ACTIVIST

Turning a DREAM into reality

CUNY has an estimated 5,000 undocumented immigrant students. Many of them come from low-income households and are the first members of their families to attend college. These students have been New Yorkers for many years and many of their parents pay taxes. They are beating the odds every day. Now, they need your help to gain equal

access to the state's Tuition Assistance Program (TAP). To find out more about how you can support the Assembly's version of the New York State DREAM Act (A.2597) introduced on January 16 by Speaker Sheldon Silver, Assemblymember Francisco Moya and Higher Education Committee Chair Deborah Glick, see psc-cuny.org/nys-dream-act.

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CUNY Law prof tapped for top New York court post

By JOHN TARLETON

Colleagues, students praise pick

CUNY Law School, the nation's top-ranked public interest law school, gained another feather in its cap on January 15, when one of its own was nominated to New York State's highest court, the Court of Appeals.

Professor Jenny Rivera "has worked to defend the legal rights of all New Yorkers and make our state a fairer, more just place to live," said Governor Andrew Cuomo in announcing her appointment. Seymour James, president of the New York State Bar Association, said that Rivera will bring "her keen intellect, insightful legal scholarship and a commitment to equal justice for all New Yorkers" to the state's high court.

COMMUNITY SERVICES

Rivera earned her law degree at New York University and subsequently clerked for future Supreme Court Justice Sonia Sotomayor. She worked as a lawyer for the Legal Aid Society's Homeless Family Rights Project, and later became an associate counsel for the Puerto Rican Legal Defense and Education Fund (now known as LatinoJustice PRLDEF). Rivera is slated to receive the American Bar Association's Spirit of Excellence Award this February. "She's taken the spirit of law as public service to heart," said Victor Goode, a professor at the Law School. "Her range of experience, her academic preparation and the fact that she's grounded in a number of community services in New York City will make her well-prepared for the bench."

"She's going to bring the spirit of the 'wise Latina' to this court," said Law School professor Rick Rossein, echoing an expression first popularized by Sotomayor during her 2009 Supreme Court nomination hearings.

In a city where expensive law schools at Columbia and NYU get much of the media's attention, the



Professor Jenny Rivera of the CUNY Law School.

nomination of a professor from the CUNY School of Law struck a chord in the wider legal profession.

"This has been very powerful for us," Rossein said. "I can't tell you how many e-mails and phone calls I've received. I got a call from a friend with a more traditional legal background who said, 'Wow! You guys have really arrived.' But the thing is, we actually arrived years ago."

NATIVE NEW YORKER

Rivera, 51, grew up on New York's Lower East Side when it was still a predominantly poor and working-class immigrant neighborhood. She joined the faculty at CUNY Law in 1997, and is the founder of the Law School's Center on Latino and Latina Rights and Equality (CLORE), which promotes scholarship, public education and litigation in support of expanded civil rights, with a fo-

cus on issues affecting the Latino community in the United States. Its initiatives include the Language Access Project, which addresses discrimination based on language and national origin or ethnicity, and the Gender Equity Project, which develops legal strategies to overcome gender-based discrimination and its effects on the Latino community.

Each year, two Law School students are tapped to serve as CLORE Fellows and work closely with Rivera. During her time as a Fellow in 2009-2010, Natasha Lycia Ora Bannan helped organize forums on gentrification in East Harlem, the struggles of Latino and Chinese low-wage workers, and the former US naval bombing range in Vieques, Puerto Rico.

"Her mentoring was the highlight

of my year," Bannan said of working with Rivera at her fellowship. Now a legal fellow at the Center for Reproductive Rights, Bannan told *Clarion* that she still thinks of Rivera as a mentor and seeks her advice.

"I've known very few people with such solid, solid legal thinking and analytical skills, mixed with a deep understanding of where she comes from," said Bannan.

CIVIL RIGHTS

From 2007 to 2008, Rivera went on leave from CUNY Law School to work as Special Deputy Attorney General for Civil Rights under Cuomo when he was New York State Attorney General. Rivera has also served as an administrative law judge for the New York State Division of Human Rights, and as a member of the New York City Human Rights Commission.

Jonathan Harris, CUNY Law Class of 2010, told *Clarion* that when he took an administrative law class with Rivera, her detailed knowledge of government regulations was always linked to their practical effects.

"She used a lot of real-life examples of how regulations affect us in daily life even when we don't realize it," Harris said. "For her, the law is not

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esoteric. That's why it will be terrific to have her on the top court in New York."

Rivera is set to begin her confirmation hearings before the State Senate in February. If confirmed, she would have a 14-year term in office. The seven-member court currently has four members appointed by former Republican Governor George Pataki and one by former Governor David Paterson. The four Republican appointees will see their terms expire between 2014 and 2017. In addition to Rivera's seat, Cuomo is expected to fill the Court's other open seat in March.

HIGHER ED IN BRIEF

RF Central Office workers boycott anniv. breakfast

The CUNY Research Foundation (RF) marked its 50th anniversary January 24 with a fancy breakfast. Central Office workers represented by PSC-CUNY would have celebrated too, if they had a fair contract offer on the table. RF Central Office workers, who administer post-grant fiscal matters for city, state, federal and private awards, tell *Clarion* they boycotted the breakfast because an omelette is no substitute for respect and a fair contract.

Management continues to offer nominal salary increases while demanding significant hikes in employee contribution to health insurance premiums and major concessions in benefits for new hires. Stay up to date on the workers' contract campaign at psc-cuny.org/rfco.

Adjuncts' actual work hours and health care reform

The IRS wants to know how many hours adjunct faculty actually work.

The Internal Revenue Service is preparing guidelines for new Affordable Care Act (ACA) rules that take effect in 2014. Under the ACA, employers with 50 or more employees will be expected to offer health care coverage to workers who put in 30 hours or more per week, or will pay a penalty. At the start of this year, the IRS noted in the Federal Register that "educational organizations generally do not track the full hours of service of adjunct faculty, but instead compensate adjunct faculty on the basis of credit hours taught." Along with the Treasury Department, the IRS is inviting comment "on how best to determine the full-time status of employees" for adjuncts and other workers in similar situations.

Some part-time faculty activists have voiced concern about employers cutting adjuncts' hours to avoid having to provide coverage under the new law.