

# Connection *uup*

Binghamton Chapter, United University Professions

*From the Chapter President*

## Addressing Salary Compression: If Cortland Can Do it, So Can We

*by Benita Roth  
Sociology Department*

Since I've been the UUP Binghamton Chapter president, there is no issue that has been raised at meetings large and small more than salary compression (okay, okay, besides parking). I've decided to use this column to write about salary compression, which affects both academics and professionals here at BU.

I reached out to an economist friend for a good definition of salary compression, only to have him assure me that there were any number of definitions. So we will go with the common sense approach: salary compression is a situation where there is only a small difference in the pay of already established versus newer employees. In other words (from <http://definitions.uslegal.com/p/pay-compression>), "(p)ay compression is the result of the market-rate for a given job outpacing the increases historically given by the organization to high tenure employees. Therefore, newcomers can only be recruited by offering them as much or more than senior professionals."

What we should understand about salary compression is that it is an institutional as well as market driven problem, as the definition above points out. But perhaps we should be even more basic when we talk about salary compression. Because we need to acknowledge that salary compression is a problem. It is unfair to loyal



employees; it saps morale; it can lead to resentment among colleagues in the workplace; it incentivizes disloyalty to the institution, as it compels employees to look for other work. Salary compression takes what would otherwise be a qualification—knowing how to do one's job based on experience—and spits at it. Salary compressed employees see the fact of compression as a dismissal of their knowledge and experience, and they are right. And salary inversion—where less qualified or experienced employees are offered higher starting salaries than experienced employees—takes the problems caused by compression to an even greater level. We in UUP know of cases of inversion here on campus, both on the professional and academic employees side of things.

While institutions affected by salary compression tend to lay its causes at the feet of "the market", it is clear that institutions can, with the proper will, mitigate the effects of compression. According to the website of the National Association of College

and University Business Officers (NACUBO)—not exactly the most radical online newsletter out there—"(i)nstitutions that do not regularly make market adjustments or lack a process of managing faculty pay progression will experience more significant, extensive and costly compression and inversion issues" (<http://hrhorizons.nacubo.org/newsletter/past-issues/volume-7-issue-1/the-top-five-problems-in-faculty-pay.html>). The same principle can be established for professional employees. In both cases, it behooves the university to keep experienced employees around. Those institutions who blame the market for compression but not their own compensation structures ignore their role in sustaining compression.

Our sister SUNY campus to the immediate north, SUNY Cortland, has embarked on a program designed to gather data and use monies to actually address salary compression. Originally relying on dedicating part of UUP-negotiated discretionary salary increases (or DSI, where raises go to one's base salary), the President's office at Cortland dedicated some of those monies to equity concerns. But here's an interesting fact—when the new Agreement between UUP and the State of New York didn't feature DSI any longer, Cortland's administration stuck to its guns and decided to use other monies to continue to address equity concerns.

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# Connection

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The opinions expressed in this newsletter are those of the authors or of the Binghamton Chapter and are not necessarily the opinions of United University Professions.

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

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*From the Vice President for Academics*

## Leaves Time for Academics

*by Susan Seibold-Simpson  
Decker School of Nursing*

As Vice-President for Academics, it has been my experience that some people are unclear about conditions of employment and what is negotiated by UUP. For the last edition of the newsletter, I focused on access to personnel files. This edition, I will examine leaves. Leaves are part of the negotiated contract between New York State and UUP. While academics have some flexibility as to when and where we conduct our work over the summer, we have limited options during the academic year. I have heard that some people believe that academics who work a 10 month year have the summers off. I know for me, nothing could be further from the truth! This is when I work on my research, develop publications, and build and revise courses. However, there are instances when an academic needs to take off a block of time during the academic year. This is when leaves come in to play.

Traditional leaves include sick leave, vacation leave, holiday leave, and family leave. Academic and professional leaves are different. For example, while professional employees accrue vacation hours, academic employees do not. Both academic and professional employees receive sick leave credit. For academics, the accrual of sick leave is based on years of service and for part-time academics, how many courses an individual teaches. In accordance with federal law, unpaid family leave is also available.

Family leave has received a great deal of attention lately. UUP has been fighting for greater justice regarding family leave for many years. Once again, it has been identified as one of the key areas for contract negotiation by Binghamton University academics and professionals. We have gained the support of The University Faculty Senate, who in October of 2015, made the recommendation that the upcoming



ing contract negotiations between New York State and UUP consider adopting a "stop the tenure clock" policy that does not compromise employees professionally by requiring them to step out of rank or financially by forcing them to accept reduced pay or part-time assignments, with the goal of promoting retention of valuable employees and increases employee morale while addressing issues of equity." More information is available at the UUP website for academic employees: <http://uupinfo.org/academics/academics.php>.

Leaves for academic employees prior to obtaining tenure exist, but are limited. According to the current contract Agreement, the college president may grant leaves of absence for employees at full salary, reduced salary, or no salary for the purpose of professional development, acceptance of assignments of limited duration with other institutions, or for the purpose of child care. This is found under Article XIII, Title F of the Policies and under Article 23 of the Agreement (§ 23.7a to be precise). Leave is further addressed in faculty policies and procedures. This type of leave stops or pauses the tenure clock, which can be positive or negative, and consequently needs to be considered carefully.

There is also the Dr. Nuala McGann Drescher Affirmative Action/Diversity Leave Program that enhances employ-

ment opportunities for people who are preparing for permanent or continuing appointments with preference given to minorities, women, employees with disabilities, or an employee with military status. The Drescher program is part of the joint labor-management committee and is available to term appointment academic employees that have at least a one-term renewal, or prior service credit. It requires full-time leave from professional obligations for at least one

semester and a maximum of one year, including but not limited to a summer and a campus financial contribution of a minimum of 40% of the cost of salary for a replacement for the duration of the leave and a minimum of 40% of the total project or activity expenses.

After an academic employee receives tenure (continuing appointment), they may be eligible for sabbatical leave, which is for planned travel, study, formal education, research, writing or

other experience of professional value that increases the value of an employee to the University. Sabbatical leaves are typically for a year and the employee can receive up to one-half of their basic annual salary. It is also possible to have a single semester of sabbatical at full-pay.

Leaves are an important part of our negotiated benefits and can be critical to both our academic and private lives. This is another way our union works for us.

## UUP Internal Promotional Process — How Does It Work?

*by Fran Goldman  
Asian and Asian American Studies*

There have been several inquiries concerning the internal promotion process in the past few weeks and whether it is working as it is supposed to. While UUP has been assured by HR that the process is working, that does not seem to be the impression of some members who have sought to use this avenue for a change in their position, either within their current department or for one elsewhere on campus. Given this circumstance I thought it might be helpful to reiterate how the UUP Internal Promotion Agreement should work.

As noted on the HR website, (<https://binghamton.edu/human-resources/managers-supervisors/uup-prof-search-committee-guidelines.html>), once an internal candidate applies, after the 10-day posting period, HR will verify their eligibility and let the Search Committee know. These candidates must be considered prior to any external candidates. There are two tiers by which internal candidates are evaluated. Tier I specifies that current eligible employees who are represented by UUP will be reviewed and considered first. Once this is completed, Tier 2 applicants (Classified or Research Foundation) employees are considered. When the reviews are completed one of three decisions “must be communicated by the Search Committee repre-



sentative” to the UUP Tier I candidates prior to review of Tier 2 candidates. The choice of the Search Committee is to either notify the individual they do not meet the qualifications for the position and will not receive an interview or that the individual is qualified and will be interviewed and, finally that the individual is qualified and will be included in the larger candidate pool and considered further.

While the guidelines are clear as to the roles of HR and the Search Committee, it seems that they are not always followed. For example, members have informed me that although they were Tier 1 candidates they heard nothing from the Search Committee on their status, including whether or not they would be part of the larger pool or simply not considered. Others have

mentioned that although they did receive an interview they were not told if they would be considered as part of the larger pool by a Search Committee member. In some instances, the applicant found out by other means than through the Search Committee that someone else was appointed to the position. Since it is the Search Committee’s responsibility to remember that they must review the materials of eligible internal candidates before reviewing external applications. Given these happenings, one must wonder whether there should be mandated training for the Search Committee Chair and/or Committee on how to properly respond to internal applications as I am sure that they would not like to be treated in this manner.

*“Tier I specifies that current eligible employees who are represented by UUP will be reviewed and considered first. Once this is completed, Tier 2 applicants (Classified or Research Foundation) employees are considered.”*

# Turkish Academics Under Attack

by A. Serdar Atav  
Decker School of Nursing  
and  
Malcolm Gunter

January 2016 witnessed vicious violations on academic freedom and freedom of speech in Turkey. Police detained 27 of the 1,128 Turkish academics from 89 universities, all members of the Turkish organization, Academics for Peace, who signed a petition entitled “We won’t be a party to this crime” calling for an end to Turkish government’s “deliberate massacre and deportation of Kurdish and other peoples in the region.” The petition was also signed by over 355 non-Turkish academics including Noam Chomsky, Judith Butler, Etienne Balibar and David Harley. The full text of the petition in English, French, German, Spanish, Arabic, Russian and Greek can be found here: <http://barisicinakademisyenler.net/node/63.html>.

Even though all arrested were later released, many members of the Academics for Peace in both the private and public sectors were fired from their jobs after President Recep Tayyip Erdogan severely criticized the signatories and called their petition “treacherous.” Erdogan’s public declarations of treachery led to police investigations accusing the Turkish academics of engaging in terrorist propaganda. Paralleling Kristallnacht, signatories have been the subjects of threats and intimidation by extreme nationalists. Their office doors have been marked and their pictures have been circulated on social media and pamphlets. An extreme nationalist has threatened that “we will spill your blood and we will shower in your blood.”

International support for the Turkish academics has been strong, despite a lack of international press coverage of the events. The European Union has condemned the arrests of the academics as “extremely worrying.” In a surprising statement, the US ambassador to Turkey, John Bass, publicly criticized the Turkish government: “While



we may not agree with the opinions expressed by those academics, we are nevertheless concerned about this pressure having a chilling effect on legitimate political discourse across Turkish society regarding the sources of and solutions to the ongoing violence. In democratic societies it is imperative that citizens have the opportunity to express their view, even controversial or unpopular ones.”

A large number of Turkish and international academic associations and non-governmental organizations have written letters urging the Turkish government to respect academic freedom and freedom of expression. By the end of January, thirty Nobel Laureates released a statement in support of the Academics for Peace in Turkey. Among many others, thirty scholarly groups and higher education associations signed a joint letter coordinated by the Scholars at Risk network, affiliated with New York University ([https://salsa4.salsalabs.com/o/50943/content\\_item/jointletterforturkey](https://salsa4.salsalabs.com/o/50943/content_item/jointletterforturkey)).

The letter states:

“We are ... dismayed to have to write now and express our grave concern about recent reports of widespread pressures on members of the Turkish higher education and research community, including investigations, arrests, interrogations, suspensions and termination of positions, in apparent violation of internationally

recognized principles of academic freedom, free expression and freedom of association; principles on which quality higher education and research depend.”

The plight of academics and academic freedom in Turkey is only a portion of the overall sense of oppression most Turkish intellectuals currently feel. As the Erdogan government becomes more and more oppressive, the judiciary and the media have lost their independence almost entirely. In an article by Redden in Inside Higher Ed, Baris Unlu, an assistant professor at Ankara University, states that in Turkey, universities are still the only autonomous homes to people who consider the intellectual activity of speaking the truth their moral and occupational duty. Since a government of authoritarianism and corruption cannot tolerate the truth, it resorts to threats, violence, and attacks on intellectuals who cannot support such a government. He concludes by stating his expectation that the attacks on scholars will likely grow in the foreseeable future.

As we enjoy our union and tenure protected academic positions and constitutionally protected freedoms here in New York, it is our intellectual and moral duty to be cognizant of the plight of our colleagues in other parts of the world and to show our solidarity with them at least by signing one of the hundreds of statements issued by various groups and organizations.

***“In democratic societies it is imperative that citizens have the opportunity to express their view, even controversial or unpopular ones”***

***– John Bass  
US Ambassador to Turkey***

# The Individual Development Award Program

by *Brandy Emm*  
*Strategic and Fiscal Planning*

The Individual Development Award program (IDA) committee has completed the difficult task of making award recommendations for the 2015–16 IDAs. The committee — Fran Goldman (Chair), Beth Kilmarx, Serdar Atav, Susan Seibold-Simpson, Tammy Behonick, Janet Keesler, Ramanan Natarajan and Sonja Kim — reviewed 116 applications requesting a total of \$109,916.

Binghamton University’s allocation for this year was \$53,149 which was awarded to 64 applicants: 37 academics (\$31,166), 24 professionals (\$19,483) and three librarians (\$2,500). Of these, 56 are full-time employees



(\$45,673) and eight are part-time employees (\$7,476).

The funds for the IDA program are awarded pursuant to Article 42, Professional Development Committee, of the 2011–2016 Agreement between New

York State and the United University Professions. The IDA Program is intended to assist eligible employees to develop their full professional potential and to prepare for advancement.

Please note: UUP has confirmed that there will be one more round of IDA awards next year (2016–17). However, there is no guarantee that the program will continue to exist for future years. We encourage you to start thinking about applying for next year’s round.

**It’s time to start thinking about next years round of IDA awards.**

## SUNY ADJUNCTS DESERVE BETTER



**Bentley Whitfield, Farmingdale**

**“I received SUNY’s Excellence in Teaching Award.”**



**Rebekah Tolley, Albany/Oneonta**

**“I have a master’s in fine arts and I’ve exhibited worldwide.”**



**William Lee, Cortland**

**“One hundred ninety-two students took my course in one semester.”**

Adjuncts make up one third of the faculty at SUNY and many have advanced degrees. However, their compensation falls far short of matching the important work they do.

Many are paid so little, they struggle to make ends meet.

Many others are forced to find employment at different colleges to earn a living wage.

Yet students pay more than ever before.

It’s an economic injustice that can no longer be tolerated.

**Stand with adjuncts in their fight for equitable treatment.**

**Share the ad—<http://goo.gl/DvTLkF>—on Facebook and Twitter.**



**United University Professions**

President Frederick E. Kowal, Ph.D.

**#adjuncts**

# Importance of Union in the Work Place

by Michael Little  
Department of Anthropology

When I was a young man, having grown up in a working class household, I identified unions with a blue-collar socioeconomic class from which I was determined to escape. My father, as a drill press operator, was a member of the company union at Leeds & Northrop outside of Philadelphia, but he seldom mentioned the union and I do not recall his ever being out of work on a strike. During my college undergraduate and graduate years I had little interest in unions and I paid no attention to the gradual decline of unions in the United States during that time. My ambitions were to complete the PhD, to survive in academia, and to move up the socioeconomic ladder as a professional anthropologist. I moved with my family from Ohio State University to SUNY Binghamton in January 1971 as my second university post and on my arrival I was encouraged to join the union. My beginning at Binghamton University coincided with the Senate Professional Association (SPA) being identified as the first elected bargaining unit at SUNY. At that time, what I had heard about the Union at SUNY was that the Taylor Law prohibited strikes,



so I assumed that the Union had little power and was ineffective. It was only a couple of years later that that I joined the Union, since I presumed that if I were already paying dues, I might as well have a vote for my representatives and the Union contracts. Despite my Union membership, I paid little attention to what the union was doing to improve my life here.

During the ensuing years, I voted in UUP elections and contracts but only within the past decade did I become aware of the erosion of union control in the United States and the importance of my own union in improving conditions of my life both in the workplace and in general. The ruling against collective bargaining in Wisconsin, the general decline in union membership through-

out the nation, and the most recent (and still pending) Supreme Court case concerning union dues for non-members. Each of these has weakened the position of unions as bargaining units with government (public service unions such as the UUP) and private corporation management. When I was nominated to serve on the Executive Committee of the local Binghamton UUP unit, I felt that it was my turn to participate in the union that had contributed to my welfare over the years. After a half-year as an active participant, I have learned in more detail why the union is important to Binghamton University professionals and academics. And as a recipient of these benefits, I am especially appreciative. I am not sure that very many of my colleagues are aware of how the union has contributed to their own well being.

Health and other benefits, salary increases, and discretionary increases onto base salary have helped me to be financially and professionally secure. When I became an academic, I was told by my mentors that my social status would be high but my financial state would be only a step or two above taking a “vow of poverty.” Our union has helped me to avoid this latter state.

## Are you a UUP Member?

UUP Membership entitles you to:

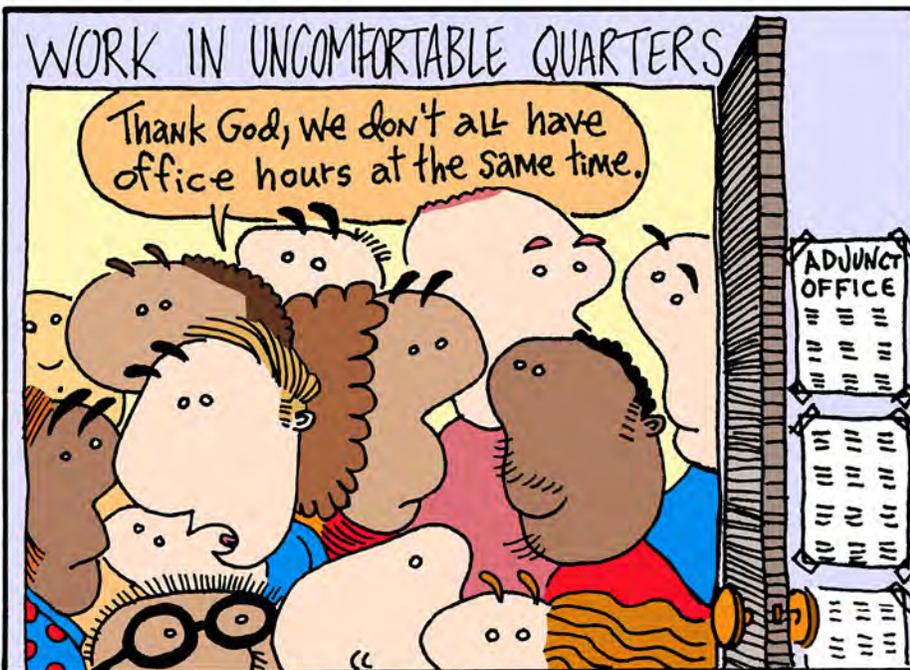
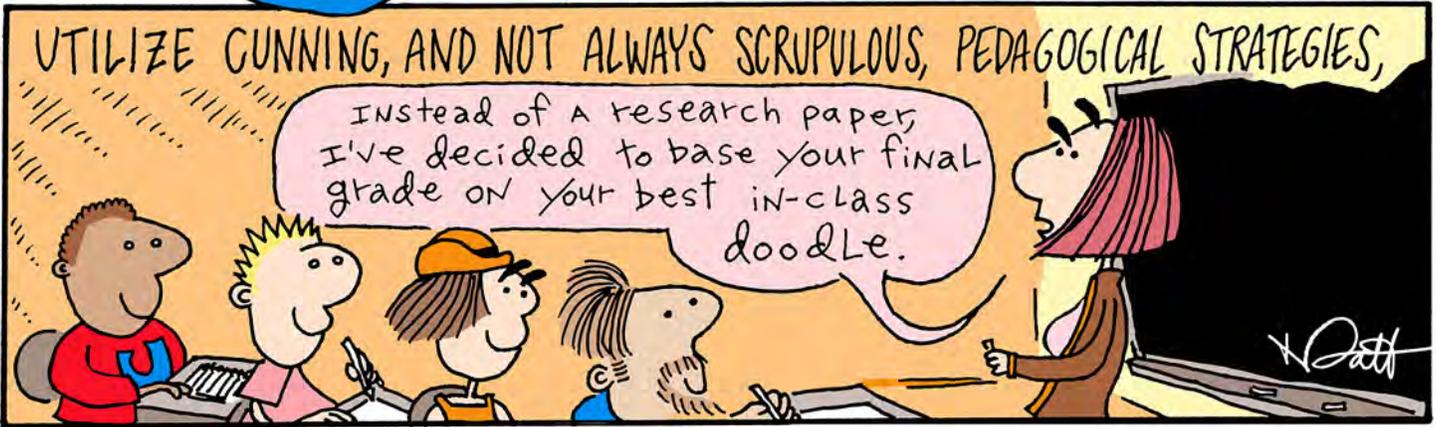
- Vote on collective bargaining agreement
- Hold union office
- Attend union meetings
- Elect union leaders on your campus and choose your representatives at the state and national levels
- Maintain UUP membership after retirement and be eligible for benefit programs
- Upon separation of service, obtain Associate Membership with NYSUT and be eligible for benefit programs

Check your pay stub to make sure you are a member. In order to be a member of the union, your paycheck must say “UUP Member.” If it says “UUP Agency Fee,” then you are included in the Professional Services Negotiating Unit, but are not a member of the union.

To become a member, request an application form from our Chapter Office or download the form online from the UUP website. You may mail your membership form to Albany or send it to our Chapter Office (UUP-LGS) and we will mail it for you.

If you have questions, feel free to call the office: 607.777.4382.





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# Income Strategies for the Underemployed Adjunct

by *Rebekah Tolley*

We often think of unemployment benefits for those who recently lost their job and are without income. However, unemployment benefits are not just for those who are unemployed. New York State is one of 20 or so states who also have a benefit program for those who are underemployed. Adjunct's salaries fluctuate with changes of pay, changes of employer, and we often teach more courses in one semester than another, or have no employment during parts of the year. Because of these employment changes, we don't always have as much employment at one point as we do in another, which helps to make a case for benefits. Adjuncts may be eligible to apply for partial benefits during the school year, so long as they are not working more than 3 days a week or earning more than \$425/week. (And have earned at least \$1900 in one calendar quarter, and have worked in at least two quarters.) Additionally, once you are qualified for partial benefits you will have full benefits when you are not working during the summer. Regardless of one's particular situation, adjunct faculty should apply to find out if they are eligible, as the application is not onerous and is easily completed online at: <https://applications.labor.ny.gov/Individual/>.

Potentially hundreds of adjuncts at each SUNY campus may be eligible for unemployment benefits even while they are working during the school year. Many adjuncts are of course also eligible for food stamps, medicare, etc. How ironic to be working for a state that compensates you so little, you are eligible for one, if not more, of its assistance programs. Those teaching one or two, and even 3 courses in some cases, cannot only supplement their low income with partial benefits year round, but can also help to pressure the university to pay us adequately and with more stable contracts. More adjuncts

applying for benefits for which they are eligible, puts pressure on the university to raise wages and supply more stable contracts since they are responsible for paying premiums for unemployment. More workers applying will raise the premiums. Under the Taylor Law, we may not be able to walk out, but this is one way we can effect change if the hundreds of us who are eligible apply.

Many adjuncts report that they tried applying for unemployment over the summer when they were out of work and were denied, so they gave up. This is a common mistake. It is much more difficult to apply over the summer months due to a specific law that was designed to prevent educators from "double dipping." NYS law 590.10 currently prevents educators from applying for unemployment over the summer months if they have reasonable assurance of re-employment in the fall for at least 90% of what they were employed in the past. This law was originally intended to prevent educators who were otherwise employed full time and earning a full income during the school year from collecting unemployment income during the summer months as well. Unfortunately, it now serves to hurt adjuncts who truly have no income or employment over the summer months, and are not paid nearly enough during the school year to get by. NYSUT, UUP, and PSC along with other unions have been working to get this law changed.

So is summer an impossible time to apply? Not necessarily, more and more adjuncts have been successful, but it is certainly more difficult if you are required to supply documentation in order to satisfy the law. Some states, including New York, are now more familiar with the working conditions of adjuncts and it has become easier, but why wait until summer when it's more difficult to apply? Once you qualify for benefits you can continue to collect for your benefit year (so long as you are

not earning more than \$425/week) so you are better off applying for partial benefits now, and then you will receive full benefits during the summer months when you are not working.

But let's say you don't get around to applying before summer and you realize you are about to be without income again. So what does "Reasonable Assurance" mean anyway, and do I have it? "Reasonable assurance" could be in the form of a letter that must specify which courses you will teach. If the specific courses are not listed in your letter then it does not count as "reasonable assurance." If your course assignments for the fall are any less than 90% of what you had in the spring then you are eligible because you do not have reasonable assurance of as much work as you had in the past. For example, if you taught two courses in the spring and are only assigned one course in the fall, you are eligible to apply. "Reasonable assurance" could also be your name in a course schedule to teach the following semester. However if your course is under enrolled and may not run, you can use this evidence to prove you do not have reasonable assurance. If you have had a class cancelled in the past, this can also be used as evidence of lack of reasonable assurance.

To initially file, it's important to recognize that the intake questionnaire is designed for those who became recently unemployed and there is not a separate one for those still working part-time. According to the NYS Department of Labor website: You will be asked to enter the date of your last day worked. Enter the last day you physically reported to work, regardless of whether this was your part-time work. You will also be asked to enter information about your last or most recent employer. The last or most recent employer is where you most recently reported to work, regardless of whether this was your part-time employer. If it was your part-time employer, and you will continue to

work part-time, enter “lack of work” as the reason for separation.

You must keep a record of your work searches while on unemployment. This shouldn’t be difficult as many adjuncts are constantly looking for, and actively applying for full-time

or better paying positions. You will also need to attend three mandatory sessions at a local state career service center throughout the year where they will review your CV, make sure you have resources you need, and ensure that you are looking for work.

If you have questions, please contact me at [rebekahtolley@gmail.com](mailto:rebekahtolley@gmail.com). If you are denied unemployment you should contact the Workers Defense League (a free, non-profit) for help: (212) 627-1931.

## Membership and What It Can Mean To You

*by David Stone*

Sometimes life is just so busy we fail to see small details that impact our lives. And sometimes not being aware of a small detail is a great disadvantage to ourselves and others.

As a professional or academic employed at Binghamton University you receive full representation from United University Professions (UUP) in the terms and conditions of your employment. When you started at BU you were an “agency fee payer”; which means you pay a percentage of your salary for representation but you had no voice in the form or content of that representation. You were provided the opportunity to complete a membership enrollment form at your new employee orientation or some other venue early in your employment period. If you completed and submitted this form you became a member. Becoming a member of UUP can be one of those small details that can be hard to see but can make a great difference in your life.

What are some of those differences?

Membership grants you the privilege of being able to vote on union matters including membership on the campus chapter executive board as well as the state wide contract. This voting privilege makes a world of difference as it allows you to have your voice heard within your union. It is the union’s responsibility to negotiate the state wide contract which details the terms and conditions of our employment. Why would someone not want to have input on how you are represented and to help determine what those terms

& conditions are? Our careers influence all aspects of our lives and those of our loved ones. So, the terms and conditions of employment, whether we think about them or not, impact our lives daily in no small measure. And could conceivably save our lives.

Another aspect is your involvement with your union. Members have the right to run for the campus chapter executive board or become an officer on the executive board. Also, you may attend Delegate Assemblies or hold an office at the state wide level. Your activities can help shape the future of employment with the State University of New York for decades. We can all read or hear in the media about the struggles people go through to earn a reasonable wage. There are many individuals that are trying to increase the minimum wage levels, or, in some cases, to retain the statutes setting a minimum wage. These are areas where active participation in your union can be critical. Why wouldn’t you want to help preserve and improve what we have?

Some constituents may think, ‘I work part time so it doesn’t impact me.’ Well, I ask you to reconsider with some facts you may not know. Eligible part-time employees receive: across the board salary increases; mandatory distribution of discretionary money; health (tiered premiums based on salary), vision, dental, and life insurances; accrual of sick and vacation days; access to professional development and grant funds; pension and health insurance after retirement. Prior to 1999 part-time employees lost health insurance during intersession and summers. So, even working as a part-time em-

ployee can still provide you a wealth of benefits.

UUP provides vision and dental insurances to all our represented constituents, their significant others as well as their dependents. And, when you come to the end of your work life and wish to retire the advantages to membership continue. Members may continue the vision and dental benefits into retirement. The costs for these services without insurance can be daunting at the least.

Well, there you are, Membership and What It Can Mean To You in a nutshell!

**Save the date**

**UUP Professional  
Regional Meeting  
with  
Vice President  
for Professionals  
Philippe Abraham**

**June 21, 2016  
SUNY Cortland  
5:30–7:00 PM**

**Look for further  
information with topics to  
be discussed soon.**

# UUP Binghamton Chapter Executive Board Resolution on the Upstate Revitalization Initiative

Posted on March 28, 2016  
by binghamton UUP

To: President Harvey Stenger, Co-Chair, Southern Tier Regional Economic Development Council

From: UUP Executive Board, Binghamton University

Date: March 9, 2016

Re: Resolution in support of 5 Principles of Fair Development

Whereas, Governor Cuomo announced that \$2.25 billion in economic and community development funding would be awarded through Round V of the Regional Economic Development Council initiative and the Upstate Revitalization Initiative;

Whereas, the Southern Tier received \$500 million as a part of the Upstate Revitalization Initiative Awards and that this historic investment is expected to have a \$3 billion impact on the regional economy and create 10,000 new jobs;

Whereas, Binghamton University President Harvey Stenger Co-chairs the Southern Tier Regional Economic Development Council;

Whereas, the UUP acts in the best interests of its members, the SUNY community, and the entire state of New York;

Whereas, the mission of UUP is not only to improve the terms and conditions of employment but also to defend the civil, professional, and human rights of those it represents; and

Whereas, all regional economic development initiatives have impact on the working conditions and well-being of employees at Binghamton University and their families;

Be it Resolved, that the UUP Executive Committee recommends to President Harvey Stenger that all decision-making by the STREDC regarding the allocation of all Upstate Revitalization Initiative Award funds follow these “5 Principles of Fair Development” :

## Principle 1: UNIVERSALITY

Development shall increase the ability of all residents of the region to access the resources required to meet their fundamental needs including good jobs, education, health care, food, housing, and social security. It shall address these needs in a coordinated way. No single development goal shall be pursued to the detriment of other fundamental needs. Development must not result in the displacement of individuals or communities.

## Principle 2: EQUITY

Development policies must enable equality of opportunity and outcome by prioritizing populations and communities with the greatest need. The Southern Tier Regional Economic Development Council shall ensure residents of the region have priority for jobs that pay living wages, are protected in the right to organize, are guaranteed workplace protections and benefits, and communities most in need shall get priority to public services.

## Principle 3: PARTICIPATION

Development decisions including, but not limited to, the provision of public contracts, subsidies, tax expenditures, and tax increment financing, must reflect the meaningful input of all residents of the region—or at least those residents most impacted by the development project—and other relevant stakeholders. In order to do so, the Southern Tier Regional Economic Development Council must create processes at all phases of development, including but

not limited to planning, formation, implementation, and monitoring that gather meaningful input from residents and relevant stakeholders.

## Principle 4: TRANSPARENCY

Public subsidies for development must be discussed, decided, implemented, and monitored in an open, easily accessible manner that maximizes examination and review by residents of the region.

## Principle 5: ACCOUNTABILITY

Public representatives and publicly subsidized developers are under a duty to engage in development that is universal, equitable, indivisible, participatory, and transparent, and shall be held responsible for breach of that duty by an effective means of redress and remedy.



UNIVERSALITY  
EQUITY  
PARTICIPATION  
TRANSPARENCY  
ACCOUNTABILITY

# Opinion Analysis: Result but No Guidance on Public Unions' Fees

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## Analysis

The most important labor union controversy to reach the Supreme Court in years sputtered to an end on Tuesday, with a four-to-four split, no explanation, and nothing settled definitely. The one-sentence result in *Friedrichs v. California Teachers Association* will leave intact, but on an uncertain legal foundation, a system of “agency fees” for non-union teachers in California — with the legal doubts for public workers’ unions across the nation probably lingering until a ninth Justice joins the Court at some point in the future.

The practical effect was to leave undisturbed a ruling by the U.S. Court of Appeals for the Ninth Circuit, which had simply found itself bound by a prior Supreme Court precedent upholding such fees against constitutional challenge. The Ninth Circuit had before it a case specifically filed as a test of that precedent, and only the Supreme Court could revisit that prior ruling, binding on all lower courts.

The Court had heard the *Friedrichs* case on January 11 and, from all appearances then, it seemed to be on its way toward a five-to-four decision to declare that it would be unconstitution-

al for unions representing government employees to charge fees to workers they represent but who are not among its members, even when the fees cover the costs of normal union bargaining over working conditions, not lobbying or outright political advocacy.

But the death of Justice Antonin Scalia last month left the Court to either find a way still to decide the case, or to end it with an even split. If it had actually tried since Scalia’s death to find a way around a split, that effort clearly came up short. The result set no precedent, and thus left the constitutional issue dangling.

Shortly after Justice Scalia died, the Center for Individual Rights, a conservative legal advocacy group involved in the *Friedrichs* case, announced that it would ask the Justices to schedule a rehearing on the case if it were to split four to four. The Center said at the time that it expected such a request would put the case off until the Court’s new Term, which is slated to begin on October 3. (UPDATE: Lawyers involved said Tuesday that a rehearing petition will, in fact, be filed.)

Under the Court’s rules, a rehearing request in the *Friedrichs* case would have to be filed within twenty-five days following Tuesday’s ruling. It would require the votes of five Justices to order such a reconsideration, and one of the

five must have been one who had joined in the decision. It is unclear how that rule would work when the judgment had been reached by an evenly divided Court.

Tuesday’s result in this key case marked the second time that the Court, with its membership reduced by one, had divided evenly in a case it had reviewed. A week ago, it did so in a case about spouses’ responsibility for each others’ debts (*Hawkins v. Community Bank of Raymore*).

Although President Obama has nominated Judge Merrick B. Garland of the U.S. Court of Appeals for the District of Columbia Circuit to succeed Justice Scalia, Senate Republican leaders have vowed to take no formal action on that nomination until after the presidential election on November 8. It thus is unclear at this point when a ninth Justice might join the Court, and help it avoid further four-to-four splits in deciding cases.

If the GOP position does not change, a new Justice might be approved in a post-election Senate session, but otherwise would probably not be approved in time to join the Court before next March.

If the Court were to decide not to rehear the *Friedrichs* case, another option for confronting the same agency fee question would be in a different case that had worked its way through lower courts, and reached the Justices after there was a full bench.

[Disclosure: Goldstein & Russell, P.C., whose attorneys contribute to this blog in various capacities, is among the counsel on an amicus brief by the American Federation of Teachers and American Association of University Professors in support of the respondents in this case. The author of this post, however, is not affiliated with the firm.]

*Lyle Denniston, Opinion analysis: Result but no guidance on public unions’ fees (FINAL UPDATE), SCOTUSblog (Mar. 29, 2016, 11:44 AM), <http://www.scotusblog.com/2016/03/opinion-analysis-result-but-no-guidance-on-public-unions-fees/>*



What Cortland did was figure out which employees, professional and academic, were salary compressed. For academics, they created a model to do four-way comparisons, whereby full-time faculty salaries were compared to others of the same rank, degree, years of teaching, and discipline-specific national salary averages for assistant professors (that is, new academics). These comparisons resulted in predicted salaries for each faculty member on their campus. They also controlled for any merit-based or DSI monies that faculty had received, so as not to penalize someone for being good at their job. Cortland, through this method, identified faculty members who were salary compressed (which they defined as more than \$1000 below where the model would predict they should be) and figured out how much money it would take to redress the disparities. They found that a full third of full-time academics on their campus were compressed, and they committed to a multi-year program to address the problems.

Professional employees'—both UUP represented and those designated

as “management/confidential”—represented a more complex challenge; since professionals did so many different kinds of jobs, many more market variables were at play. Cortland hired an outside consultant to create models and a salary survey base so that they could assess compression for professionals. This took efforts from management at all levels, whose input was sought regarding what were considered to be important parts of jobs that would draw compensation. While Cortland uncovered salary compression occurring less often among professional employees—not quite 10% of the professionals were deemed to be compressed—they nonetheless committed to eliminating whatever compression there was.

Several things stand out about Cortland's efforts. One, they actually took salary compression seriously as a problem and devoted monies to fix it. Two, they were transparent and let the entire working community know about their efforts. Three, they were realistic in conveying to the community that it would take a number of years to get rid of existing inequities.

And four, since they had the models in place, they committed to rerunning them and looking for salary compression going forward.

It's important to say that Cortland is a different kind of university than Binghamton University—we are a SUNY “University Center,” and a research-oriented institution, and Cortland is a much smaller “comprehensive” SUNY, where teaching is a bigger part of the university's mission. And, not surprisingly, part-time academics and professionals are not part of the systematic reviews. However, the Cortland case shows that when an institution takes salary compression seriously as the problem it is, there are methods available to eradicate it. We in UUP strongly urge our administration here at BU to take the Cortland example to heart. The benefits of having a strong and thoroughgoing effort to eradicate salary compression go well beyond putting deserved money in the pockets of our employees. Such efforts toward equity strengthen the entire university community.

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