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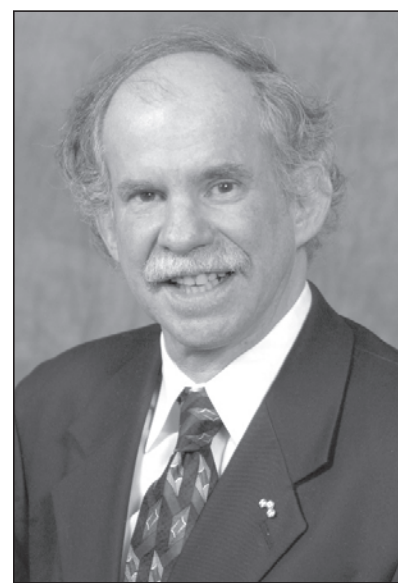
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# NEW YORK Academe

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## From the President's Desk:

By Stephen Z. Goldberg (Adelphi University)



Of course January 1 as a new beginning is as artificial as any other arbitrarily chosen date. Nonetheless, new beginnings, whether artificial or real, such as when we begin our new academic semesters, are usually associated with optimism and enthusiasm. This is certainly true for me. Even after more than 30 years as a faculty member, each new semester is still exciting.

However, as I write this a few days before the inauguration of a new president and before the details of the economic stimulus package become clearer, the economic crisis facing the country casts a pall over everything else and my enthusiasm as I approach the new semester is tempered by concern for the future of the academy.

We are indeed in a crisis which will not only affect how we function as individuals but how our institutions, governmental and private, function.

Perhaps it is time to reiterate the Chinese proverb, 危机即转机 (weiji ji zhuanji), "Crisis is Opportunity." Of course, the opportunity provided may be used for good or ill, and if the country is to emerge stronger after the current situation has been dealt with it is necessary that the choices we make now be good ones. This also applies to institutions of higher education.

A recent article in the *Chronicle of Higher Education* (on-line version only, <http://chronicle.com/weekly/v55/i19/a09901.htm>) by New York congressman Tim Bishop of Long Island was entitled, "Student Voices Shouldn't Be Drowned Out in the Clamor for Government Support." The points the Congressman makes are all very well taken. In his opening paragraph he says, "...it is more important than ever to have an innovative, well-educated work force to succeed in an increasingly competitive and global job market." Where will many of workers in that work force be educated? If the past is a guide to the future, they will be educated by the higher education system, a system which for all its faults remains the best and most diverse in the world.

In his article Congressman Bishop mentions three specific areas that Congress should consider: expanding campus-based aid, raising the Pell grant maximum, and increasing the annual loan limit for federal unsubsidized student loans. These are all actions we should support, and we should express that support to the new administration and the Congress. However, we should also take action on our own campuses.

There is no single strategy which will be universally applicable. Public institutions will have to deal with the constraints which may be imposed by state legislatures as a result of projected budget shortfalls, while at the same time there will undoubtedly be an increase in the number of students seeking to attend those institutions. Private institutions which receive significant state aid may also be affected by state budgetary constraints. Additionally, they will have to deal with the question of how, in times of great economic stress, students will be able to pay the tuition bills. Projecting enrollments and tuition revenue over the next couple of years will probably not be nearly as straightforward (if it ever was straightforward) as it has been recently.

Campuses must take a careful look at all of the services they provide and see which are essential, and may even need to be expanded, and which might be trimmed back. In doing so, the foremost concern should be for the students and their access to higher education. This is not the time for exuberant cheerleading, nor for gloom and doom handwringing. It is a time for a sober assessment. If such an assessment is to be meaningful and result in a successful outcome it must be fully open and transparent, and must involve every constituency of a campus from the trustees on down. If we all better understand the roles and needs of those we work with and for, we will come through this difficult

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## State Budget Cuts Would Impact Higher Education

Governor David Paterson's proposal to eliminate a \$13.7 billion deficit for the next fiscal year includes cuts in state support for higher education and higher tuition costs for students attending the state's public colleges and universities.

The \$121 billion spending plan would impact SUNY, CUNY and private institutions at a time when economic uncertainty is resulting in increased enrollments at public colleges, straining their ability to serve larger student bodies, while many private institutions in the state are concerned about how the recession will affect their retention rates and the size of their entering classes this fall.

The governor seeks to reduce the City University of New York (CUNY) senior colleges operating budget by more than \$64 million. The State University of New York budget for its health care centers would be reduced by \$25 million and would eliminate a previously negotiated salary increase this year.

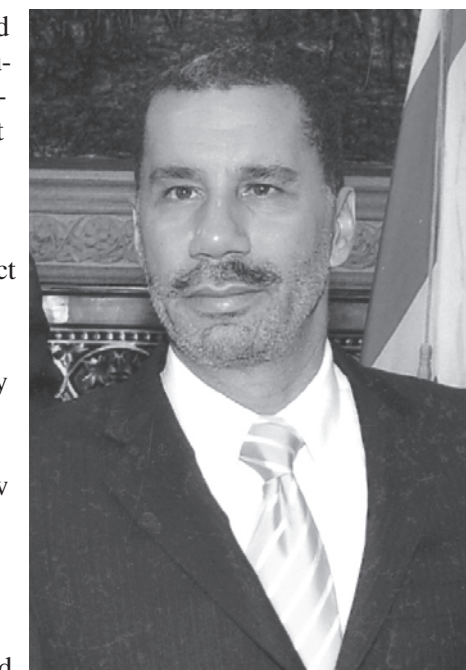
The state's community colleges would see aid cuts of approximately 11 percent, and the Tuition Assistance Program, the nation's largest college grant effort, would become more restrictive for graduate students and part-time students and those with bad grades - cutting \$47 million in funding for TAP. Good government groups argue the \$47 million cuts to TAP grants would reduce higher education access, because it would require students to take more course credits - 15 instead of nine - to get the full benefit. SUNY and CUNY consider 12 credits to be full time. The change means students who work, support dependents, or need time with their children would have to spend more time in school instead, or take a cut in aid.

That could force some students to decide between dropping out, keeping their job and caring for family members. According to the Division of the Budget, the credit requirement could help some students since TAP grants did expire after eight semesters, but under the change they will be pro-rated and could extend beyond eight semesters for students going part-time.

With tuition increases, tuition at State University of New York schools is \$4,970 per year while City University of New York campuses cost \$4,600 per year. It costs a New Yorker about \$15,000 a year, including living expenses and fees, to attend a state school.

SUNY administrators call the tuition hike a tax on students, many of whom

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# AAUP National News

## AAUP Wins Victory on Behalf of South African Scholar

On Monday, December 8, a federal district judge in Massachusetts handed the AAUP a victory in its litigation on behalf of South African scholar and human rights official Adam Habib.

Professor Habib, who holds a Ph.D. from CUNY, was invited to the United States in October 2006 to address audiences at Columbia University and the World Bank, among others. On his way in to the country, however, he was stopped at JFK airport and interrogated before finally being sent back to South Africa.

His visa, along with those of his wife and two young children, were subsequently revoked; he subsequently applied for a new visa to enable him to fulfill a speaking engagement with the American Sociological Association.

After the government failed to act on his visa application, the AAUP filed suit in September 2007, along with the American Sociological Association, the American-Arab Anti-Discrimination Committee, the Boston Coalition for Palestinian Rights, and Professor Habib himself, all represented by the ACLU.

The lawsuit argued that Professor Habib's exclusion from this country without explanation violated the First Amendment rights of the plaintiffs and their members, and asked that his visa be processed immediately.

One month later, the American consul in South Africa sent Professor Habib a letter informing him that he was inadmissible under a section of the USA Patriot Act that empowers the government to exclude an alien who has "engaged in terrorism." The government provided no evidence supporting its conclusion. The government then asked the court to dismiss the lawsuit, arguing that courts do not have the authority to review consular visa denials, even where the First Amendment rights of U.S. citizens and residents are involved.

In its decision yesterday, the judge roundly rejected the government's argument that courts are prohibited from reviewing visa denial decisions where Americans' First Amendment rights are implicated. As the judge noted, courts have, at a minimum, the power to determine whether a visa was denied "on the basis of a facially legitimate and bona fide reason."

The judge also rebuffed the government's argument that where no reason at all is offered for a visa denial, no review is permitted. "The incentive [that the government's] proposed interpretation would give the government would be perverse: better to give no reason for a denial so that it would be unreviewable than to give a reason and be second-guessed by a court." The court therefore denied the government's motion to dismiss the case.

The AAUP and its fellow plaintiffs had also moved for summary judgment; the court stayed that motion so that both parties can engage in factual discovery before trial. For additional information, see the ACLU's webpage on ideological exclusion.

## AAUP Sets Candidates for 2009 National Council Election

The Nominating Committee met in Washington, D.C., on September 20, 2008, for the purpose of nominating candidates for the 2009 AAUP Council election.

Candidates were selected in each of ten districts for the Association's governing Council. There were no petition candidates this year.

Regulations concerning elections may be found in the Association's Constitution, Article V, Section 3 and in the Election Bylaws.

Additional information may be obtained from Martin Snyder, staff of the Election Committee, by sending an e-mail to [msnyder@aaup.org](mailto:msnyder@aaup.org).

In **District VIII (New York)**, the candidates are **Lenore A. Beaky** (English), LaGuardia Community College, City University of New York, and **Jeffrey Kraus** (Political Science), Wagner College.

## Administration Calls for Prompt Response to Information Requests

The White House on January 21 issued a memo instructing heads of federal executive departments and agencies to respond "promptly and in a spirit of cooperation" to requests made under the Freedom of Information Act (FOIA).

The government "should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears," the memo said. In addition, agencies should take affirmative steps to make information public.

The American Association of University Professors had joined with civil liberties and open government organizations in calling on the Obama transition team to issue such an order early in the new administration.

The difficulty of obtaining information through FOIA requests has been a source of frustration for many scholars, particularly historians.

## AAUP National Office Moves to New Location

The AAUP national office has moved to a new location in Washington, D.C.

The new address is:  
American Association of University Professors  
1133 Nineteenth Street, NW, Suite 200,  
Washington, D.C. 20036.

## AAUP: Court Endorses Due Process Rights for Faculty

The U.S. Court of Appeals for the Sixth Circuit issued a decision yesterday that strongly endorses the importance of due process for faculty members, as well as the "property interest" in graduate faculty status. The Sixth Circuit is the federal appeals court covering Ohio, Kentucky, Michigan, and Tennessee; the opinion is binding only in federal lawsuits in those states, but will likely warrant attention elsewhere. The decision is applicable only to public institutions.

The case is *Gunasekera v. Irwin*, No. 07-4303 (6th Cir. Jan. 8, 2009).

Jay Gunasekera was a professor of mechanical engineering at Ohio University; as of 2004, he had worked at OU for more than twenty years, been chair of the department for fifteen, and had graduate faculty status, which allowed him to supervise graduate students' thesis work. That year, there was a scandal over plagiarism; after the dean of the engineering college commissioned a report on the plagiarism, the university's provost held a press conference at which he singled out Gunasekera for "ignoring [his] ethical responsibilities and contributing to an atmosphere of negligence toward issues of academic misconduct." In response to the report, OU suspended Gunasekera's graduate faculty status for three years and prohibited him from advising graduate students.

Gunasekera sued the dean and provost in federal district court, alleging that the provost and the dean of the college had violated his due process rights by (1) depriving him of his property interest in his graduate faculty status without "notice and a meaningful opportunity to be heard" and (2) depriving him of his liberty by "publicizing accusations about his role in plagiarism by his graduate student advisees" without giving him a "meaningful opportunity to clear his name."

The district court found in favor of the provost and dean on a variety of grounds, including holding that Gunasekera had no property interest in his graduate faculty status and that even if Gunasekera had been deprived of a liberty interest, "due process does not entitle him to a hearing beyond" what was already provided by the provost and dean. Gunasekera appealed, arguing among other things that (1) he had a property interest in his graduate faculty status and was deprived of that interest without due process, and (2) the name-clearing hearing he was offered did not satisfy due process because it was not public.

In support of his first claim, Gunasekera alleged that by university custom, faculty members automatically maintain graduate faculty status as long as they satisfy four university-required criteria (holding a PhD, having Group I faculty status, satisfying a certain amount of teaching, and having a certain number of publications or service as a research investigator). He argued that those criteria limited the university's discretion to confer graduate faculty status and that "in actual practice . . . professors retain their appointment so long as they satisfy those crite-

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## Fiscal Policy Institute: New York Under Invests in Higher Education

New York State is not providing the funds needed to help CUNY and SUNY adjust to increasing numbers of students. That's the conclusion of a report released January 15, 2009 as legislators in Albany heard testimony on higher education in the state budget.

The report, issued by the Fiscal Policy Institute (FPI), shows that even before mid-year cuts in the 2008-2009 budget, state aid to SUNY's four-year colleges and graduate schools fell by five percent per student since the early 1990s, and at CUNY state support was down by 14 percent over the same period. The picture is even more drastic at community colleges, with funding down by 12 percent at SUNY and 26 percent at CUNY. The figures are adjusted for inflation.

"Increased enrollment at SUNY and CUNY simply haven't been matched by a similar increase in funding," said David Dyssegaard Kallick, FPI senior fellow.

"Next year's classes at SUNY and CUNY are expected to be larger than ever," Kallick said, "Yet, rather than expand funding to an already overstressed system, the state budget proposal recommends a decrease in support for public higher education. That's not a smart economic strategy, and it's not good stewardship of two of the country's great systems of public higher education."

The share of the state's labor force with at least an associate's degree has increased from 38 percent in 1990 to 47 percent today, according to the report. That provides a strong basis for the state's high productivity, but also requires increasing levels of education for workers.

"An important way to maintain a highly productive economy in a downturn, and to prepare for a growing middle class in the eventual recovery, is for workers to upgrade their education and their skills," said James Parrott, deputy director and chief economist of the Fiscal Policy Institute.

"In this economy, people are flocking to CUNY and SUNY. The state should be doing everything it can to support them. We should be investing in a better-educated workforce. Instead, the governor's current budget proposal is to cut funding as the economy sours. It would be better economics to maintain services, and make up for decreased revenues by restoring progressivity to the state income tax."

Making sure that CUNY and SUNY can accommodate the larger number of students is particularly important to communities of color, immigrants, and low-income New Yorkers. Currently, 20 percent of SUNY students and 69 percent of CUNY students are people of color, the report shows.

Unemployment rates are already higher in black and Latino communities, and communities of color and immigrants are being hit especially hard by foreclosures in the current housing crisis.

"Making sure that people of color, immigrants, and low-wage workers have good opportunities to expand their skills and education during this downturn should be a high priority for state officials," Kallick said.

## Academic Freedom Survey

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

**The New York Conference Committee A on Academic Freedom and Tenure has been trying to determine the state of academic freedom in New York State.**

We have sent a short questionnaire twice to the chairpersons of the various chapters, and that has provided some information. Now we would like to extend our inquiry to all members.

**You can help by completing a very short questionnaire.** It covers the academic years 2007-2008, and 2008-2009. You may include not only academic freedom issues that concerned you, but those involving colleagues that have come to your attention. In this latter case, you may not be able to com-

## UUP: Spare SUNY from Further Cuts; SUNY Hospitals in Dire Straits

The State University of New York cannot absorb further reductions in state support, and SUNY's three teaching hospitals are at the breaking point as they face a \$25 million cut in state funding, according to the leader of United University Professions (UUP), the union that represents academic and professional faculty at SUNY.

UUP President Phillip H. Smith told lawmakers during a joint legislative hearing held January 15 on the governor's Executive Budget that SUNY bore the largest reduction of any state agency in the current fiscal year — \$148 million — and he urged lawmakers to restore some of that amount.

"The issue here is whether SUNY can continue to provide accessible public higher education and quality health care for New Yorkers," Smith said. "I would argue that even during these difficult times, the state must give SUNY the funding it needs to fulfill its core mission."

"Full-time faculty continues to be depleted with the result that courses are being cancelled, class sizes are increasing to unacceptably high levels, and admission is being denied to tens of thousands of qualified high school and community college graduates," he added.

In regard to SUNY's three teaching hospitals in Brooklyn, Stony Brook and Syracuse, Smith lamented the governor's proposed budget continues the state's trend of inadequate funding by reducing state support by \$25 million, bringing the state's funding level below what it was a decade ago.

"The quality of health care provided by these institutions is at great risk," Smith warned. He noted that as public facilities, SUNY hospitals are required to serve not only underinsured and uninsured patients, but also those referred with medical conditions that require costly treatment. Smith asked lawmakers to reverse the \$25 million cut, and increase the state subsidy by \$40 million.

Additionally, Smith appealed to lawmakers to reject the governor's budget proposal to eliminate this year's scheduled salary increase for UUP members, saying it would breach the union's contract with the state. He also urged legislators to vote against proposals for another five-day pay deferral and a new Tier V pension benefit.

Smith also called upon the Legislature to reject the governor's budget proposal to merge the New York State Theatre Institute with "The Egg," saying NYSTI's education-based mission may be "seriously compromised" by merging with a solely performance-based organization.

UUP does find some good elements in the Executive Budget. Smith asked the panel to support portions of the Executive Budget that would: Produce a net increase of about \$40 million in SUNY operating funds during the next 18 months from higher tuition revenues; Create a \$75 million supplemental operating aid fund derived from the University's reserves and uncommitted fund balances and dedicate those funds to prevent any further erosion of academic quality, increased class sizes and cancelled classes; and restore \$4.4 million for the Equal Opportunity Programs and Equal Opportunity Centers cut in last year's spending reductions.

plete all the questions, but it still will be helpful if you can answer those about which you have information.

You can respond at the following address:

[http://nysaaup.org/academic\\_freedom\\_issues\\_form.htm](http://nysaaup.org/academic_freedom_issues_form.htm)

This link contains the questions and space for your answers.

Should you wish to respond anonymously, leave all or some of the personal information fields blank and avoid specific names or revealing details when answering.

If you prefer to use the U.S. mail, please send your response to Tom Policano, Executive Director, New York Conference, AAUP, PO Box 20047, Rochester, NY 14602.

# Executive Budget - Higher Education

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**Other TAP Adjustments.** Other adjustments to the TAP program include eliminating TAP award eligibility for approximately 7,600 graduate students who receive an average annual award of \$381; eliminating the current enhancement in TAP award amounts for applicants who have multiple dependent family members in college; and making students ineligible for TAP if they are ineligible for federal loans.

Currently, students in default on federal loans guaranteed by the Higher Education Services Corporation are ineligible to receive TAP payments, but students in default on other federal loans retain TAP eligibility. The Executive Budget provides that all students in default on federal loans would be ineligible for TAP awards, regardless of guarantor. (2009-10 Savings: \$9 million; 2010-11 Savings: \$13 million)

**All Other Higher Education Actions.** The Regents Professional Opportunity Scholarship and Regents Health Care Opportunity Scholarship will sunset, consistent with existing law, and new awards for the Volunteer Recruitment Scholarship will be eliminated. After the reductions in spending resulting from the discontinuation of new Regents Opportunity and Volunteer Recruitment scholarship awards, the Executive Budget still includes \$38.5 million in funding for various scholarship and award programs. (2009-10 Savings: \$2 million; 2010-11 Savings: \$2 million)

## ***Other Budget Actions***

**Establish SUNY Supplemental Operating Account.** SUNY is expected to end 2008-09 with a cash balance in its primary non-tuition revenue account of approximately \$450 million. The University has indicated that reductions in state support sustained in 200809 and any further loss of such support in 2009-10 could result in enrollment and workforce reductions. This action would set aside \$75 million of SUNY’s cash balances to preserve undergraduate programs and faculty positions.

# State Budget Cuts Would Impact Higher Education

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already struggle to pay for tuition, books and board. School officials said that to cope with the shortfalls, they will need to downsize, both in terms of staff and class offerings. Employees will likely face layoffs and students might not be able to register for the courses they need to graduate on time.

A new low-cost loan program for students in New York colleges was proposed.The New York Higher Education Loan Program, known as NYHELPS, might help students secure loans with an interest rate lower than those currently available in the private loan market — about 8%. That’s as much as 10% less than current rates for conventional private bank loans.

The partnership between the state, private lenders and schools would help about 45,000 New York state residents who are enrolled in a public or private school in the state. They could get as much as \$10,000 a year through the program if they’re already getting all state and federal student aid they’re entitled to.

"This new student loan program will help ensure New Yorkers have access to the funds they need to finance their college educations," said Matt Anderson, a spokesman with the Division of the Budget. "Even in times of fiscal difficulty, we need to make smart investments in New York's future."

To get the loans, students would have to be enrolled at least half time, and have an eligible co-signer in New York.

For students attending two-year colleges, the total amount that may be borrowed is \$20,000. Four-year undergraduate students may borrow a total of \$50,000, and a total of up to \$70,000 may be borrowed for undergraduate and graduate study.

Under the Governor’s plan, in 2009-10, the State of New York Mortgage Agency would issue \$350 million in tax-free bonds to finance the new fixed rate loans. NYHELPS would also offer a variable rate option, and it would set aside \$50 million to address student defaults, so their interest rates remain

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# President’s Report

*continued from page 1*

time stronger and better. Institutions of higher education are ultimately here to serve the current students who will build the society of the future. It is the responsibility of all of us to make it possible for all who seek higher education to have access to it. Higher education is not a luxury, but rather one of the pillars on which to build a sounder economic future for all.

Finally, as campuses deal with the immediate issues facing them they must also consider a longer term problem. The significant decrease in the value of defined contribution plans will cause many faculty who thought of retiring in the near future to delay their retirement. But retire eventually they surely will. It may be necessary for hiring practices, retirement incentives and workload practices to be reconsidered so that employment opportunities remain available for the bright young people who will be the faculty of the future. If colleges and universities are to remain the vibrant places they are we must not only provide for our current students but also for our future colleagues

# Due Process Rights

*continued from page 2*

ria,” and that he thus had a protected property interest in his status.

In reversing the district court’s decision, the appeals court observed: “In the context of university employment, the Supreme Court has held that ‘rules and understandings, promulgated and fostered by state officials’ can form the foundation of a protected property interest. Perry v. Sindermann, 408 U.S. 593, 602-03 (1972). Similarly, we have held that an employer’s custom and practice can form the basis for a protected property interest. Christian v. Belcher, 888 F.2d 410, 417 (6th Cir. 1989).” The appeals court rejected the district court’s holding that Gunasekera did not have a property interest because university officials’ discretion was not entirely restrained; as the appeals panel put it, “Gunasekera’s argument . . . turn[s] . . . on his ability to show that a common practice and understanding had developed which gave him a legitimate claim to graduate faculty status so long as he met the stated conditions.” In addition, OU had admitted that it had never revoked or suspended any other faculty member’s graduate faculty status. Finally, the appeals court observed that Gunasekera alleged that his loss of graduate faculty status had resulted in a loss of pay (a summer salary research stipend) and benefits (such as a reduced teaching load), which added to the presumption that he had suffered a deprivation of property. Because OU’s lawyer admitted that Gunasekera had not been given either a pre- or post-deprivation hearing, the appeals court reversed the district court’s dismissal of Gunasekera’s property-interest claim.

With respect to Gunasekera’s claim asserting a right to a name-clearing hearing, the university admitted that Gunasekera had a “protected liberty interest” in such a hearing, so the only question for the court was what process was due and whether the hearing had to be public. (The appeals court also noted that even in the absence of the university’s admission, Gunasekera would have a protected liberty interest in the hearing under the Sixth Circuit’s five-part test, because “the accusations regarding plagiarism were connected to his suspension (and . . . [his] suspension deprived him of benefits and pay); the University alleged more than simple incompetence; the allegations were public; Gunasekera claims that the statements were false, and the University called a press conference to publicize its charges.”)

The circuit court had previously held that “a name-clearing hearing need only provide an opportunity to clear one’s name and need not comply with formal procedures to be valid.” Chilingirian v. Boris, 882 F.2d 200, 206 (6th Cir. 1989).

Using a three-part test articulated by the Supreme Court, the appeals court concluded that: (1) “where, as here, the employer has inflicted a public stigma on an employee, the only way that an employee can clear his name of the public stigma is through publicity”; (2) “publicity adds a significant benefit to the hearing, and without publicity the hearing cannot perform its name-clearing function”; and (3) a public name-clearing hearing would not necessarily impose a significant burden on the government. The appeals court left it to the district court to determine the “exact parameters of the name-clearing hearing,” adding that “concerns for the privacy of students implicated in plagiarism” could shape the precise nature of the required publicity.

Significantly, the appeals court also held that the dean and provost were individually liable for failing to give Gunasekera a pre- or post-deprivation hearing for his graduate faculty status because they should have been aware of the hearing requirement. They were not individually liable for the name-clearing hearing claim, but Gunasekera could still request such a hearing. The case will now return to district court; Gunasekera will have an opportunity to prove at trial that the suspension in fact affected his career and deprived him of benefits.

# Slate Proposed for New York State Conference Election

The nominations committee has put forward the slate of recommended candidates for the State Conference election that will be conducted at the Spring Meeting of the Conference, which will be held at Marymount Manhattan College, April 17-18.

The slate is as follows:

**Vice President: Jeanette Jeneault** (Syracuse University)

**Treasurer: Patrick J. Cihon** (Syracuse University)

**Secretary: Cecelia McCall** (Baruch College)

**Members at Large:**

**Dr. Joyce Furfero** (St. John’s University)

**John Marino** (UUP)

**Suzanne Wagner** (Niagara University)

**Kate Eskew** (Hilbert College)

# Committee A: We Can Help Defend Your Academic Freedom

*by Irwin Yellowitz*

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

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

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

Our counsel is based on AAUP guidelines and our own experience. (See AAUP Policy Documents and Reports, 10th Edition, 2006, “The Redbook”.) We offer advice on whether the procedures of the institution meet established academic practice, and whether they have been applied properly.

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

When NY Committee A believes that a violation of AAUP policies or standards has occurred, it may try to arrange a settlement; investigate the matter; refer the complaint to national AAUP Committee A with a recommendation for a full investigation and appropriate action.

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

The full Committee makes all decisions on how to proceed once the facts and issues have been established.

Our actions are based on AAUP’s principles as stated in AAUP’s policy statements, and on our judgment of how a particular situation fits with those standards.

If you have reason to consult with NY Committee A, contact the Conference’s Executive Director, or the Chair of the Committee: Tom Policano, Executive Director, New York State Conference, AAUP.Phone: 888-690-2287 or 585-719-7137; e-mail: tpolicano@nysaaup.org or Irwin Yellowitz, Chair, NY Committee A; e-mail: iyellowitz@aol.com.

# UUP: Eliminating Negotiated Raises Illegal, Unfair

The governor’s state budget proposal to deny UUP members their scheduled 2009 salary increase is illegal, unfair and would constitute a breach of contract, according to the leader of United University Professions, the union that represents academic and professional faculty at SUNY.

UUP President Phillip H. Smith told lawmakers during a February 4, 2009 joint legislative hearing on workforce issues that the proposal is very disturbing, since the union has a four-year contract with New York State that is in effect until July 2011.

“By unilaterally submitting legislation altering the terms and conditions of our contract, the governor has breached our formally executed and binding agreements,” Smith told the panel. “In effect, the governor is asking you to be a party to a process that is illegal, unconscionable and patently unfair.”

If the governor’s proposal is not changed, Smith predicted that no future contracts with the state will have any credibility.

UUP members are due to receive a 3 percent salary increase beginning in July under terms of an agreement reached with the state in December 2007.

Smith told legislators UUP also opposes a series of other proposals by the governor that would financially harm its members. Specifically, UUP opposes: an additional five-day salary deferral; a requirement that retirees and employees over 65 contribute toward their Medicare Part B premiums; and, establishing a more restrictive pension plan for newly hired state employees.

“If enacted, these proposals would reduce the annual income of our members by up to 10 percent this coming year and much more in future years,” Smith said.

He urged lawmakers to reject the governor’s workforce proposals.

# New York Academe Considering Shift to Electronic Publication

At the fall meeting of the New York State Conference it was decided that the membership should be consulted about the future of New York Academe.

Presently, New York Academe is mailed, as a newspaper, to each member of the Conference. A pdf of each issue is available on the Conference website. Nyscaap.org.

What is being considered is a shift to an electronic version. Many journals are migrating to the internet, limiting or eliminating their print versions. Such a change would reduce costs for the Conference, and creates the potential for New York Academe to expand its content in ways not possible through the traditional print publication.

The print version of the paper does have some advantages. It is a tangible recruitment tool that can be distributed to prospective members; notwithstanding the growing availability of electronic newsletters, some individuals still prefer receiving a “hard copy,” and there would still be a need to mail some sort of communication (probably a post card) to prompt members to visit the website.

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# NYS Division of the Budget: 2009-10 Executive Budget Briefing Book - Higher Education

*The text of the Executive Budget Briefing Book on Higher Education*

## I. Overview

New York State's higher education institutions enroll more than 1.1 million students throughout the state.

The State University of New York (SUNY) and the City University of New York (CUNY) administer 51 four-year colleges and graduate schools that provide nearly 380,000 students with a wide array of undergraduate, graduate degree, and first professional educational opportunities. SUNY and CUNY are also responsible for 36 community colleges, which serve more than 300,000 students. More than 460,000 students attend one of the more than 100 private colleges and universities across New York State.

To help make higher education financially attainable for many New York college students, the Higher Education Services Corporation (HESC) provides a broad range of financial aid services.

HESC administers and guarantees more than 600,000 loans made annually under the Federal Family Education Loan (FFEL) Program, and oversees a variety of state-funded financial assistance programs, including the Tuition Assistance Program (the largest and most generous need-based program in the country), the Aid for Part Time Study program, and 15 different scholarship and award programs. HESC also partners with the Office of the State Comptroller in administering the College Choice Tuition Savings Program.

## II. History/Context

Enrollment at both SUNY and CUNY has grown steadily this decade, with headcount at four-year and graduate colleges increasing 9 percent since 2003. Community college enrollment has increased 11 percent during this same period.

Concurrently, General Fund support has increased 21 percent for four-year and graduate colleges and 24 percent for community colleges. Additionally, the state has devoted substantial support to SUNY's and CUNY's physical infrastructure, providing \$11 billion in new capital projects funding for senior and community colleges since 2003-04.

## III. Proposed 2009-10 Budget Actions

The 2009-10 Executive Budget enacts reforms, makes investments, and implements other measures designed to help ensure that New York institutions of higher learning have the resources needed to provide a high-quality education to students, and to remove barriers that might prevent New York's residents from accessing higher education. Necessary spending reductions are targeted at various specific programs to minimize the potential impact on core instruction.

For SUNY and CUNY, combined General Fund and tuition support will increase by \$121 million, or 3.3 percent over 2008-09 levels (even without including a \$138 million increase in state support for fringe benefit costs).

To help prevent reductions in the resources available for SUNY and CUNY's core instructional mission in this time of unprecedented fiscal difficulty, the Executive Budget recommends the first undergraduate tuition increase since 2003-04. Breaking with thirty years of state history, the universities will retain a portion of the revenue from this increase as part of an investment plan.

Additionally, in a time of rising borrowing costs and tightened lending, the budget will create a new affordable student loan program to help New York students gain access to the funds they need to finance their college educations.

The budget also includes actions that respond to several major recommendations contained in the June 2008 final report of the New York State Commission on Higher Education, including:

Establishing differential tuition by campus and program for non-New York State resident students at SUNY and CUNY. Investing in new critical maintenance capital projects on SUNY and CUNY campuses. Expanding SUNY and CUNY administrative flexibility for capital and non-capital procurement.

## IV. Summary of Spending (SUNY/CUNY Core Instructional Budget)

	2008-09 millions	2009-10 millions	Change in millions	Percent Change
SUNY	2,359	2,423*	64	2.7%
CUNY	1,303	1,360*	57	4.4%
Total	3,662	3,783	121	3.3%

\*The Core Instructional Budget is state General Fund support and tuition.

## V. Major Initiatives

### Gap Closing Actions and Initiatives

Proposal	2009-10 millions	2010-11 millions
Increase SUNY/CUNY Tuition	197	195
Increase TAP Funding for SUNY/CUNY Tuition Increase	(38)	(44)
Reduce Base Aid for SUNY/CUNY Community Colleges	65	65
Establish New York Higher Education Loan Program	(50)	(10)
Use Available SUNY/CUNY Special Revenue Account Funds	44	44
Assess SUNY/CUNY Research Foundations for Use of University Facilities	10	10
Reduce Support for SUNY/CUNY University-wide Programs	31	43
Reduce Subsidy for SUNY Hospitals	24	33
Eliminate State Financial Support for the Neil D. Levin Institute	2	3
Reduce Support for SUNY Statutory Colleges at Cornell and Alfred Universities	4	6
Align TAP Awards with Course Load	22	31
Treat Pension Income Equitably in TAP Eligibility Determinations	11	15
Increase Academic Standards for Continued TAP Eligibility	5	7
Other TAP Adjustments	9	13
All Other Higher Education Actions	2	2
<b>Total</b>	<b>338</b>	<b>413</b>

*Note:* These gap-closing actions reflect reductions from projected 2009-10 spending after adjusting for the full annual impact of measures taken during the August 2008 special legislative session.

**Increase SUNY/CUNY Tuition.** To help prevent further reductions in the resources available for SUNY's and CUNY's core instructional mission in this time of fiscal crisis, the Executive Budget recommends the first undergraduate tuition increase for these institutions since 2003-04. Both the SUNY and CUNY Boards of Trustees have already approved this proposal.

The SUNY Board increased undergraduate tuition by \$620 (14 percent) from \$4,350 to \$4,950 per year, graduate tuition by 14 percent annually, and non-resident undergraduate and graduate tuition by 21 percent annually. These increases are effective beginning in the Spring 2009 semester, and are reflected in the 2008-09 Deficit Reduction Plan. The 2009-10 Executive Budget also recommends that the SUNY Board increase resident graduate tuition by an additional 7 percent, effective with the fall 2009 semester.

The CUNY Board increased resident undergraduate tuition by up to \$600 (15 percent), from \$4,000 to up to \$4,600 per year. Additionally, CUNY graduate tuition and nonresident undergraduate tuition would increase by 20 percent. These increases are effective in the 2009-10 academic year.

For the first time in recent state history, the Executive Budget recommends that these tuition increases be tied to an investment plan. Breaking with the state's more than 30 year practice of using 100 percent of the revenue from tuition increases to offset General Fund spending, SUNY would retain 10 percent (\$7.6 million) of the fiscal benefit from the 2008-09 spring semester increase for enhanced investment. SUNY and CUNY would both retain 20 percent of the 2009-10 full annual increase (\$33 million for SUNY, \$22 million for CUNY). In the future, as economic and fiscal conditions improve, the state will seek to invest 50 percent of the fiscal benefit from this tuition increase to these institutions.

The new recommended resident undergraduate tuition rates will remain affordable and are below 2003-04 levels after adjusting for inflation. Additionally, SUNY and CUNY resident undergraduate tuition and fee rates would remain below those at all public colleges in the Northeast and Mid-Atlantic region, as well as the national average. Even after this increase, SUNY and CUNY resident undergraduate tuition would be below the \$5,000 maximum threshold for Tuition Assistance Program (TAP) awards, ensuring that the neediest students would have their entire tuition costs covered. (2009-10 Savings: \$197 million; 2010-11 Savings: \$195 million)

**Increase TAP Funding for SUNY/CUNY Tuition.** The Executive Budget includes \$38 million to support increased TAP awards resulting from the recommended tuition rate increases for SUNY and CUNY. (2009-10 Cost: \$38 million; 2010-11 Cost: \$44 million)

**Reduce Base Aid for SUNY/CUNY Community Colleges.** This recommendation would decrease CUNY community college base aid by 10 percent, or \$270, from \$2,675 per student to \$2,405 per student. The budget also decreases SUNY community college base aid by an average of \$270 from \$2,675 to an average of \$2,405 per student. In order to recognize the disproportionately adverse impact that this reduction could have on SUNY's smaller community colleges if applied in an across-the-board fashion, the budget would reduce the impact of the proposal on small and mid-sized community colleges, as follows: colleges with fewer than 3,000 full time equivalent students would have their base aid payments reduced by \$160 per student; colleges with between 3,000 and 6,000 students would have their base aid payments reduced by \$230; and colleges with more than 6,000 students would have their base aid payments reduced by \$300. After these actions, support for community colleges would total \$601 million. (2009-10 Savings: \$65 million; 2010-11 Savings: \$65 million)

**Establish the New York Higher Education Loan Program (NYHELPS).** Based on the recommendations of the New York State Commission on Higher Education, the Executive Budget would establish the New York Higher Education Loan Program (NYHELPS) to provide students and parents who are New York State residents with access to loans to attend New York higher education institutions at rates well below those currently available in the private loan market.

NYHELPS is a partnership between the state, private lenders and higher education institutions that is expected to provide loans to an estimated 45,000 community college, four-year college, and graduate students annually. In 2009-10, the State of New York Mortgage Agency (SONYMA) will issue \$350 million in tax-free bonds to finance new fixed rate loans of up to \$10,000 per borrower. Under current market conditions, the borrower's interest rate is expected to be approximately 8 percent. This rate compares favorably with other state and federal programs, and is up to 10 percentage points lower than the current rates for conventional private bank loans. NYHELPS also provides an affordable variable rate option for students, which is expected to increase loan volume well over the amount available through the \$350 million fixed rate component.

The budget provides \$50 million to help capitalize a default reserve fund that is a critical element of the program's structure. The default reserve will also receive borrower fees, as well as contributions from participating higher

education institutions that are equal to one percent of their students' loan dollar volume. Beginning in 2010-11, the state expects to contribute \$10 million annually to the default reserve fund. (2009-10 Cost: \$50 million; 2010-11 Cost: \$10 million)

**Use Available SUNY/CUNY Special Revenue Account Funds.** The Executive Budget assumes that \$44 million of positive cash flows from SUNY's and CUNY's non-tuition revenue accounts will be used to preserve core instructional programs. (2009-10 Savings: \$44 million; 2010-11 Savings: \$44 million) Assess SUNY/CUNY Research Foundations for Use of University Facilities. The Executive Budget assumes that SUNY and CUNY will require their respective private, non-profit research foundations to pay an amount equivalent to 10 percent of their indirect cost recoveries on federal grants as partial reimbursement for using state-funded facilities. General Fund support is reduced by a commensurate amount. (2009-10 Savings: \$10 million; 2010-11 Savings: \$10 million)

### Reduce Support for SUNY/CUNY University-wide Programs.

Funding provided for programs and institutes, many of which support activities that are outside the core undergraduate instructional budgets, would be reduced or eliminated. (2009-10 Savings: \$31 million; 2010-11 Savings: \$43 million) Reduce Subsidy for SUNY Hospitals. The Executive Budget includes \$129 million for annual subsidy payments to SUNY's hospitals at Brooklyn, Stony Brook and Syracuse. This reflects a \$25 million reduction from the 2008-09 Academic Fiscal Year level. (2009-10 Savings: \$24 million; 2010-11 Savings: \$33 million)

### Eliminate State Financial Support for the Neil D. Levin Institute.

The Levin Institute is a program within SUNY that focuses on developing managers who can work across borders and cultures. It employs approximately 23 staff and has its state-owned headquarters on East 55th Street in Manhattan, which was purchased for the Institute in February 2005. The Institute is not accredited and has no students of its own. This action would eliminate all \$3.1 million in state operating support for the Levin Institute for the 2009-10 Academic Fiscal Year. The building will retain the name of Neil D. Levin and it is expected that the SUNY Board of Trustees will take appropriate action to ensure that Mr. Levin's service and sacrifice continues to be recognized. (2009-10 Savings: \$2 million; 2010-11 Savings: \$3 million)

**Reduce Support for SUNY Statutory Colleges at Cornell and Alfred Universities.** State support is provided through SUNY to five statutory colleges, four at Cornell University and the College of Ceramics at Alfred University. In addition, the state provides support for Cornell's land grant mission. A reduction of \$6 million on an academic year basis is recommended. After this reduction, in the 2009-10 Academic Fiscal Year, \$100 million would be provided for Cornell's statutory colleges, \$55 million for Cornell land grant and \$10.4 million for the College of Ceramics. (2009-10 Savings: \$4 million; 2010-11 Savings: \$6 million)

**Align TAP Awards with Course Load.** Currently, students taking less than 15 credits per semester exhaust their TAP eligibility limits prior to graduating. To remedy this, the Executive Budget would provide pro-rated TAP awards, with a 15-credit basis for full awards, for students taking between 10 and 14 credits per semester, ensuring the continuation of TAP eligibility through graduation. Students taking less than 10 credits would continue to be eligible for Part-time TAP awards. (2009-10 Savings: \$22 million; 2010-11 Savings: \$31 million)

**Treat Pension Income Equitably in TAP Eligibility Determinations.** Currently, income earned from private sector pensions is included in the calculation of net taxable income for TAP purposes, while income earned from public sector pensions is not. The Executive Budget eliminates this inequity by including all pension earnings in TAP income eligibility determinations. (2009-10 Savings: \$11 million; 2010-11 Savings: \$15 million)

**Increase Academic Standards for Continued TAP Eligibility.** The Executive Budget would increase minimum academic standards for students to maintain TAP eligibility. Such students will now be required to earn at least 18 credits and a 1.8 Grade Point Average (GPA) after two semesters of study. Current standards would remain unchanged for remedial students. (2009-10 Savings: \$5 million; 2010-11 Savings: \$7 million)