

Connection *uup*

Binghamton Chapter, United University Professions

From the Chapter President

Fair Share Fees, Free Riders and UUP

by Benita Roth
Sociology Department

Welcome back to those of you who are on 10-month appointment or contingent appointments. To those of you on 12-month appointments, thanks for holding down the fort.

I'm starting my third year as your chapter president, and I am now familiar with the rhythm of the UUP year: executive board meetings, labor-management meetings, delegates assemblies, social events and conferences on campus for our members, meetings with individual members, and, of course, this newsletter. It's work, but it's good to be part of something larger than myself.

As I write this column, I'm aware that UUP—and other public employee unions—are anxious about the upcoming Supreme Court case *Friedrichs v. California Teachers Association*. The case will be heard by the court in its upcoming session, and will be decided by the end of June. *Friedrichs* concerns whether a union can ask an “agency fee” from those it legally represents—that is, for those it legally must represent.

Currently, as many of you know, UUP takes 1% of your salary in order to pay for the expenses of le-



gally representing those in our bargaining unit. That's what we in the union would call a “fair-share” fee—all those in the bargaining unit, members and “fee payers” alike, benefit from the union's efforts, so all must pay. To do otherwise would be “free ride” on the public goods that UUP brings to those in the bargaining unit. The “free rider”—a concept coined by the economist and social scientist Mancur Olson in his book, *The Logic of Collective Action*, back in 1965—allows others to do the work while s/he enjoys the fruits of others' labor.

In at least one previous ruling, *Abood v. Detroit Board of Education* in 1977, the court held “that the First Amendment allows public employers to require non-union members to pay fair-share fees to secure the benefits of collective bargaining with a union that represents all of the employees in the workplace.”¹ That makes the finding in the *Abood* case almost 40 years old—in other words, it's a precedent.

But the anti-union right, funded by billionaire contributors who see

unions only as an impediment to their complete control of the workplace, has launched attack after attack aimed at public unions. And they have funded legal work that has brought recent cases—like *Harris v. Quinn*—to the Supreme Court that take an opposite tack to *Abood*, arguing that public sector employees have an unconditional right to free speech—as long as that speech is equivalent to money.

In most other cases concerning questions of public employment and speech, the Court has ruled that public employees must accept minimal limits to speech, as public employers do have an interest in the efficient provision of public services.

I'm not a lawyer, let alone one who argues in front of the Supreme Court (except in the occasional anxiety dream). But I do know Olson's argument fairly well, and he puts forward a solution to the problem of the free rider—that of providing members of a collectivity with “selective incentives” that make it worth their while to participate in collective action for change.

Selective incentives can be small ones—that mug or tote bag you get when you contribute to public radio or television is a classic example of one. Or they can be larger ones—essentially, if free riders face exclusion from receiving the public good, there is incentive to act.

In the case of public sector unions, the problem of the free rider can't be solved by providing selective incen-

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“It is almost impossible to carry the torch of truth through a crowd without singeing somebody's beard.”

– Georg Christoph Lichtenberg,
scientist and philosopher (1742-1799)

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The editor welcomes letters and other comments of interest to the Binghamton Chapter.

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A Primer on Academic Evaluation and Promotion Policies

by Susan Seibold-Simpson
Decker School of Nursing

I tell people that I come from a long line of unionists, but that is not exactly true. My grandfather was union. He joined the union during the depression (the Great Depression, not the more recent iteration). A traveling violinist, he worked in a bakery to make ends meet and support his family. He was a vice president of the Bakery and Confectionary Workers International Union of America when he retired. While no one else in my immediate family is union, my grandfather's work made a great impression on me.



I was thrilled when I was invited to join the executive board of UUP. Unions are all about equity and justice and, as a nurse and public health professional, those principles are fundamental to who I am and what I do. While perhaps not the ideal time in my career to take on the role of vice president of academics, I was honored to be asked to run.

After I was elected, I asked for and received advice from multiple people and the message was always the same: read the Agreement (Agreement between United University Professions and the State of New York, July 2, 2011 to July 1, 2016 — also known as the Contract). After speaking with a few faculty members with concerns, I realized: *not only do you have to read the Contract; you also have to read the Policies, The State University of New York Policies of the Board of Trustees, to be exact. The two go hand-in-hand. Over the next few months, I will highlight some of the key as-*

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pects of the Contract and the Policies.

The Policies are available online at https://www.suny.edu/sunyp/documents.cfm?doc_id=292

The Contract is available online at <http://uupinfo.org/negotiations/contract.php>

Today I will briefly discuss academic evaluation and promotion. According to the **Policies**, "in conducting **evaluation** of academic employees, the chief administrator of the college (or designee), may consider, but shall not be limited to consideration of, the following: (a) mastery of subject matter; (b) effectiveness in teaching; (c) scholarly ability; (d) effectiveness of university service; and (e) continuing growth." Each of these categories is further defined in the Binghamton Faculty-Staff Handbook, Personnel Policies and Procedures.

When considering **promotion**, the chief administrator of the college, after giving consideration to recommendations of academic employees, including the committees of

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UUP to New York: Look at California's Paid Family Sick Leave Act

by Fran Goldman
Asian and Asian American
Studies

UUP has long been an advocate for paid family leave and it is something that should definitely be on the agenda for the Negotiations Team as they begin preparations for the next contract. I also understand that the statewide Faculty Senate plans to address this issue as well.

Despite these efforts, the State of New York apparently does not conceive of paid family leave as being a viable issue for its workforce. I would argue otherwise.

According to campus Human Resources, UUP professional members can use sick leave accruals for issues that fall under the Family and Medical Leave Act (FMLA), which is unpaid leave. But should we have to use up our vacation and sick leave because of childbirth, adoption or family care? And what about those who have not been here long enough to build up a reserve? Are they then forced to send out requests for other UUP professionals to donate vacation leave, or do they take unpaid leave for something that other cities, states, organizations and countries provide for their citizens? This should not be the case.

The United States has the reputation of being behind the times when it comes to paid family leave and, in fact, we rank near the bottom of the list in this regard. It is also sad to report that the ranking has not changed since the passage of the FMLA more than 20 years ago, which requires larger employers and public agencies to provide up to 12 weeks of unpaid leave, including continuing health benefits, for the birth or adoption of a child, care for an oppo-



site-sex spouse, parent or child or to deal with one's own health issues.

Recently, however, cities such as Washington, D.C., and the state of California have begun to better address this concern, as have private organizations such as Microsoft, Netflix, Adobe, and LinkedIn. Even U.S. Senator Kirsten Gillibrand understands this problem and is a sponsor of the Family and Medical Insurance Leave (FAMILY) Act that would grant paid leave to workers across the country.

California's Paid Family Leave Act offers a good example of how a union-led coalition worked with the state to create the FAMILY Act that ensures there is income replacement when workers need to take time off to care for family members, childbirth or adoption and provides up to six weeks of partial pay—55% of your weekly wage up to a maximum benefit (http://workfamilyca.org/resources/pdf/ca_family_leave_guide2013.pdf). While this does not mirror what is done in other countries that offer up to a year of paid leave, it is a step in the right direction and one New York should emulate.

Jamie Dangler's 2006-07 Family Leave Report, which she did for UUP, highlights many of the problems that both professionals and academics face around the topic of unpaid leave. This seems to be exacerbated by a lack of clear guidelines and policies and the manner in which it is addressed at the individual units for professional staff and faculty and

Should we have to use up our vacation and sick leave because of childbirth, adoption or family care? And what about those who have not been here long enough to build up a reserve?

varies, especially for faculty, from campus to campus.

Even though the matter of paid family leave might or might not affect you now, it may be the case in the future. It is important, therefore, that everyone complete the suggestion form that can be found on the UUP website (<http://uupinfo.org/negotiations/pdf/2015NegTeamSuggestionForm.pdf>). The suggestion form has also been distributed via e-mail by our local chapter. Let the Negotiations Team know how you feel. The more who write on an issue, the more likely that it will rise to the top of the priority list and be brought to the bargaining table so that it can be addressed in a positive manner.

If you cross your eyes they'll stay that way... black cats...Benghazi...and other myths...

by Neil Christian Pages
German and Russian Studies

Some myths have a tough time fading away. As a teacher of literature, I know something about the power of narrative and about what people can do with language and about what it does to them. The October 8 visit to campus by the UUP Negotiations Team was an occasion to talk about what UUPers want in the new contract and to debunk some persistent myths about the last contract, which expires on July 1, 2016.

Given that it is discretionary season, the myth of DSI (discretionary salary increases) comes appropriately first in my Romulus-and-Remus of contract myths. While some believe that UUP refused to fight hard for DSI in the last contract, the opposite is, in fact, the case. The UUP Negotiations Team advocated fiercely for a fair DSI program for all UUPers during a long and difficult negotiation pro-



cess that ended only in 2013. It was New York state that resisted a fair and equitable discretionary salary program for UUPers. In the end, UUP negotiators were able to secure not one but two \$500 salary increases *on base* as well as the present DSA program, whose peculiarities reflect how difficult it was to negotiate this contract item.

The second myth has to do with the pressure put on individual campus budgets by the need to cover UUP-negotiated salary increases. We have heard about how the University struggled to meet that obligation. The truth is that it was New York State and SUNY that agreed to these very modest raises in the first place. They knew they had the money

to cover the raises when they agreed to them. UUPers have to assume that the state knew where the money would come from and that it knew back in 2013 how the raises would be paid. None of this should have come as a surprise to individual campuses.

Of course, hardworking UUPers deserve far more than what they got in the last contract. The Negotiations Team knows that, but it needs to hear from members. The October 8 meeting was just one chance to have your voice heard. You can participate in setting the priorities for the new contract in other ways as well. Use the UUP "Member Suggestion Form" and let the Negotiations Team know about the issues that matter most to you: <http://uupinfo.org/negotiations/pdf/2015NegTeamSuggestionForm.pdf>

Let UUP know your priorities, cross your eyes if you want to, and if you're considering a pet adoption, I assure you that a black kitty will bring you lots of luck.

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Things We Love About UUP: A Baker's Dozen

by Neil Christian Pages,
Executive Board Member
and

Susan Seibold-Simpson,
Vice President for Academics

■ UUP fights for equity and justice for all academics and professionals.

■ UUP listens to its members and works to resolve concerns regarding conditions of employment.

■ UUP is passionate about representing labor's concerns to

management.

■ UUP understands the delicate balance between government and politics.

■ UUP has the knowledge and experience to negotiate on our behalf.

■ UUP is a community—we value working and socializing together.

■ UUP advocates for solutions to issues such as family leave, equity and salary compression—issues that are important to us.

■ Our UUP chapter offers yearly workshops on tenure and promotion that make the process more transparent.

■ Our UUP chapter knows that this is a university, not a factory.

■ UUP dues are tax deductible.

■ UUP's Fall Member Get-Together on October 28 was a fun and well attended event!

■ UUP's Benefits Fair is scheduled for November 12.

■ UUP makes Binghamton University a better place to work.

Message from UUP President Fred Kowal

UUP Needs Input from Members on Proposed Changes to SUNY's Current Title J (*Patents, Inventions and Copyright Policy*)

Title J, SUNY Board of Trustees Policies; Section 335.28 of the New York Codes, Rules and Regulations

SUNY has proposed changes to its Patents, Inventions and Copyright Policy, which includes two separate sections: *Patents and Inventions Policy* and *Copyright Policy*. SUNY's FAQ on its proposal and information presented during webinars held in May, June and July 2015 focused on changes to the *Patents and Inventions Policy*. However, SUNY's proposal contains language that is confusing and does not clarify the place of the current *Copyright Policy* section in a revised Title J. The proposal should be reviewed to ensure members' intellectual property rights are protected.

UUP's role

Changes to SUNY's Patents, Inventions and Copyright Policy may involve mandatory subjects of collective bargaining that must be formally bargained with UUP. We are in the process of consulting with our attorneys and gathering input from members to prepare for substantive discussions with SUNY.

UUP actions to date

UUP first learned of the proposed changes in April, when SUNY presented a new draft of Title J to the University Faculty Senate. We received the initial draft from senators who attended that meeting and contacted SUNY about the need to discuss it. At an April 27 Labor-Management meeting, SUNY explained its planned timetable and the process it laid out for adopting changes to Title J. UUP officers, labor relations specialists, and attorneys began to review and analyze the draft. UUP officers participated in several



informational webinars during the summer to hear SUNY's explanation of the changes. The officers met with attorneys to analyze potential impacts on terms and conditions of employment. On July 29, SUNY formally presented its proposed changes to UUP at a Labor-Management meeting and addressed UUP's initial questions. UUP and SUNY had a follow-up discussion Sept. 2. With the new academic year underway, UUP

is in a position to solicit comments from its members to better assess the impact of SUNY's proposal.

Need for additional analysis, UUP member input

UUP needs to review the proposed changes to Title J in light of the complex and variable circumstances that characterize the work our members do across SUNY institutions. Our officers, labor relations specialists, and attorneys are involved in this review. We also need to hear from our members, who can help inform us about the ways the proposed changes will impact them and their work.

Go to UUP's web page to send member comments and for further information

Visit www.uupinfo.org to submit your comments, questions and suggestions to UUP. SUNY's draft changes to Title J and FAQ are posted on the site.

For more information or guidance contact:

VP for Academics Jamie Dangler at
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VP for Professionals Philippe Abraham at
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A Year in the Life of a Diversity Fellow

by Anreka Gordon
Binghamton University
Diversity Fellow

In August 2014, I was granted the opportunity to serve at Binghamton University as a Diversity Fellow and the past year has been one the most amazing of my life! Transitioning from being a student to a full-time employee at Binghamton University has truly opened my eyes to all the work that goes on to create the student experience.

My fellowship is a professional UUP position and is centered within the Division of Operations. This fellowship program is designed to expose me to a series of departments within the division, working in each department for one to two months so I can learn the foundations of each.

It is a two-year fellowship that will ultimately lead to a professional position in one of the departments I have had the opportunity to work in. The goal is for me to gather an understanding of how all the departments work interdependently and use this knowledge to greatly impact my future assignment. So far I have worked in Human Resources, Risk Management, Internal Audit, the Business Office and, currently, Physical Facilities. I have also participated in the Leadership Development Program and have had great mentoring experiences.

The Division of Operations is especially interesting because it literally interfaces with every department on campus in some capacity. This adds to my experience even more because I not only learn the daily functions of each department, but I learn the significance when people from all over campus call in with questions or need administrative assistance. Recognizing and understanding the weight of that significance is what makes the difference between a job and career for me.

This is my first position where I reap the benefits of being a part of a



union. I go into work each day with more assurance—and sense of security—because I know I have a union that is there to cover and protect

me. Sometimes when a person joins a new organization, she may feel like a small fish in big sea when it comes to having a voice. However, union representation reduces that feeling as it creates avenues for one's voice to be heard.

Being a part of UUP has not only been comforting but also empowering as this young professional swims her way through this big sea.

'Being a part of UUP has not only been comforting but also empowering as this young professional swims her way through this big sea.'

Academic Evaluation and Promotion

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the appropriate department or professional area, may promote or recommend for promotion such persons as are, in the chief administrative officer's judgment, best qualified. Recommendations for promotion may consider, but are not limited to consideration of, the topics noted above in evaluation.

Additionally, completion of a minimum period of service with the University may be a consideration but shall not be a qualification of promotion.

Academic evaluation and promotion procedures are further defined by the Procedures for Personnel Cases located at the Provost website.

The Contract references the Policies in Article 30 (Appointment, Evaluation, and Promotion) and provides additional detail regarding **personnel files (Article 31)**, and a **professional development committee (Article 42)**. The professional development committee is made up of three representatives from the state and three representatives of UUP. The purpose of the committee is to make recommendations and implement programs for professional development and training to improve job performance and assist employees in developing their full professional potential and in preparing for advancement. This is where funding comes from for the Individual Development Awards. These funds are available to full-time and part-time academics on an annual basis.

According to the contract, the **personnel files article** spells out when an employee can have access to the contents in the personnel file. For example, employees are entitled to request (in writing) a meeting to discuss written evaluations and recommendations with the person who wrote them and may respond to information obtained in this meeting (in writing), which can then be placed in the personnel file. The **Policies** (management) and the **Contract** (labor) work together to address equity for employees.

The Policies and the Contract contain much more information, and I look forward to discussing other topics in future columns.

The Value of NYSUT Membership

You may not be aware that your NYSUT membership allows you to enjoy the benefits of the more than 40 programs & services endorsed by NYSUT Member Benefits, including a variety of quality, competitive insurance plans.

Member Benefits strives to provide the highest-quality programs for NYSUT members and closely scrutinizes all proposals from reputable vendors before any endorsements are given.

While we work continuously to maintain quality benefit programs at competitive prices, you are encouraged to shop and compare before making any purchasing decisions.



Are you ready to answer these questions?

What would happen if you suddenly died? Have you ever considered what would happen to your spouse and/or children? Take a few moments and answer these questions now:

- 1) Would your loved ones be able to afford their current home?*
- 2) Could your loved ones continue to pay regular bills and maintain their medical coverage?*
- 3) Would your loved ones be able to plan for your final funeral expenses?*

If your answer to the above questions is “No” or “I don’t know,” consider enrolling in the NYSUT Member Benefits Trust-endorsed Term Life or Level Term Life Insurance Plans. Both of these plans allow you to select the plan and benefit amount that best meets your specific needs.

Visit the NYSUT Member Benefits website at memberbenefits.nysut.org or call **800-626-8101** for specific details about these plans.

The Issuance of a Certificate of Insurance or payment of benefits will depend upon the answers given in the application and the truthfulness of those answers. Additional underwriting requirements may be needed.

Member Benefits has an endorsement arrangement with its endorsed insurance provider of 7.61% of earned premiums for these programs. All such payments to Member Benefits are used solely to defray the costs of administering its various programs and, where appropriate, to enhance them. The Insurer pools the premiums of Member Benefits participants who are insured for the purposes of determining premium rates and accounting. Coverage outside of these plans may have rates and terms that are not the same as those obtainable through Member Benefits. The Insurer or Member Benefits may hold premium reserves that may be used to offset rate increases and/or fund such other expenses related to the plan as determined appropriate by Member Benefits. Member Benefits acts as your advocate; please contact Member Benefits at 800-626-8101 if you experience a problem with any endorsed program.



For information about contractual endorsement arrangements with providers of endorsed programs, please contact NYSUT Member Benefits. Agency fee payers to NYSUT are eligible to participate in NYSUT Member Benefits-endorsed programs.

Fair Share Fees, Free Riders and UUP

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tives, or withholding the provided good, because legally UUP must represent all those in the bargaining unit, members or not. That's federal and state labor law at work.

If the Supreme Court continues on the path of conflating money and speech, and if it rules against the California Teachers Association, it will deliver a potentially fatal blow to public sector unions. A lot will depend on whether the Court makes a sweeping ruling, or as it has done in recent cases like *Harris v. Quinn*, makes more piecemeal reassessments of the relationship between money, speech and representation.

Everyone must make up her or his mind about what they think should happen in the *Friedrichs* case. Rebecca Friedrichs is being backed by the anti-union Center for Individual Rights—you can read more about their point of view at their

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website, <https://www.cir-usa.org/>.

For the union point of view, our parent union, New York State United Teachers (NYSUT) has put together a good summary of the case, with questions and answers and further links at <http://www.nysut.org/news/2015/june/friedrichs-vs-california-teachers-association-a-pivotal-case-on-union-rights>. Slate, a center-to-liberal e-magazine has a summary of the potential effects of rulings in

Friedrichs at http://www.slate.com/blogs/schooled/2015/07/08/friedrichs_v_california_teachers_association_how_a_supreme_court_case_could.html.

Finally, UUP Statewide President Fred Kowal has spoken early and often on just how devastating a negative ruling in Friedrichs could be (<http://uupinfo.org/communications/uupdate/1415/150630A.php>).

I want to see UUP and other public sector unions survive to deliver voice and benefits to those we represent. Meantime, if you are not sure if you are a UUP member, let us know and we will check for you. Make sure that you are a UUP member—signal to all of us that you are a person who will pay your fair share.

Footnotes

¹ Jason Walta, "Fair Play: The Court to hear case on fair-share fees." *NEA Higher Education Advocate* 33:4 (September 2015).

You cannot shake hands with a clenched fist.

—Indira Gandhi,
prime minister of India (1917-1984)

"Every man is guilty of all the good he didn't do."

—Voltaire, philosopher
(1694-1778)

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