

# Who decides the shape of CUNY?

Several centralized initiatives from CUNY management sparked sharp debate during Fall semester and intersession. A proposed student complaint procedure and a new computer use policy drew strong criticism from CUNY faculty and staff.

Faculty advocates are also scrutinizing proposed changes to CUNY's multiple positions policy and a proposed policy on research misconduct, with a report on restructuring CUNY's doctoral programs in the sciences soon to follow.

These moves come on the heels of several recent 80th Street initiatives that drew faculty ire:

- Launching the School of Professional Studies with no depart-

## The trend: Consolidating control at 80th Street

mental structure to provide faculty control over curriculum

- Creation of a CUNY Teachers' Academy, which Chancellor Matthew Goldstein announced to the surprise of faculty in CUNY's existing schools of education

- The decision to build a centralized science research facility, adopted before most CUNY science faculty had even heard of the idea

The PSC and the University Faculty Senate have both objected to the increasing number of initiatives conceived with little or no faculty in-

put. The trend from 80th Street has been to extend management authority over both curriculum and discipline – attempting to circumvent regular departmental structure, faculty governance, and the PSC-CUNY contract.

Such moves toward more centralized, corporate-style management have been increasingly common in American universities. Joan Scott of the Institute for Advanced Study at Princeton has described the results: "The increasing turn to the corporate

model...involves not only the legitimization of the ultimate authority of the governing board to make educational decisions outside its area of expertise (without consulting faculty who are experts on these matters) but also the devaluation of the faculty as members of university communities."

### MANAGED MORE

Sheila Slaughter and Gary Rhodes, authors of *Academic Capitalism and the New Economy*, argue that the move to "increase the power of administrators to manage

academic work" is part of a broader shift toward a more market-driven university organized along business lines.

But, as Scott notes, this not a *fait accompli*. "The attacks on governance and on faculty standing more generally...have not been accepted passively by university and college faculties," she says. "There has been resistance at every point, in the form of faculty protests, unionization efforts, and public relations campaigns."

Slaughter puts it this way: "The only way the corporatization of colleges and universities can be stopped is through committed organizing."

— DR & PH

# Threat to academic freedom?

By DANIA RAJENDRA

A proposed new procedure "for handling student complaints about faculty conduct in academic settings" has provoked fierce opposition from faculty advocates. The University Faculty Senate voted to reject the plan at its November plenary, and the next month the PSC Delegate Assembly called on the trustees to withdraw it from consideration.

The draft procedure is intended to cover "student complaints about faculty conduct in the classroom or other formal academic settings" – but it never defines what constitutes inappropriate conduct. Existing CUNY policies are much more specific; for example, CUNY's sexual harassment policy defines sexual harassment, lists prohibited conduct and provides examples.

CUNY already has policies in place to deal with grade appeals, academic integrity, sexual harassment,

## Student complaint proposal

violent behavior, discrimination and other clearly defined problems. The disciplinary procedure defined in the union contract has been used to address past allegations of faculty misconduct. Many faculty therefore questioned why CUNY would propose a new procedure that lacks the due process protections guaranteed in the contract.

### NO POLICY

"One always needs to be cautious when presented with a 'solution' where no problem is evident," said Aaron Barlow, assistant professor of English at City Tech, in his testimony at a January 22 hearing.

CUNY Vice Chancellor for Legal Affairs Frederick Schaffer told a January 8 committee meeting that there had been a "half dozen or so" problems during his tenure at 80th Street that would have fallen under this procedure. But he offered no specifics, and did not say why existing university mechanisms were inadequate to deal with them.

"It's a procedure without a policy," said PSC First Vice President Steve London. "That is, it's a mechanism for investigating faculty behavior, but no one knows what behavior would set off the mechanism."

"The proposed student complaint procedures set forth no standards or guidelines upon which to base 'findings' and 'recommendations,'" the PSC resolution noted. A formal student complaint about any subject requires an investigation and a report by the department chair. "So each chair must apply his or her own sensibilities about what constitutes inappropriate conduct – or academic freedom," London said. "The application of the policy will be arbitrary."

"The PSC begins from the position that the university should provide CUNY's diverse student body with the richest possible college experi-

ence," testified PSC President Barbara Bowen. "That means an experience that includes lively debate, the opportunity to disagree and the security that students will always be treated with fairness and respect. The proposed student complaint procedure does not advance that goal.

"It proposes a vast and onerous new machinery of investigations, appeals and reports without ever defining the standard these procedures were created to enforce," Bowen said. "The lack of a policy or of any standards or guidelines invites abuse; it suggests that the real motive for the proposal is not to assist students."

UFS Executive Committee member Lenore Beaky warned that the complaint procedure "may actually trigger and encourage" conflict instead of resolving it. Beaky cited a national increase in student complaints that infringe on academic freedom, such as a student at Williams College who said his religious views were offended by a professor's legitimate classroom discussion of Nietzsche. "In a time of political pressures on academia," said Beaky, "a policy which inadequately protects faculty due process and academic freedom is unacceptable."

### FALSE COMPLAINTS

The PSC agreed, calling the complaint procedure "an invitation to politicize the classroom and intimidate faculty and students." At the January 22 hearing, Steve Leberstein, who chairs the PSC's Academic Freedom Committee, noted that "there are well-organized, heavily funded groups outside of the academy...that encourage students to complain about their professors, to report what they say in class."

Last year at UCLA, a right-wing alumni group published a list of 31

professors it considered too radical, and offered to pay students \$100 for lecture notes and tape recordings of class discussions. Past associates of the group's founder, Andrew Jones, told *Chronicle of Higher Education* that there had been "complaints that Mr. Jones pressured students to file false reports about leftists."

In a political context of such attacks, Leberstein said, the complaint procedure "may well lead some faculty members to begin to censor themselves for fear they will be pilloried and perhaps prosecuted for offending the sensibilities of some of their students."

Such concerns were heightened by comments made by Vice Chancellor Schaffer in a January 18 article in *Inside Higher Education*. Schaffer said "that the policy was for cases...in which students feel a faculty member has been 'abusive' in class, generally in a dispute over political views."

At the January 22 hearing, Frank Kirkland, chair of the philosophy department at Hunter, told trustees that if a professor has truly been abusive, there should be "a formal complaint under the contractual provision of Article 21.1 – 'conduct unbecoming' – and [CUNY should] allow the disciplinary inquiry to proceed."

If the problem does not require a formal complaint, he said, there is no need for a new procedure – resolving informal complaints is something that department chairs do all the time. "Over these nine years I have resolved informally my share of informal complaints, raised against and by full-time and part-time faculty in the department," Kirkland said.

Under CUNY's proposal, chairs must investigate and submit a written report on every formal complaint – they have no discretion on whether a complaint is substantive

enough to require that they proceed. This role as designated "fact finder" leaves many chairs unhappy.

Maki Haberdorf, chair of John Jay's Department of Law, Police Science and Criminal Justice Administration, said that the lack of discretion – or of any standard for what constitutes a legitimate complaint – will be a severe problem for chairs. She cited a student who'd once complained to her that his professor was "staring at him each and every class, and sending him messages from his mind."

Even less extreme complaints might be clearly groundless, but a chair would still be obligated to investigate and report. If a concerted campaign of complaints were organized in a given department, it could be a nightmare for chairs. "At minimum, it's three hours per complaint," said Haberdorf. "I have a department of 130 – 44 full-time faculty and 90 adjuncts. In theory, I could be doing just this."

### DANGEROUS

UFS Chair Manfred Philipp, a former department chair at Lehman, raised another concern. "The department chair, as the single fact-finder, will have untrammelled ability to abuse that power to use student complaints in the context of internal departmental political, personnel and policy disputes," Philipp wrote in a January 19 open letter. "Such concentrated power is dangerous, even when in the hands of good people."

Part-time faculty say that they would be particularly vulnerable. "CUNY is not required to furnish us with reasons when they don't reappoint us," said Marcia Newfield, PSC vice president for part-time personnel. "What will happen when a student complains about an adjunct? For many chairs, the simplest thing will simply be to not rehire that adjunct. Who is protecting that adjunct's academic freedom?"

"This proposal is a bad idea, from start to finish," concluded the PSC's London. UFS Chair Philipp agreed, calling it "dangerous to the university as a whole." But as *Clarion* went to press, the Board of Trustees was still scheduled to vote on the proposal at its January 29 meeting.



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Photos pages 6 and 7: Gary Schochet

At the January 22 hearing on CUNY policy changes, those waiting to testify were crammed behind a barrier at one end of the room. They faced administration representatives across a wide gulf.

## Faculty want change in computer policy

By DANIA RAJENDRA

CUNY management's proposed computer use policy is dangerously overbroad, faculty and staff testified at a January 22 hearing. Certain provisions could lead to invasion of users' privacy, compromise confidential research, violate the PSC-CUNY contract and infringe on academic freedom, PSC members warned.

The union and the University Faculty Senate agreed that CUNY needs a clear policy on computer use, and they supported some parts of the administration's draft. "The introductory statements affirming academic freedom, freedom of expression and freedom of inquiry are necessary and important," said PSC First Vice President Steve London. "But these general assurances are undermined by other provisions and by the lack of specific policies that would adequately protect users' privacy."

### EXCESSIVE

"In general, the policy is excessively invasive of privacy, for both students and employees," said Lee Tien, senior staff attorney at the Electronic Frontier Foundation (EFF). "Employers tend toward broad policies that arrogate maximum discretion with minimum accountability," Tien told *Clarion*. "Universities should strive to do better, given the nature of their community and need for academic freedom." Founded in 1990, EFF has become well known for its defense of civil liberties in the use of electronic technology.

PSC representatives expressed particular concern about provisions that would allow management to monitor faculty and students in online classroom discussions without notice. "Article 18 of the contract clearly states that if you're going to observe people teaching their class-

### Inhibits research and teaching

es, you have to give them 24 hours notice," London said. Management has so far refused to negotiate with the union over this or other contract-related issues.

### INADEQUATE

Union and UFS leaders criticized the policy's inadequate protections for confidential research. The policy itself states that "users have no guarantee of privacy during any use of CUNY computer resources or in any data in them, whether or not a password or other entry identification or encryption is used" and gives CUNY broad latitude to monitor activity on its computer systems.

For faculty whose research is confidential, this is unacceptable, said Keith Markus, associate professor of psychology at John Jay and the Graduate Center. "The policy's reliance on encryption to protect confidential research data is inadequate," he said. "It seems clear that we cannot safely do our work on our college computers while connected to the network under either the existing policy or the new one."

The policy states that administration monitoring is warranted if management determines that "there is a reasonable basis to believe that CUNY policy or federal, state or local law has been or is being violated." But many CUNY computer users conduct research on people who break the law – and to do so, they must promise confidentiality to their research subjects.

"The policy creates an absolute, non-negotiable conflict with the confidentiality commitments to subjects that an ethical researcher

must make," said Margaret Smith of the Institute for Criminal Justice Ethics at John Jay. "This is obviously much more acute with subjects whose activity is unlawful or immoral." Smith has been the data analyst for an ongoing John Jay study of child abuse by Catholic priests. The proposed policy, she said, would "change how we work in ways that are profound, and move us further from one another and from CUNY."

**'Invasive of privacy' says Electronic Frontier Foundation.**

In addition to problems for research, "the fact that online discussion and writing may be monitored at any time will inhibit effective teaching," said Joan Greenbaum, professor of Computer Information Systems at LaGuardia. Management monitoring of electronic classroom discussions and online writing assignments would have "a chilling influence," she said.

The administration at NYU sparked a controversy – dubbed "Blackboard-gate" – in November 2005, when, at the start of the recent strike by graduate assistants, administrators were authorized to monitor online discussion in graduate assistants' classes. The move drew sharp condemnation from many tenured faculty and NYU stopped the monitoring soon after it came to light.

### LOOPHOLE

Nathaniel Charny, PSC director of legal affairs, pointed to a loophole in the proposal that could threaten academic freedom: "The proposed policy allows CUNY to filter access to websites based on content, as long as content is not the 'sole' reason to limit access," he said. "Content-based restrictions of

any sort are quite dangerous, especially in the context of higher education faculty."

Where the proposed policy grants CUNY the right to access users' information to diagnose technical problems, it fails to provide basic protections that are the norm among internet service providers (ISPs), Greenbaum said. "When ISPs have a clause like this in their company policies, they routinely require that users be given prior notification," Greenbaum said. "CUNY should do the same."

### OFFLOADING

While CUNY management seeks broad rights of surveillance on its computer systems, it fails to clarify many of its responsibilities as an employer, noted London. "For example, the policy expressly states that employees are responsible for anything that happens from their accounts," London explained. "We are concerned about CUNY's efforts to shun this classic employer responsibility – indemnification of employees for work performed in the scope of their duties."

All faculty members who testified at the January 22 hearing called for changes in the computer use policy, while none supported it as written. In December, PSC delegates urged CUNY trustees to table a vote on the policy and called for further consultation with the UFS and other stakeholders and negotiations with the union. But as *Clarion* went to press, the Board of Trustees still planned to vote on the measure at its January 29 meeting.

"We believe the problems with this proposal can be fixed," London said. "The university is a very complex organization, and the board should seek solutions to the policy's problems through continued dialogue with those who use CUNY's computer systems every day."



Testifying at the hearing were (above) Joan Greenbaum, professor of computer information systems at LaGuardia; Frank Kirkland, chair of Hunter's philosophy department; and (at left) Evelyn Maggio, assistant professor of economics at Medgar Evers.