

Union News

Connecticut State University
American Association of University Professors

Legislative Strategy to Increase the Number of Full-time Faculty

CSU-AAUP's legislative goal for the upcoming session is to secure state funding for more full-time faculty at CSU. We have received increasing support from legislators over the past two sessions for this proposal, but to make this goal a reality, we need to persuade key legislators to make funding for full-time faculty one of their top priorities. CSU-AAUP and our lobbying firm, Betty Gallo & Co., met several times over the summer to create a plan to achieve our legislative goals. While we expect the plan to be revised throughout its implementation, this plan should be effective in drawing more attention to and support for this proposed legislation.

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One objective is to link the state's economy to public higher education, and to show that an investment in CSU will have a much larger return in the economy. Upon graduation, a large percentage of CSU graduates remain in Connecticut to live and work. Further, CSU makes an effort to provide academic programs that compliment the state's workforce needs.

Another objective is to highlight this need from a multitude of perspectives. Members can explain the responsibilities that are being unmet in departments due to the shortage of full-time faculty. Students and parents can describe how this shortage can affect a student's education and prevent them from graduating on time. Industry leaders can highlight the need for an educated workforce, and explain how the number of full-time faculty affects the number of students a program is able to accept and

graduate. This initiative also encourages more individuals, including students, parents, alumni, and business leaders to become active in our campaign. They will be asked to contact legislators, attend CSU Lobby Day, and/or write editorials for local newspapers. We expect this objective to fulfill two secondary goals: to increase public support and political pressure for additional funding. In addition, CSU-AAUP will be meeting with key legislators well before the session to discuss our priorities as well as organizing "meet and greets" on all four campuses so local legislators are able to meet faculty and other supporters.

Throughout the year, we will be asking for your help on these initiatives. If you have any questions, please contact Ellen Benson at (860) 832-3793.

Promotion & Tenure Grievances

In the May 2006 CSU-AAUP Newsletter, we announced that both CCSU-AAUP and SCSU-AAUP would likely be taking action regarding their respective campus president's promotion and tenure decisions.

CCSU-AAUP filed a chapter grievance on behalf of the effected members. In a settlement dated July 12, 2006, CCSU President Miller agreed to reconsider his decisions regarding the promotion and tenure of those faculty members whose cases

fit the criteria for the CCSU-AAUP chapter grievance, and since he has agreed to continue the dialogue with faculty regarding expectations for promotion and tenure, CCSU-AAUP agreed to withdraw the grievance. It is understood that President Miller intends to seek the input of the original parties at each level of the process in conducting his re-review. At this writing, we are awaiting the outcome of the re-review process.

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Salary Calculator

For full-time members who wish to determine their new salary prior to receipt of their first paycheck on September 29, please visit the CSU-AAUP website, www.ccsu.edu/aaup/csu, and visit "salary calculator" for instructions on how to determine your new salary.

Part-time members will receive a 5% increase. The salary per load credit must not exceed the maximum salary

for your rank. To determine your increase, identify your current biweekly base salary rate, which is identified on your most recent pay stub, then multiply that number by 0.05. Add the result to your current salary and that is your new biweekly salary. To determine your annual salary, multiple your new biweekly salary by 26.1.

Summer Trainings & Conferences

AAUP Annual Meeting

Delegates to the Ninety-second Annual Meeting of the American Association of University Professors voted on June 10 to place New Mexico Highlands University on its list of censured administrations. At the same time, they voted to remove Des Moines University (Iowa), Westminster College (Utah), Maryland Institute College of Art, Nyack College (New York), and the Community College of Baltimore County-Essex from the list.

The annual meeting voted to take no action against the administrations of Greenville College (Illinois) and the City University of New York and, after much debate, voted to postpone indefinitely a motion to censure the administration of Medaille College (New York) and a motion to condemn the administration.

Censure by the AAUP informs the academic community that the administration of an institution has not adhered to the generally recognized principles of academic freedom and tenure jointly formulated by the AAUP and the Association of American Colleges and Universities and endorsed by more than 200 professional and educational organizations. With these changes, 43 institutions are now on the censure list.

The Collective Bargaining Congress, the Assembly of all AAUP collective bargaining chapters, also met in conjunction with the Annual Meeting. CSU-AAUP participants were able to defend a proportional voting structure, protecting the voting rights of the larger collective bargaining units such as ours.

AAUP Summer Institute

The goal of the Summer Institute is and always has been to provide participants the opportunity to strengthen their strategic planning skills, enhance their knowledge,

intensify their expertise, and network with fellow AAUP members. Practical skills were emphasized in great depth during the intensive three-day conference. Workshops offered this year included Contract Negotiations, Strategic Communications, the Effective Faculty Handbook, Government Relations, Chapter and Membership Development, Negotiating Benefits, Preparing for Arbitration, Faculty Governance Advocacy, Contingent Academic Organizing, among others.

COCAL VII

The Coalition of Contingent Academic Labor (COCAL) Conference offered an opportunity for full and part-time faculty members and activists working on contingent labor issues in higher education to unite, organize, and learn from one another. COCAL is a loose network of activists, and its primary functions are to share information, educate colleagues and the public, and build solidarity among the scattered ranks of faculty activists. Members were encouraged to attend this conference and learn about recent successes for part-time faculty at other institutions, learn the strategy behind the success, and show solidarity with part-time faculty nationally and internationally.

Speakers from the United States and Canada reported that the biggest challenge facing higher education is a decrease in public spending, which has led to tuition increases and a reliance on part-time faculty, who they can offer short-term contracts and who serve as more flexible than tenured, full-time faculty. Throughout the three-day conference, participants discussed strategies for organizing and legislation as well as threats to academic freedom. Eight different workshops were also offered to participants on topics such as mobilizing members, achieving regularization, and maintaining a united front.

Contract Negotiations Update

The CSU-AAUP Contract Negotiating Team met on a regular basis throughout the summer in preparation for negotiations, which are scheduled to begin September 28. The CSU-AAUP Council established a list of priorities at

its May meeting and the team spent the summer working on proposals according to those priorities. The list of priorities is not made public as it would give the Board of

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CSU-AAUP Political Action Committee 101

The CSU-AAUP Political Action Committee (PAC), chaired by John Harmon of the Geography Department at CCSU, met several times over the summer to begin the process of endorsing candidates. Political candidates often seek the endorsements of organizations which represent interests that they hope to protect and promote if elected. Almost all political candidates want to be viewed as supportive of higher education by voters, and therefore CSU-AAUP receives many requests for endorsements.

To determine if a candidate will receive our endorsement, the PAC created and mailed a questionnaire to all candidates, asking specific questions regarding their commitment to CSU and funding for public higher education. In this manner, the PAC is able to ascertain if a candidate will support our legislative priorities, such as funding for additional full-time faculty lines.

The PAC met in early September to review the returned

questionnaires and determined if a political candidate in a particular race is more closely aligned with our values than their opponent(s). If so, an endorsement was made. Endorsements can either be simple support of a candidate's campaign, or support and a financial contribution. In many races, our endorsements do not include financial contributions. However, in close or significant races, when one candidate is more mindful of our interests than their opponent, the Political Action Committee may choose to financially contribute to that candidate's campaign. The annual contribution limit for our PAC is \$500 for a state senate campaign and \$250 for a state representative campaign.

The Committee will meet again to complete the endorsements. A list of our endorsements will appear in the October issue of the newsletter.

The Impact of *Garcetti v. Ceballos* on the First Amendment Rights of CSU Faculty Members

By Gregg Adler and Mary Kelly

The fundamental rule of law established by the Supreme Court's May 30, 2006 decision in *Garcetti v. Ceballos* is that statements made by public employees "pursuant to their official duties" are not protected by the First Amendment's free speech clause, and employer action which abridges or punishes employees for such statements is not unconstitutional. This article will explore how the *Garcetti* decision affects the First Amendment rights of CSU-AAUP members.

First Amendment Law Before *Garcetti*

Courts have considered freedom of speech to be an indispensable condition of nearly every other form of freedom, and that citizens do not relinquish this right when they begin working for the government. However, courts have recognized that when the government is acting as an employer it has a special interest in the efficiency of the services it provides, and that this special interest allows the regulation of employee speech under certain circumstances. Prior to *Garcetti*, a public employee who claimed that he was being retaliated against because of his exercise of the right to free speech had to demonstrate: (1) that his speech involved a matter of public concern, and (2) that his speech was a substantial or motivating factor in the decision to terminate him. If the employee met this threshold, the government employer could still avoid liability either by showing that it would have made the same decision in the absence of the protected speech, or by showing that the speech interfered with the government's

effective and efficient fulfillment of its responsibilities to the public.

In determining whether speech involves a matter of public concern, the critical issue is whether the speaker's primary aim or motive is as an employee speaking on purely personal matters, or as a citizen speaking on matters of public concern. The Court held that it was important to examine the content, form and context of a statement to determine if the speech involved matters relevant to the public's evaluation of the operation of government or involved an internal workplace dispute. The Supreme Court's decision in *Garcetti* fundamentally changes this analysis.

Garcetti v. Ceballos

The plaintiff in the *Garcetti* case, Richard Ceballos, was a deputy district attorney. He received a complaint from a defense attorney who claimed that there were serious inaccuracies in a sheriff's affidavit that was used to obtain a search warrant. Ceballos concluded that the affidavit contained significant misrepresentations, and notified his supervisors of his findings, both verbally and in a written disposition memorandum recommending that the case be dismissed. The supervisors nonetheless decided to proceed with the prosecution and Ceballos ended up testifying as a defense witness. The warrant was upheld by the court.

Ceballos was subsequently subjected to a series of adverse employment actions, which he claimed were

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Recent CSU Grad Hired by SCSU-AAUP; New AAUP Staff at WCSU

Graduating in 2006 with a Bachelor's Degree in Political Science from Southern Connecticut State University, Gary Holder-Winfield brings an abundance of life experience to the SCSU-AAUP office. After high school Gary spent several years in the United States Navy's Nuclear Power Program and then working for Alstom Power Inc., a world leader in transport and energy infrastructure. In 2003 Gary left the engineering field so that he could attend Southern and become more active in the community. He ran for local office in 2003, and though he did not win, Gary was elected to New Haven Democratic town committee and has experience working on several elections. Gary also serves as chair of Democrats for the Future, a New Haven based community action group. Gary's experience has made him an excellent addition to the staff.

Helen Yao, hired as an office assistant in the WCSU-AAUP office, graduated from WCSU in 2001 with a MBA degree. Helen brings diversified experience to WCSU-AAUP. She previously worked as an administrative assistant in Human Resources Department of a local high tech company, which has proven valuable to WCSU-AAUP. Before coming to the United States, Helen worked as an accountant at a university in China, serving faculty and graduate students for nine years. Helen enjoys assisting others. She is a Chinese teacher, teaching American and Chinese children at Connecticut Hua Xia Chinese School on weekends, and she serves as a volunteer treasurer for Danbury Chinese Alliance Church. Helen began working for WCSU-AAUP in early 2006 and has enjoyed working with the faculty and the Executive Committee, assisting with their concerns and questions.

Eastern Welcomes President Nuñez

Following a nationwide search, the Connecticut State University Board of Trustees unanimously elected Elsa Nuñez, vice chancellor for academic and student affairs of the University of Maine System, as the sixth President of Eastern Connecticut State University. Nuñez was welcomed to Eastern when she began her term on August 4. She is the first Latina president of a Connecticut state university.

Nuñez received a bachelor's degree in Spanish and English from Montclair State College. She went on to earn a master's degree in English from Farleigh Dickinson

University and an Ed.D. in linguistics from Rutgers University. In addition to serving as the vice chancellor for academic and student affairs of the University of Maine System, Nuñez has served as provost and vice president for academic affairs at Lesley University, vice president for academic affairs at Wheelock College, and dean for academic affairs and vice chancellor for student affairs at The City University of New York.

Nuñez succeeded Michael Pernal, who was acting as Eastern's interim president since January 2006, at which time President David Carter became Chancellor of CSU.

The Public Perception of Higher Education

Reprinted from National AAUP

At its Annual Meeting, the National AAUP presented the results of a study, "Americans' Views of Political Bias in the Academy and Academic Freedom", by Neil Gross of Harvard University and Solon Simmons of the University of Wisconsin, Madison. The central finding was that although Americans continue to express strong confidence in higher education, "some of its Teflon coating may have worn off" when it comes to resisting criticism.

One important finding of the study is that, among the societal institutions it asked about, public confidence in colleges and universities is second only to public confidence in the military. The confidence ratings for higher education exceed those for the White House, organized religion, and the press. Similarly, the prestige

rating for college professors in the study is second only to physicians among the professional occupations listed. Faculty prestige is only marginally higher than that of elementary school teachers, but it is higher than the prestige of both lawyers and stockbrokers.

When asked to identify the "biggest problem facing higher education," the survey respondents' top choice was the high cost of tuition, selected by 42 percent. Contrary to the claims of conservative critics, "political bias in the classroom" ranked only fourth on this list, and was chosen by only 8 percent of respondents. At the same time, when asked about each potential problem separately, 38 percent of Americans claim that political bias is a "very serious" problem for higher education. Responses on this item vary by political affiliation: 27 percent of Democrats say bias in

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The Impact of *Garcetti v. Ceballos* on the First Amendment Rights of CSU Faculty Members

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initiated in retaliation. He claimed that this speech was entitled to protection under the First Amendment because it involved questionable conduct by public officials in obtaining a warrant and was therefore a matter of public concern.

The Supreme Court found that Ceballos was not speaking as a citizen but solely in his role as a government employee, and that his statements were therefore not entitled to *any* constitutional protection, and that any retaliation against him would not violate the First Amendment. In reaching this conclusion, the Supreme Court made several important observations. First, the Court reaffirmed that the fact that the speech related to Ceballos's job was not determinative; the critical inquiry was not the content of the speech, but rather the context.

The Court also noted that speech relating to issues of academic freedom might be entitled to additional protection. The Court acknowledged that some previous decisions had suggested that communications involving scholarship and classroom instruction raised additional constitutional concerns. The Court made clear that it was **not** deciding whether or not the *Garcetti* analysis would apply in the same manner to speech involving scholarship or teaching.

Finally, the Court made clear that *Garcetti* should not be read so as to implicate or reduce any protection from retaliation that public employees currently enjoy under other whistle-blowing or public policy discharge laws. Instead, *Garcetti* merely sets out a new test for determining when a public employee can be considered to be speaking as a citizen for First Amendment purposes.

What Does *Garcetti* Mean for CSU Faculty Members?

The immediate impact of the ruling on CSU-AAUP members is likely to be minimal. Speech involving issues of academic freedom is still likely to be given enhanced protection. Lectures and scholarly publications involving matters of public concern are likely to continue to be granted First Amendment protections. Communications involving the free exchange of ideas between faculty and students, particularly in the classroom, is more likely to be granted protection than communication between faculty and the University. Moreover, the academic freedom of our members is explicitly protected pursuant to Article 4.2 of the collective bargaining agreement, and those contractual rights are not affected by the *Garcetti* decision.

The more that the content of the speech relates to the actual employment duties of the employee, the less likely

it is to be protected. For example, a facility manager's complaint about unsafe dormitories is less likely to be protected than the same complaint by a professor of mathematics.

External, public speech is more likely to be protected than speech occurring in the workplace because such speech is less likely to involve official duties. A statement contained in a report that a faculty member is required to make is unlikely to be protected, unless the content of the statement relates to pedagogical or research issues. The same statement made off campus, in a letter to the editor, or on campus at a public meeting is more likely to be protected. However, if the employee is acting as a spokesperson for the public employer, the speech is unlikely to be protected.

Garcetti does not change the protection enjoyed by faculty members who engage in activities as representatives or members of the CSU-AAUP, and does not diminish the right to participate in the grievance procedure. Those rights remain protected by the First Amendment because they implicate the freedom of association and the right to petition even if not considered speech on a matter of public concern.

Finally, speech or conduct that is not protected by the First Amendment may well be subject to protection under various state or federal laws. Indeed, the Supreme Court in *Garcetti* made clear that public employees who raise concerns about improprieties continue to be protected from retaliation under state or federal whistleblower statutes, where applicable. Retaliation for union activity, including the filing of grievances, and for exercising other statutory rights remains unlawful.

While it is too early to tell precisely what the long-term impact of the Supreme Court's *Garcetti* decision will have on the rights of faculty members, it is evident that most of the critical rights to self expression remain protected by the academic freedom provisions of the collective bargaining agreement, the rights to engage in associational activities and to petition which remain protected by the First Amendment, and by various state laws. On the other hand, much of what we would instinctively understand to be protected as speech about matters of public concern, when communicated by an individual pursuant to his duties as public employee, will not be protected by the First Amendment even where the same comments by an ordinary citizen or by that same individual in a different context would be afforded constitutional protection.

Promotion & Tenure Grievances

The Public Perception of Higher Education

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The SCSU-AAUP Chapter filed a chapter grievance on behalf of all members who were not recommended for promotion or tenure by the President, but were given a positive recommendation from the Promotion & Tenure Committee. The Chapter holds that the President evaluated the members on different criteria than those stated in the contract. The SCSU-AAUP Chapter also filed a grievance on behalf of a member who was denied tenure by the President, but who was promoted the previous year.

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the classroom is a very serious problem, compared to 49 percent of Republicans and 39 percent of political independents.

The study found strong support for keeping higher education independent. Seventy-nine percent of Americans are opposed to "government control" of what is taught in college classrooms, and 80 percent agree that academic excellence is best maintained by keeping politicians from interfering with university research. Even so, Gross and Simmons find that 70 percent of Americans fit what they call a "no funny business" category in their attitudes toward college and university faculty. Respondents in this category oppose interference by politicians into research and government attempts to legislate what is taught, and most also favor tenure so that professors don't have to worry about getting fired if people disagree with them. But they simultaneously believe that public universities should be able to fire communists and that professors must not defend Islamic militants, and they are lukewarm on the idea of professors voicing antiwar views in the classroom.

The study explores these somewhat paradoxical views in depth. It also touches on a number of other aspects of the general public's view of higher education, including questions of gender equity among faculty, the ability of students to voice political opinions differing from those of their professors, the treatment of students of faith on campus, and whether colleges and universities discriminate against conservative faculty.

The Gross-Simmons study draws on a nationally representative telephone survey carried out between March 1 and 26, 2006, by Princeton Survey Research Associates International. One thousand Americans aged eighteen and older responded to the survey, with the results weighted to represent the U.S. population as a whole. The survey's margin of error is plus or minus 3.4 percentage points.

Negotiations Update

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Trustees team an unfair advantage in negotiations. However, the list of priorities was established based on the input CSU-AAUP received from the membership through open forums, individual contact with members of the negotiating team, and the results of the contract negotiations survey. You can expect periodic updates from the negotiating team once the negotiating process begins.

Connecticut State University
American Association of
University Professors
Central Connecticut State University
Marcus White Hall, Room 310
New Britain, CT 06050
Phone: (860) 832-3790
Fax: (860) 832-3794

CSU-AAUP

We're on the web!

www.ccsu.edu/aaup/csu

CSU-AAUP

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Laurie Weinstein

Union News is edited by Ellen Benson. She can be reached at (860) 832-3793 or by email at BensonEll@ccsu.edu.