At a rally outside the Manhattan offices of Governor Andrew Cuomo, leaders of community groups from across the city gathered to demand that the state restore full funding to CUNY in order to forestall a proposed tuition hike and award a fair contract to CUNY employees. “Poverty is soaring,” said Zakiyah Ansari (above), advocacy director of the Alliance for Quality Education, at the January 11 rally. “Everyone agrees that education is the key to overcoming poverty.” PSC members will meet with state and city legislators throughout February and March to seek a just budget for all New Yorkers.
Hundreds of union plumbers offer free services to Flint residents

Three hundred union plumbers volunteered their services to residents of Flint, Michigan, under the direction of a state-appointed emergency manager, who had their water source switched to one that created unsafe and even toxic — levels of lead in their drinking water. The plumbers installed new faucets and water filters in exchange. Many existing faucets in Flint homes cannot fit a filter, which residents need in order to get dangerous levels of lead out of their drinking water.

On one January day, the plumbers replaced faucets and filters in 800 homes, according to the Huffing-

Dear Editor:

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

Honorary degree
recommended for juvenile justice advocate

CUNY’s University Student Senate passed a resolution on January 31, 2016, recommending that the CUNY Board of Trustees award the late prison reform advocate Kalief Browder an honorary degree. Accused of stealing a backpack, the 16-year-old Browder was sent to prison at Rikers Island, where he was held for three years without trial. Nearly two of those years were spent in solitary confinement, according to The New York Times. Upon his release, Browder earned his GED and enrolled at Bronx Community College. He became a justice advocate and the trade group Plumbing Manufacturers International, which donated the fixtures.

Scholarship honors work of PSC founding president

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IN BRIEF

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

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

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

Adam Koranyi
Distinguished Professor of Mathematics
Lehman College

The CUNY students’ lawyer

Over for 25 years, attorney Ron McGuire has defended hundreds of CUNY students pro bono in the name of education and civil rights. While marching in a “Books not Bombs” protest at the beginning of the Iraq war on April 15, 2003, I was arrested with two fellow Hunter College students, and Ron answered the call to defend us. Though the initial charges against us were very serious, Ron defended us with great skill and determination, which resulted in the charges rightfully being dismissed. This is just one example of how Ron’s advocacy in the courtroom resulted in CUNY students’ rights successfully being upheld. He has defended CUNY students who have gone on to become great professors at the university, while two of his student clients, Ydanis Rodriguez and Jumaane Williams, went on to become the mayor of the New York City Council.

Unfortunately, Ron McGuire’s work was not fairly compensated in winning the civil rights case Ramirez v. Springer. This case involved journalists at the College of Staten Island’s student newspaper being denied the First Amendment rights by the college president. After Ron won the case in 2007, he was awarded only 5 percent of the considerable cost incurred by seeing the case through to the end — over nearly two decades. This is a travesty given the thousands of hours Ron committed to the case, now the bulk of them unpaid, as he seeks a special hearing before the full Court of Appeals to overturn the ruling. Ron McGuire deserves the support of the entire CUNY community in seeking rightful compensation in this case. Ron has supported our rights for a quarter-century; now it is time for us to support him.

PSC Leads effort for fair teacher prep

At a December 7 Brooklyn town hall meeting on teacher preparation and the high-stakes exams required for certification, professors of education shared research and anecdotal accounts of how New York State introduced expensive tests and videotaping requirements in 2013 that narrowed curriculum and made student-teaching difficult. Those hardships particularly hurt student-teachers of color, those of lower incomes, and speakers of languages other than English, making the pool of certified teachers less diverse. Regents Kathleen Cashin and Charles Bendit, co-chairs of the Regents Higher Education Committee, hosted the event held at St. Francis College, as part of their effort to hear educators and students from across New York State.

More than 100 people attended, including four regents and State Education Commissioner MaryEllen Elia and her staff. Professor David Gerwin of Queens College organized and moderated the event, which included panelists from CUNY, SUNY New Paltz, Teachers College, City College, and Hofstra, followed by an open forum featuring student teachers, cooperating teachers and other educators. Speakers criticized Pearson, the for-profit educational testing company, as well as former New York State Commissioner of Education John B. King, Jr. (now the acting Secretary of Education in the Obama cabinet) for introducing the exams with no period of transition. Speakers also warned about the new state-imposed GRE and GPA requirements for admission to education graduate programs.

MOVING FORWARD

“The PSC continues to work close

PSC First Vice President Mike Fabricant responds:

A timely letter! New York Assembly

Speaker Carl Heastie introduced legislation at the beginning of Feb-

uary to restore higher tax rates on high-earning New Yorkers. There is clearly a lot of support among Democrats in the legislature for a more fair and progressive tax structure. The plan would lower to $1 mil-

lion the income to which the current highest tax rate (8.82 percent) would apply, and would create two new tax rates (9.32 percent and 9.82 percent), which would apply to higher income levels. Note that neither Clarion nor the PSC has shied from broaching this issue; see, for instance, Peter Hogness’s report in the April 2015 Clarion on the sales tax break given yacht purchasers.

Browder took his life on June 6, by his confinement was inescapable. Community College. He became a scholar of multimillion dollar condos are mini-taxed and another, from February 7, 2015, on tax avoidance schemes that use shell companies to buy up extravag-

ant Manhattan real estate. How about reminding CUNY management that Governor An-

drew Cuomo cut the state “million-

aires’ tax” in half while he and the legislature gave sales tax breaks to yacht and aircraft owners? Pop quiz: From 1980 to 1992, how much of the nation’s economic growth went to 90 percent of the population? Answer: zero. Much of that money went to billionaires living in our state and city. Shouldn’t those mini-taxed fortunes be publicized by the PSC? Millions of those dollars go to foundations, tax-free, that undermine public education in favor of privatization and the crippling of teachers’ unions.

Bank robber Willie Sutton was right when he said, “The bank is where the money is.” PSC should be encouraged to rediscover and publicize that the bank’s address is Wall Street.

Bill Duncan
Kingsborough Community College

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

Harriet Payne

Clarion | February 2016

Letters to the Editor

WRITE TO: CLARION@PSC. CUNY.EDU, 15TH FLOOR, NEW YORK, NY 10016. EMAIL: ASIANTS@MAIL.CUNY.EDU.
Cuomo budget sows confusion

New funding and new cuts

By ADELE M. STAN

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

At the same time, however, the governor included a $340 million line item in his budget for payment of retroactive, collectively bargained pay raises for CUNY’s employees, who have not had a salary increase in at least six years.

“Hey, Blaz, hope you played Pow- erball!” blared the cover of the next day’s New York Daily News, which in its editorial accused Cuomo of giving “a big punch in the face to New York City.”

In a statement released to the press, PSC President Barbara Bowen expressed appreciation of the money earmarked for raises, noting, however, that while “the governor called education a ‘ladder to climb out of poverty,’ ... a $485 million budget cut would destroy that ladder for CUNY students.”

CUNY Chancellor James B. Milliken expressed no concern over the governor’s budget as “debilitating,” vowing to resist the funding cuts “by any means necessary.” The governor soon dialed back his rhetoric, saying that the savings required by the state in its spending on CUNY and health services delivered to city residents could be achieved through “streamlining efficiency” and “policy changes” at CUNY and in Medicaid administration.

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

City Comptroller Scott Stringer also appeared that day before the same committee, telling lawmakers that an analysis by his office showed that “it aid to CUNY had grown at the same rate as the state’s operating budget over the last seven years, the system would have an additional $670 million on hand today.”

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

lent student has decreased 17 percent since 2008.

“It’s just a constant, constant austerity, even though we’re way past the recession,” Bowen said in a January 11 interview with New York Times reporter Vivian Yee. “That’s why we say that the discussion should be about increasing resources to CUNY rather than taking, not just who’s going to take responsibil-

ity for already inadequate funding.”

Bowen is scheduled to tes-

tify on February 8 before the state legislature’s Joint Edu-

cational Budget / City Hall, 250 Broadway, 15th floor

Be part of the action this semester as the PSC works to secure funding for CUNY and our contract through the legislative process. Tell lawmakers of your needs as an educator or CUNY staff member. Attend a lobby day in your borough in Albany.

(Sign up here: http:// psc-cuny.org/2016-lob-

bying.) Come to a PSC Legislative Committee meeting. Join with your colleagues in the fight for a better life for CUNY students and the whole CUNY community. To find out how to get involved, contact Kate Pfordresher at kpfordsr@ pscomail.org.

Early February | PSC Legislative Ad Campaign / Internet banner ads targeting state lawmakers, radio ads in Albany and social media ads targeting voters in key legislative districts will make the case for state investment in CUNY. An earlier PSC ad campaign displayed 6.6 million times in targeted Facebook and Twitter feeds.

Tuesday, February 2, 12:00 pm | Alliance for Quality Education Press Conference / UCA Press Room – Legislative Office Building, Albany

PSC First Vice President Mike Fabri-

700x1100

This document contains a detailed overview of the budget's impact on CUNY and the efforts by the PSC to advocate for increased funding. It highlights the disparity between the governor's promises and the actual funding cuts, emphasizing the need for increased resources to support education and maintain the quality of education for CUNY students.
New Yorkers to Cuomo: Fulfill your progressive promise

Community leaders take demands to the gov

By CLARION STAFF

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

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

Arthur Cheliotis, president of Communication Workers of America Local 1186 and a graduate of Queens College, said his CUNY education — then tuition-free — “allowed me, the son of an undocumented alien and a refugee from the Nazis, to make a life in this city.”

BROAD SUPPORT

Zakiyah Ansari, advocacy director of the Alliance for Quality Education, whose three children currently attend CUNY colleges. Each year, she said, she sees the tuition go up, yet she does not see comparable investment in the university. The governor, she added in a written statement, “has consistently failed to keep his promises. He has only reneged on his promise to increase state aid to CUNY and SUNY when tuition increased.”

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

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

Jahmila Joseph, DC 37’s assis tant associate director, addressed the governor directly, noting that the “vast majority” of her union’s 10,000 CUNY workers do not make $15 an hour, a rate that Cuomo has promised other state workers. “So we’re asking you kindly to put your money where your mouth is; support the students, support the people’s university and support the members who are behind me who work for the university,” she said.

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

Other leaders who were unable to attend the rally penned state — the staff at CUNY.

José Calderón, President, Hispanic Federation

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

Henry Garrido, Executive Director, District Council 37

The state budget is a statement of priorities and values. CUNY is a jewel that provides a path to upward mobility for thousands of New Yorkers. The governor’s leadership would ensure the resources CUNY desperately needs to maintain its high level of educational excellence. CUNY cannot continue to be a life line for working-class New Yorkers if it cannot invest in support for faculty and staff, including some 10,000 DC 37 members who make higher learning possible by providing students with a modern, world-class educational environment.

Karen Magee, President, New York State United Teachers

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

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

CUNY faculty and staff have worked five long years without a contract, and during that time, they have continued to provide exceptional service and instruction to students. CUNY schools are an integral part of the fabric of New York City and they have educated a number of our city’s best minds.

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

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

Kenny Jawson, The Urban Youth Collaborative

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

At campuses across the SUNY system, hundreds of academics are taking their activism into the realm of the personal, talking to their colleagues about the union’s upcoming strike. Bink has been spearheading organizing conversations that have sev- eral goals: assessing members’ commitment to a “Yes” vote, building the collective power of the union by determining workplace concerns – from workload to salary – and connecting those issues to the union’s five-year battle for a fair contract.

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

STRIKE AUTHORIZATION VOTE

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

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

By the start of the Spring semes- ter, more than 1,500 members had signed a pledge stating their commit- ment to vote “Yes” for a strike authorization, indicating that “they are prepared, if necessary, to join a strike, or other job action.” (“To add your name to the form online, please use this link to set up an account.”) As of mid-January, PSC has trained more than 350 members on how to conduct personal, one-on-one conversations to organize a strike authorization vote, and more training sessions are scheduled this winter. (See list on the next page for dates and times.)

Cindy Bink, director of coun- seling services at New York City College of Technology, says that engaging in the conversations is a process that is as much about opening her ears to a colleague’s experience as it is to providing answers on union issues. It put in her touch with her own commitment to authorize PSC’s Ex- ecutive Council to call a strike if deemed necessary, she says. “I think that talking about [a strike authoriza tion vote] makes people mo ti vated,” Bink told Clarion. “It’s really about listening to people.” When a member discusses her workplace and compensation concerns with Bink, “that’s when I want to go out and do something,” she says.

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

DIFFICULT CONVERSATIONS

In the first few weeks of the new year, Bink talked to several of her colleagues at City Tech, putting her questions about the issues. Designed in part to learn where colleagues stand on a strike authorization vote, these conversations also address very real fears and concerns members may have about possible work action.

One fear that her colleagues often ex press is that they could suffer a loss in pay if they vote for the strike authorization. Voting for strike authorization does not violate state law for city workers, nor would a “Yes” vote affect a member’s salary. It isn’t until a member actually takes part in a work action that penalties apply. However, should the PSC Executive Council call a strike or a work stop- page, the New York State Taylor Law, which protects public employees in the state from striking, would then enact a contract to both the union and to individual members who partici- pate in a work action. Under the law, for each day or a part of a day that a striking employee is not at work, the employee loses two days’ pay.

Bink says she understands that there’s no magical assurance that she can give to her colleagues, but she says, she draws on past experience, confi dent that PSC leaders – as they did when organizing November’s arrest-risking con traction – will carefully weigh actions and conse- quences when deciding what strate- gic move is needed next.

Jonathan Epstein, an adjunct as- sociate professor at John Jay College of Criminal Justice, concurs. “It’s im- portant for the union that everyone goes into this with their eyes open,” Epstein said, who sees the one-on- one discussions as a chance to ad dress members’ questions. Of the 11 colleagues with whom Epstein has conducted conversations, six signed on to the strike authorization pledge, four said they would need more time to make up their minds, and only one was a solid “No,” Epstein told Clarion. Making one’s colleagues is not an easy task. For Ronald Platzer, who has worked at City Tech for more than 23 years, his “Yes” vote is a signal to management that a job action is a possibility – a way to apply pressure for a satisfactory settlement of the PSC’s contract. At the time Clarion interviewed Platzer, he had only had the chance to speak with three colleagues, all of whom declined to sign the pledge. “I’m not surprised,” said Platzer, the associate director of the college’s SEEK Program. Platzer talked to people he knew, and because of that familiarity, he says he feels that people were hon est about how they would vote. But he’s pressing on with another three conversations on his schedule. It is important to continue reaching out to his colleagues, Platzer said.

Stephanie Boyle, an assistant professor of history at City Tech, is ready to start the semester engag- ing in these “difficult” conversa- tions. The tipping point that moved her to get involved was the Novem- ber 4 disruptive action, when PSC members blocked the entrance to the main entrance of City Tech building in Midtown Manhattan and were carted off by police. (See Clarion’s December 2015 issue, “Militant ac- t iv i ty on Campus.”)

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

Boyle, who is all-in for joining the fight, says that it is still “a little terrifying” for her to have to talk about those conversations. She is in her second year at the college, and she says, she doesn’t want to seem like the new person trying to shake things up. She has had informal conversations for many years about the lack of a contract, as well as the recent proposal to settle current contract negotiations put forward by CUNY management and unacceptably by the union), which included a 6 percent raise with no back pay.

One new member told Boyle she as sumed the offer was exclusively for back pay, and that it did not really affect her. But Boyle, says when she began to explain how the amount of raises affects step increases, her new colleague began to reconsider.

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

A BETTER UNION CONTRACT

“If I break my leg, my car insurance goes up, it will severely nega- tively impact me,” Boyle, a single mother, told Clarion. In addition to tending to plow through living expenses, she has been slowly chip ping away at her “obnoxious” student debt. The light at the end of the tun nel came when Boyle was one of only a de c ent contract offer. “I can’t believe I went to school for this long [but still have debt],” said Boyle.

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

Attend an upcoming organizing con- versation training at your campus:

- Monday, February 8 (Lehman College) / 3:30–5:00 pm (CA 201)
- Tuesday, February 9 (Queens College) / 10:00 am – 12:00 pm (G Building, Room 200) / 3:30–5:30 pm (President’s Conference Room #1, Rosenthal Library)
- Wednesday, February 10 (Queens College) / 10:00 am – 12:00 pm (G Building, Room 200) / 3:30–5:30 pm (President’s Conference Room #1, Rosenthal Library)
- Thursday, February 11 (College of Staten Island) / 2:45 pm – 4:45 pm (Room 1-P201)
Why I’m voting ‘Yes’ on strike authorization

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

Lara Beaty
Associate Professor of Psychology, Social Science Department LaGuardia Community College

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

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

Shakia Brown
Assistant Coordinator, Budget Office Medgar Evers College

I’m voting “Yes” to PSC’s call for a strike authorization vote because we have to stand for equality, integrity and fairness. This is what we have to do to make a statement that conveys why this is so very important. I and my colleagues have suffered for over five years. I love CUNY and what the university stands for. This lack of a fair contract is a horrible injustice to students, faculty and staff. CUNY needs full funding and the time to resolve this matter is now. The wait has been long; justice is overdue. I’m voting to authorize the Executive Council to call a strike because I want to be valued as an employee, and for the PSC to be valued as a union. We must stand together to make a difference, or risk not being recognized as great workforce that serves CUNY.

I support the union.

PSC members tell why they’re ready for the next big step

Luke Elliott-Negri
Graduate Assistant, Sociology Doctoral Program The Graduate Center

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

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

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

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

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

The reason I’m voting “Yes” for the strike authorization is simply that, as a matter of principle, our PSC union contract with CUNY expired in 2010 and they have not renewed it! I find this disregard and disrespect toward the 25,000 hardworking and committed staff and faculty troubling, and I have become convinced that unless our brothers and sisters in the union threaten to strike, our voices for a fair contract and legal-based demands are not going to be honored. To make CUNY honor our demands, we will need a large majority of our union members to take the next courageous step. During the Spring 2016 semester, I plan to sit down with several colleagues and have one-to-one conversations with them regarding our union’s plan to authorize the Executive Council to call a strike. The more we are united in our union, the more we can enlarge our alliances with students and other union and community groups. Finally, voting “Yes” for the strike authorization is about the future of our professional work and affordable higher education in New York City (and the nation) for the millions of students whose only means to move up the economic ladder is through the great opportunities CUNY provides them.

Amy Jeu
College Laboratory Technician, Department of Geography Hunter College

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

Since our contract expired in October 2010, the inflation rate has compounded to 81 percent, the annual cost of living has risen to a minimum of $35,000, and we have seen no contractual salary increases. I’m a CLT working in the lowest paying full-time title of the PSC bargaining unit. Our salaries are between 14 percent and 33 percent
Why I’m voting ‘Yes’ on strike authorization

Tahir Butt
Graduate Assistant, Urban Education Program, CUNY Graduate Center

The decision to approve a strike authorization is one we each must make based on our individual circumstances, but also on the prospects for all of us who work at CUNY. With the current contract fight as just the most recent example of unions being bruised and weakened by decades of economic and political changes, a major challenge for us of how it is to reimagine and renew our capacity for collective action. I believe that absent such a renewal, CUNY administration will remain recalcitrant to our demands and those of our students, even as the state government continues to slash CUNY’s budget and undercut its historic mission to serve all the people of New York City. I will be voting “Yes” to authorize the Executive Council to call a strike – should it be deemed necessary – because that capacity to act together remains our greatest hope in the face of all these challenges.

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

Sarah E. Chinn
Associate Professor, English Department Chair, Hunter College

I’ve been at Hunter since 2001. The semester I started teaching here I was pregnant with twins and quickly found out that there was no paid parental leave, meaning that I would have to either teach my full load or take a semester unpaid, in which case I would have to pay out of pocket for my health insurance. Faced with the possibility of caring for two newborns while teaching seven classes, I chose to take the leave, even though I would be taking it late into my pregnancy. I was thrilled when PSC-CUNY successfully negotiated for paid parental leave for full-time faculty so no one would have to go through what I did. Thanks to the PSC, CUNY is a more humane institution.

I support the union’s call to authorize a strike because in my time at Hunter, there has been no viable rationale presented for why we shouldn’t be fairly compensated. This is a choice that the government and the administration are making. We live in an expensive city, our work is challenging, but we love our work with students and faculty. We are not asking for anything beyond what CUNY, Why are we being subjected to what is truly a pay cut?

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

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

Stephen Pekar
Professor, School of Earth and Environmental Science, Queens College

I am voting “Yes” on strike authorization because it is an outrage for any professional, in any field, to remain without a contract for over five years. I am voting “Yes” because this is a demonstration of disrespect to the devoted thousands of men and women who educate the next generation of young people.

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

I am voting “Yes” because we, the members of PSC, have tried every other option and have been left with no other choice. The draconian Taylor Law, which severely weakens city unions to the extent that the powers that be feel empowered not to negotiate with our union. After five years, the lack of a contract at CUNY, along with the administration's latest pathetic offer, is strong evidence for this. We must show the management of CUNY that PSC has teeth and that its members are committed to continue fighting until we get a fair contract!

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

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

Providing service to members as costs soar

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

The problem

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

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

The response

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

The PSC-CUNY Welfare Fund takes a different approach, choosing a course of action that minimizes financial and therapeutic impact, and tries to encourage smarter use of available drugs. The WP has negotiated partnerships with Medicare and Silver Scripts for Medicare retirees – replaced Express Scripts. We’ve invested great effort in notifying participants of the change and of the details of the new plan and we’ve been hard at work transferring into the system, preparing to administer and adjudicate new claims. Of course, there have been difficulties along the way of the sort that might be expected with any significant change. But we’ve done our best and we’re confident the wrong addresses or surprise encountered by some of our members who missed opening the notification mailed to their home.

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

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

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

Addressing concerns

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

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

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

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

All pre-certification requests must be made at least 10 days prior to any scheduled non-emergency service. Written notice of the determination will be mailed to members within 48 hours of Empire’s receipt of all necessary information. For more information, including a list of services that require pre-certification, please visit www.nyc.gov/bhp.

Changes to Empire and GHI CBP insurance coverage

Prior approval in some cases

Employees and non-Medicare eligible retirees should be aware that there are important changes to coverage through the Empire Blue Cross Blue Shield and GHI Comprehensive Benefit Plan (CBP) effective January 1, 2016. Benefits and co-pays are not changing, but many services provided on both an inpatient and outpatient basis, such as maternity care (pregnancy and delivery), radiation therapy and home health care, will now require pre-certification. This can be done by calling the NYC Health line at 1-800-521-9574. (This is the same number that has always been used for inpatient pre-certification and it is on your member ID card.)

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By CLARION STAFF

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A history lesson for the governor

By STEPHEN BRIER

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

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

WORLD-CLASS HIGHER ED

The governor justified this substan-tial state budget cut by indicating that the state’s original assumption of responsibility for CUNY’s senior college budget was essent-ially a response to the city’s 1976 fiscal cri-sis. The time for such subsidies has passed, the message suggested, as the city is now awash in money. An alternative explanation for Cuomo’s announced desire to transform the state’s responsibility for CUNY surfaced on January 17, when the New York Post quoted anonymous “high ranking” politi-cal sources as saying that Cuomo’s ultimate plan was a “dismantling” of CUNY and its merger into SUNY.

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

Whatever the governor’s ultimate inten-tions toward CUNY, an examination of the historical record reveals a very different, more complicated picture of the origins of the fiscal and governance relationships between the state and city with regard to CUNY. New York City’s municipal college system originally consisted of four senior colleges (City College of New York, Hunter, Brooklyn, and Queens, the first two founded in the 19th century, the latter two in the 1960s), governed, after 1926, by the city’s Board of Higher Education. These four senior colleges were built and subsidized largely, though not entirely, by the taxpayers of the city, with full-time, matriculating day students paying no tuition to attend. This unique municipal college system would confront enormous pressures to expand, however, first with the dramatic post-World War II surge in demand for higher education (driven forward by the GI Bill and the baby boom) and then with the election in 1958 of Nelson A. Rockefeller as governor.

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

Through a complex series of negotiations, Rockefeller and the state legislature agreed to let the municipal colleges take on an inde-pendent and expanded role to help the state realize its larger, higher-education mission. Rockefeller signed a state law in 1961 that formed the City University of New York. Hailing CUNY as “a comprehensive public university structure in the city,” Rockefeller, working with state legislators, agreed that year to make a substantial state contribu-tion to CUNY’s growth, providing one-third of the costs for freshmen and sophomores attending CUNY’s four senior colleges, plus one-half of CUNY’s debt service costs for capital construction.

CUNY’S EXPANSION

According to the records of the CUNY Board of Higher Education, New York State increased its annual contribution to CUNY’s operating budget from about one-third of the total costs in 1961 to approximately 45 percent by the time Rockefeller left office in 1974. That contribution, along with the creation of the City University Construction Fund in 1964, allowed CUNY to build a dozen new senior and community colleges across the five boroughs and expand to nearly a quarter-million undergraduates by the early 1970s.

STATE SUPPORT FOR CUNY & SUNY

New York State’s commitment to help fund CUNY obviously expanded signifi-cantly in 1976 when Governor Hugh Car-ey agreed to underwrite CUNY’s senior college budget with state funds. But the state’s major support of CUNY’s operat-ing budget clearly predates the fiscal cri-sis. Governor Cuomo’s assertion that the state’s contribution to CUNY should now be reconsidered because of the city’s shift-ing fiscal fortunes undermines the basic rationale for the state’s longstanding commit-ment to provide funding for both SUNY and CUNY, the twin pillars of the state’s public university system.

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


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

Friedrichs: Unions’ free speech boon

Continued from page 10

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

Outlets like In These Times are great for offering alternative perspectives that con-tribute to a broadening debate, but I sure as hell hope that the unions that have the most to lose from a “bad” Friedrichs decision, and who have done most of the heavy lifting on winning in court, are also putting together alternative war rooms to figure out Plan B. The more that we visibly and loudly plan and prepare our response, and calculate the potential upsides of a “bad” decision and maybe (some of us) even get a bit excited about the chaos we can create post-Fried-richs, the more likely that five members of the Court might realize that Alito is pushing for them to make a very big mistake. But if the Supreme Court goes ahead and tears up the current labor law regime in a nacked partisan act in the middle of a presidential election, then we had better be prepared to create the chaos that the Court is inviting.

Shaun Richman is a former organizing di-rector for the American Federation of Teach-ers. His Twitter handle is @Enso_Dog. He is a proud alumnus of Queens College. This arti-cle first appeared online at inthesetimes.com.
THE RIGHT TO STRIKE

Friedrichs: Unions’ free-speech boon?

By SHAUN RICHMAN
In These Times

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

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

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

SHUTTING OUT UNIONS

One could understandably be confused about how a collective protest that involves refusing to work could even be illegal in a country that guarantees the basic democratic pursuits of life, liberty and whatnot. How is a strike and picket line not a constitutionally protected exercise of free speech and free assembly? How is it prohibiting workers from striking not a violation of the Thirteenth Amendment’s protection from involuntary servitude?

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

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

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

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

Unsurprisingly, many states make strikes by public sector employees like the CUNY faculty and staff totally illegal, or else severely restrict them. Many states also make individual striker was fined two days’ pay for pay for each one day on strike.

COLLECTIVE BARGAINING = SPEECH?

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

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

So, in order to overturn this long-settled precedent, the parties behind Friedrichs—egged on by Justice Samuel Alito—are lodging a wildly expansive argument that every interaction that a union has with its government employer is inherently political. Bargaining demands, grievances, labor-management committees, job actions: all of it, goes the Friedrichs argument, is political, thereby making the collection of agency fees compelled political speech.

Let’s think about some of the implications of this argument. For starters, the Taylor Law that tells CUNY faculty and staff that they will be fined and their leaders imprisoned if they strike seems clearly to be a coercive restriction on their chosen method of political speech. If the Professional Staff Congress is hit with any penalties for either planning or going through with a job action, one hopes they can time their appeals to reach higher level courts after the Friedrichs decision comes down in June.

Across the river in New Jersey, another state with strong unions and shitty labor law, the scope of items that unions are even allowed to raise at the table is restricted by statute and a number of horrible court decisions. One area of restriction is a strong prohibition on pattern bargaining (i.e. one bargaining unit aligning its demands with another bargaining unit’s settlement). The most farcical example of this is Rutgers University, where management habitually creates new job titles that they argue fall outside the bounds of the existing faculty bargaining unit.

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

More galling: teachers unions in New Jersey are prohibited from even talking about demands around class size and staffing levels. I can think of few issues that teachers have more of a burning desire to talk about but they can’t – at least at the bargaining table.

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

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

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

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

LABOR NEEDS PLAN B

The hubris and general stupidity of Justice Alito—who tried and failed to get this ruling in last year’s Friedrichs case–is a callous and bigoted right-wing conspiracy of union-busters who raced this case through the courts in less than a year, perhaps shouldn’t be surprising. They just can’t kill unions and they’ve used to getting their way.

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

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

But labor also needs more people engaging in a debate about what, in theory, could come our way after an adverse Friedrichs decision. That shouldn’t be limited to toying with the legal implications of the Court’s logic, but also what kind of mobilizations, boycotts and – dare we dream? – sit-ins we dream up.
Here is the fourth article in our series examining the issues raised in Friedrichs v. California Teachers Association, a case currently before the US Supreme Court that could have far-reaching implications for the future of public-sector unions such as the PSC.

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

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

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

DEFINING POLITICAL ACTIVITY

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

At stake are the “agency fees” (sometimes called “fair-share fees”) that require every worker in a bargaining unit, regardless of the worker’s membership status in the union. Non-members, however, are required to pay the costs incurred by the union that is required to represent them for the services provided to employees in the unit, such as collective bargaining and grievance proceedings. American labor law requires unions to represent every employee in a bargaining unit, regardless of the worker’s membership status in the union. Non-members, however, are exempt from paying the union political activities, usually deemed to mean lobbying efforts, that strike and activism were needed to prove, to both the membership and the employers, the seriousness of the nascent unions.

In 1977, the year Abood was decided, there were 286 major work stoppages. But in the Friedrichs oral arguments, the term “labor peace” was not used once by either side, perhaps because in 2014 there were only 11 major work stoppages. No year since 1977 has seen as many strikes again.

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

WHERE JUSTICES STAND

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

“The problem is that everything that is collectively bargained with the government is within the political sphere, almost by definition,” Scalia, who was also appointed by Ronald Reagan, said during oral arguments. Kennedy appeared to concur. “It’s almost axiomatic,” he said. “When you are dealing with a governmental agency, many critical points are matters of public concern.”

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

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

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

Even these uses “are basic to our democracy,” Carvin said in rebuttal to attorneys representing the union and the State of California, “and that’s why we have an absolute right not to subsidize it.”

In other words, the plaintiffs’ lawyer was saying that the very imposition and conduct of such training was political.

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

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

“What they don’t have,” he said, “is a right to demand that the other side subsidize their views on these essential questions of basic public importance.”

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

OVERTURNING PRECEDENT

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

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

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

Jake Blumgart is a reporter and editor based in Philadelphia. He contributes to publications including Slate, Vice, Next City, the American Planning Association, and the Philadelphia Inquirer.
Show CUNY you’re not buying it
Impasse petition redefines chutzpah

By BARBARA BOWEN
PSC President

On January 26, with no advance discussion with the PSC, CUNY management declared that contract negotiations are at an impasse. Their temerity is breathtaking. This is the same CUNY management that refused for five years to make an economic offer to the union, and then proposed a salary cut when the offer finally came.

This is the same CUNY management that has made one and only one economic offer, refused to make an economic response to the PSC’s 14 percent counterproposal, and then promptly declared impasse. This is the same CUNY management that has failed spectacularly to win contract funding from New York State, and then refused the union’s offer to make a joint public statement about the need for more support.

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

LACK OF POLITICAL WILL

I am tempted to say that CUNY management has redefined chutzpah. If there is an impasse in contract negotiations, it is by management’s willingness to set the tone for the type of negotiations that went with it appear designed to portray the union as unreasonable and suggest that the problem in negotiations is merely a matter of discussion – when the real problem is management’s failure to deliver on economics and their position that is management’s failure to deliver.

Despite his repeated pronouncements about the priority of settling the contract – to CUNY Chancellor James B. Milliken has failed to exhibit the political will to get the deal done. Milliken has been unable – or perhaps unwilling – to ensure the funding necessary for a contract that, at the very least, keeps up with inflation or matches the modest raises provided to all other public employees in New York. As a result, he has failed the thousands of people who work for CUNY and imperiled the quality of education for CUNY students. The gap between the imagination and fierceness I see every day in members’ work and the intellectual laziness of the CUNY administration is staggering.

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

The PSC is happy to work with an appropriate mediator if it will advance discussions. Should a mediator be assigned, we will do our utmost to make mediation productive. But a declaration of impasse also has the potential to create enormous delays. If PERB does find that the parties are at impasse, it will take time for mediation to be successful. Despite his repeated pronouncements about the priority of settling the contract – to CUNY Chancellor James B. Milliken has failed to exhibit the political will to get the deal done. Milliken has been unable – or perhaps unwilling – to ensure the funding necessary for a contract that, at the very least, keeps up with inflation or matches the modest raises provided to all other public employees in New York. As a result, he has failed the thousands of people who work for CUNY and imperiled the quality of education for CUNY students. The gap between the imagination and fierceness I see every day in members’ work and the intellectual laziness of the CUNY administration is staggering.

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