

TESTIMONY OF PROFESSIONAL STAFF CONGRESS/CUNY

BOARD OF TRUSTEES HEARING, NOVEMBER 21, 2011

Calendar Item 5.A

Delivered by Dr. Michael Fabricant, PSC Treasurer

Good afternoon. I am here today to express PSC's grave concerns and continuing opposition to a number of the proposed revisions to the Bylaws of the CUNY Board of Trustees, which will be voted on at your November 28th meeting. PSC has had conversations with the Chancellery since last June, and we appreciate that some changes have been made in response to our comments.

Nevertheless, there is a persistent pattern in the remaining proposed revisions that we oppose—elimination of traditional rights of the faculty and elimination of transparency in decision-making—which give increased power to the Chancellor or his/her designees at every point, without the opportunity for public review and comment. Emblematic of the looming loss of transparency is the fact that there has been very little University-wide discussion of the proposed revisions, particularly those that negatively affect decision-making practices of the faculty and the elimination of public review of most job descriptions and qualifications. The union's request for a further delay in the Board's vote on these revisions was denied.

Today my remarks will focus on the revisions which are seriously damaging to and, in fact, deny rights to the faculty and staff at CUNY and their ability to be represented fully by their union.

The PSC objects to the revisions to Article 11, which diminish the integrity of the job descriptions for both faculty and staff of CUNY by eliminating most from the Bylaws. The position descriptions of faculty and staff are currently in the Bylaws, and as such can be changed or eliminated with adequate notice to allow an informed discussion of the proposed changes. Under the revision, faculty job descriptions could be changed with very little advance notice (only seven days), hardly enough time to engage the university community in a discussion of the possible effects. For professional staff titles, there is no requirement that there be any public discussion or evaluation of changes; revised job descriptions can come directly from the Chancellor's Office into the Chancellor's Report, which is often not public until less than a week before a Board committee meeting.

The proposed revisions to Article 11 also appear intended to deprive the PSC of any meaningful opportunity to challenge the improper use of titles or the improper appointment of individuals into incorrect titles. In initial discussions, CUNY's Legal Counsel indicated a willingness to add protections into the revised Bylaw language that would mirror current practice, but the proposed language fails to fulfill that promise. The proposed revision denies faculty job descriptions the status of Board policy except in a narrow set of circumstances and appears intended to prohibit the PSC from arguing that an individual has been improperly appointed into a title, or improperly appointed without any title at all, and could deny PSC the right to file a grievance about these issues. An arbitrator has recently ruled that the union has such rights; these revisions appear to be an end-run around that ruling, to which the union objects.

The change in Article 11, moreover, cannot be read apart from the proposal to add a number of new positions into Article 6.1, with no job descriptions or proposed qualifications provided.

There is no means to determine what these positions are or how they may be filled. For example, the proposed position “Affiliated Professional” is a meaningless, catch-all title without a Board-approved job description and set of qualifications. Establishing titles in the context of a broad revision of the Bylaws foreshadows a disturbing lack of transparency and accountability in the structure of employment at CUNY. It is improper for the Board to eliminate traditional job descriptions and attempt to limit the union’s ability to grieve violations of job descriptions while simultaneously adding a series of new, undefined titles.

Furthermore, there are other proposed changes which seriously undermine faculty rights and the union’s representation rights. Revisions to existing Article 8.9 damage the integrity of the P&B process and erode the principle of peer review. The elimination of existing Article 6.7 eliminates the current modicum of protection in the reappointment process for employees in adjunct titles—a direct response to a pending grievance brought by the union, and a particularly improper basis for revising the Bylaws.

In PSC’s view, these are the revisions that are most egregious and must be changed before you vote on the full set of revisions. In my written testimony, I have delineated all the revisions to which PSC continues to object.