MEDGAR EVERS
President resigns
Medgar Evers College President William Pollard announced his resignation after a rocky term in office. Faculty and staff say the college is in crisis.

HISTORY LESSON
Looking at the reel Lincoln
Steven Spielberg’s new movie about the 16th president explores the passage of the Thirteenth Amendment, which outlawed slavery. A historian takes a closer look.

PATHWAYS
Rejection on many fronts
From the annual convention of the Modern Languages Association (MLA) to an array of faculty governance bodies, Pathways continues to meet resistance.

FRACKADEMIA
SUNY shuts Shale Institute
SUNY Buffalo has its reputation called into question after launching, and then closing, an institute with close ties to the oil and gas industry.

CANDIDATES’ SCHOOL
TEACHING PSC-CUNY 101
Marcia Newfield, VP for Part-Time Personnel, speaks during “PSC-CUNY 101,” a two-hour seminar on public higher education and CUNY for candidates running for New York City Council in 2013, held at the PSC Union Hall on January 26. The thirty-three candidates were provided with detailed analysis and encouraged to become effective advocates for CUNY faculty, staff and students. The PSC will be active throughout 2013 as it works with labor and community allies to shift New York City away from the politics of austerity. For more, see a roundtable interview with five members of the union’s Legislative Committee.
Brooklyn College backs academic freedom

By PETER HOGNESS

As Clarion went to press, PSC President Barbara Bowen joined others in supporting Brooklyn College President Karen Gould’s defense of academic freedom after BC’s political science department came under attack for co-sponsoring a forum on the BDS movement, which calls for boycott, divestment and sanctions against Israel. The college came under fire from critics who wrongly equated the department’s co-sponsorship with endorsement of the speakers’ views. Political Science Chair Paisley Currah noted that the department “welcome[s] – indeed encourage[s] – requests to co-sponsor speakers and events from all student groups, departments and programs.”

In a January 30 statement, President Gould said: “Students and faculty, including academic departments, programs, and centers, have the right to invite speakers, engage in discussion, and present ideas to further educational discussion and debate. The mere invitation to speak does not indicate an endorsement of any particular point of view, and there are no obstacles to speech or invitation.”

President Gould also voiced concerns were cheered at the prospect of a new leader at the college. “We had an incompe- ter, culminating with the school being placed on probation in December 2010 and again in April 2012, the latter by a vote of 136 to 13.”

In the Fall 2012 semester, Medgar Evers College went through a series of crises. Problems with the campus computer labs meant they could not be used for the first three weeks of the semester, and a number of students received notices that they were behind on tuition payments that were supposed to have been covered by financial aid. Ongoing cuts to the college’s Learning Center had reduced its number of tutors by half. On Oct. 17, several hundred students walked out of their classes and held a rally in MEC’s main plaza, demanding better student services and the resignation of Pollard and Provost Johnson.

With an 8% decline in student enrollment and its own projections of a $1.5-million deficit, on October 3, the Pollard administration directed department chairs to formulate plans for reducing Spring course offerings by as much as 30%. The administration backedpedal on course reductions after protests by the PSC and Faculty Senate, but the college was shaken. The downward spiral continued in November when the Middle States Commission on Higher Education of- ficially warned MEC that its accredi- nation was at risk, due to a failure to comply with three of the 14 criteria used by the Commission. MEC is re- quired to provide a monitoring report on September 1 of this year, document- ing that it meets all 14 standards. The Commission determines that the college has made insufficient progress, the school can be put on probation, which can be followed by either sus- pension or removal of accreditation.

“IT’s going to take many years for the damage to be repaired properly,” Crawford said.

Search Planned

In a January 30 statement, Chancellor rgboldstein announced that a presi- dential search committee had been formed that included seven members of the college’s Faculty Senate, including President Ricardo Fernandez. Faculty and student representatives remain to be appointed. The statement affirmed that Pollard would continue as presi- dent until a successor was chosen.

Brenda Greene, professor of Eng- lish at Brooklyn College and director of the college’s Center for Black Lit- erature, served on the search com- mittee that selected Pollard in 2009. That panel began meeting in April of that year and brought finalists to campus by May, a schedule that Greene says was too hasty: CUNY should learn from that experience, she told Clarion, and be sure to allow time for a full and thorough search process. Meanwhile, she said, CUNY should install an interim president who can rally a demoralized campus.

Student activists who mobilized opposition to Pollard also want an interim president, and they are backing former Brooklyn College president Ricardo Fernandez for the position. Owens is currently a dis- tinguished lecturer in MEC’s De- partment of Public Administration.

Concerns with the kudos

Creation in the January Clarion about the accolades the paper has received during 2012, I must agree. The Clarion is the only paper that I receive, it is the only one I read cov- er-to-cover. Clarion’s staff deserves the honors!

Paul Sheridan
Brooklyn College (retired)

Letters to the Editor

When it comes to school buses, do you think that the cheapest driver is the best driver – no matter how inexperienced, tired or stressed out they might be? If that’s your view, then by all means don’t support the school bus drivers’ union in its strike to maintain seniority protections.

But if you’re a New York City pub- lic school parent paying attention to that bus, you may want seniority to count for something. You may not want to put a low-wage, high-turnover workforce behind the wheel. If you think union busting is bad for our kids’ safety, call Schools Chan- celor Dennis Walcott and tell him.

Kristin Lawler, assistant professor
College of Mount St. Vincent
(And a former member of the PSC)

Letters to Clarion may be on any topic, but should be less than 200 words and are subject to editing. E-mail your letter to Clarion editor Peter Hogness (phogness@ pscmail.org) or fax at 212-302-7815.

Brooklyn College backs academic freedom

By JOHN TALERON

MEC president resigns, but stays

Faculty want interim leader

Medgar Evers College President William Pollard announced his resi- gnation on January 30. His depart- ment came after a four-year and a half rocky years in office and mounting problems at the college this semes- ter, culminating with the school being placed on probation in December 2010 and again in April 2012, the latter by a vote of 136 to 13.

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Recognize research time, John Jay profs say

By JOHN TARLETON

Monica Varsanyi, an associate professor in the History department and anthropology department, says that many of her most talented and research-productive peers are fleeing for opportunities at other universities. She attributes the problem to the lack of assigned time in recognition of research and teaching that is essential for faculty members working on a book or longer-term scholarly project. "This is an advantage in equity within," adds Nivedita Majumdar, associate professor of English and acting chair of the college's union chapter. "In recognized research time, the PSC has called for contractual teaching load requirements to be reduced CUNY-wide, to support it in research and faculty activities that the union has never been so strong."...
SUNY Buffalo shuts down its Shale Research Institute. Critics of SUNY Buffalo say it was the culmination of a dispute that raised questions about corporate influence on academic research.

**Industry ties questioned**

**By JOHN TARLETON & PETER HOGNESS**

SUNY Buffalo shut down its Shale Resources and Society Institute (SRSI) late last fall, after months of controversy over the Institute’s relationship to the gas and oil industry. Research of such considerable relationship to the gas and oil industry, and it featured corporate contributions.

**FIERCE DEBATE**

The debate over fracking has become especially fierce in New York, where trillions of cubic feet of natural gas are estimated to lie beneath the state in a geological formation known as the Marcellus Shale. This includes areas from which New York City obtains most of its fresh water supply. A moratorium on fracking is currently in force in New York State. Criticizing prospects for economic growth, supporters of the oil and gas industry works, Bursik told Clarion. He said about half of SUNY Buffalo’s geology majors go on to work in the oil and gas industry, while the other half go into environmental consulting.

**Facility critics said Institute was flacking for fracking.**

**“At every turn, it developed outside of the normal channels expected by faculty,” McCluskey said.**

The Shale Institute first report, released on May 15, asserted that state regulations in Pennsylvania had made fracking less risky. The report contended that strict regulation in New York would protect local residents from any dangers posed by fracking. SUNY Buffalo sent out a widely circulated address area release featuring the Institute’s conclusions.

But later in May, the Buffalo-based Public Accountability Initiative (PAI) issued a critique of the Shale Institute report. Among PAI’s findings:

- While the report claimed that between 2008 and 2011 Pennsylvania had lowered the odds of major environmental impacts from fracking, its own data tables showed that the opposite is true.
- "The rate of incidence of major environmental events actually increased from 2008 to 2013, from 0.59%, or 9 per 1,000 wells, to 0.8%, or 8 per 1,000 wells," concluded PAI.
- All four of the co-authors of the Shale Institute report had financial ties to the natural gas industry.
- Parts of the Shale Institute report were lifted almost word-for-word from an explicitly pro-fracking report issued by the right-wing Manhattan Institute in 2011. That report was written by three of the co-authors of the SRSI report.
- The original press release for the report stated that it had been peer-reviewed, a claim that was later retracted.

**News**

SUNY Fredonia’s Shale Research Institute, a forerunner of the Institute at Buffalo, “thanked” corporate supporters by featuring their logos on its website.

**“It was an incredibly shoddy piece of work,” Holstun said of the Shale Institute report. “It makes eight explicit statements,” Bursik told Clarion that critics of the report were overlooked. “People make mistakes all the time in the sciences,” he said.

On the erroneous claim that the report has been peer-reviewed, Bursik said, this “wasn’t anything sinister.” Co-director John Martin, he explained, thought that running his work by trusted friends and colleagues was the same as peer review. Noting that Martin has a PhD in urban and environmental studies, Bursik asked, “Who could have predicted what John Martin’s salary was covering John Martin’s salary as Shell Institute co-director. The privately run UB Foundation has a $736.3 million endowment, by far the largest of any SUNY school, which Holstun refers to as a “secret pot of money that can be used for laudering corporate contributions.”

Officially private-sector entities, the UB Foundation and the Fredonia Foundation, according to critics, have both exempt from New York’s Freedom of Information Law (FOIL). Proponents of greater transparency in college foundations have similarly received industry money.

**UB CLEAR**

As criticism of SUNY Buffalo’s Shale Institute mounted, a group of faculty, students and community alums founded the University of Buffalo Coalition for Leading Ethically in Academic Research (UB CLEAR) to rally support for public higher education.

“Why was UB shut down? It’s because it damaged UB’s hard-won reputation and credibility as a major research university,” the group said in a June 2013 press release. That same month, after the Times article appeared, the website of SUNY Fredonia’s Shale Research Institute went offline.

Over the summer, UB CLEAR led a campaign to pressure the SUNY Board of Trustees to intervene, sponsoring a faculty petition that called for greater transparency in the Shale Institute’s operations. Meanwhile the Shale Institute continued to defend itself. On September 12, the SUNY Board unanimously passed a resolution calling on SUNY Buffalo to explain its role in the controversy.

Seven weeks later, SUNY Buf- falo finally changed course, and the Shale Resources and Society Institute closed its doors. Its small cadre of researchers at the UB Foundation has a private research fund:

“If we don’t maintain our academic core and purpose, what’s the point?” she told Clarion. “Industry can pay for its own public relations.”
In his proposed state budget for next year, released on January 22, Governor Andrew Cuomo offers relatively flat state funding for CUNY, and continues to depend on increased tuition to cover most increases in CUNY expenses. With CUNY still feeling the effects of a generation of disinvestment, PSC leaders responded that more state support is needed. The union also voiced concerns about proposed new programs that would tie workforce development funding to “performance measures” and to a greater role for private industry in public higher education.

Under Cuomo’s plan, state aid for CUNY senior colleges is roughly flat except for an additional $15 million to cover mandatory cost increases in fringe benefits. But some other increases in mandatory costs are not covered. For example, CUNY’s requests for $9 million to pay for higher energy expenses and $1 million to $4 million for increased building rental costs were not included. Revenue from the annual senior college tuition hike of $800 would cover an additional authorization of $61 million for other spending increases.

"HARMFUL"

“The PSC opposes annual tuition hikes as a funding strategy,” said the union’s first vice president, Steve London. “The tuition increases have harmful effects on college access because they are not offset by increased financial aid for many students. Importantly, to provide the true funding needs of CUNY through tuition dollars would bankrupt students.”

Proposed per capita base aid from the State to CUNY’s community college aid is also flat, at $2,727 per full-time equivalent student, but total spending on community college base aid would go up a bit, due to increased enrollment since last year’s state budget was passed. Beyond these basic elements of CUNY funding, Cuomo’s proposed budget for 2013-2014 included some new programs designed in ways that the PSC said were troubling. “The Governor’s budget address put a major focus on community colleges’ workforce development roles to the exclusion of other important missions, and would give private industry a worrisome amount of influence over certain community college degree programs,” London said.

A new “Next Generation NY Job Linkage Program” would require that all credit-bearing certificate and degree programs, and all AAS and AOS degree programs, be linked closely with local industry as a prerequisite for receiving public funding. The job linkage program would also make available to CUNY $2 million “performance-based” incentive award based on “student success measures.” This narrow focus would set a dangerous precedent, London said, and leaves important questions unanswered. CUNY has in the past made time important missteps when it tried to tie its programs too closely to short-term job market trends. For example, City College closed its School of Nursing in the mid-1990s, shortly before the advent of a major nursing shortage.

“The executive budget proposal would also devote $35 million to a new “NYCUNY 2020” competitive grant program, modeled after a SUNY program that began two years ago. “Projects will be selected in a competitive manner, based on economic impact, advancement of academic goals, innovation and collaboration,” the Division of Budget said. The statement said NYCUNY 2020 will serve as a regional economic development initiative, but gave few other details. PSC members will be working to influence final decisions on the state budget by meeting with legislators in Albany and in their local districts.

Get INVOLVED

If you would like to join in one or more of these events, you can sign up online at tinyurl.com/PSC-2013-budget-campaign.  

● In-District Meetings in NYC – Feb. 7-8
● NYSSCAT Advocacy Day, Albany – Mar. 4-5
● NYSSCAT Higher Education Advocacy Day, Albany – Mar. 11-12
● Student Fiscal Staff Higher Ed Action Day, Albany – Mar. 12
● Other In-District Meeting dates in NYC to be announced

Transportation, food and hotel costs for the March 4-5 and March 11-12 Albany trips are covered by the PSC’s state affiliate, NY State United Teachers. Members can also ride back and forth to Albany with students on the buses for the Mar. 12 day. If you have questions, contact Amanda Magalhaes in the PSC office (amagalhaes@pscmail.org, or call 212-354-1252).
‘Reinventing college’: hope or hype?

Making the most of MOOCs

Last year, leading lights in for-profit and nonprofit higher education convened in Washington, DC, for a conference on private-sector innovation in the industry. The national conversation about dysfunction and disruption in higher education was just heating up, and panelsists from start-ups, banking, government, and education waxed enthusiastic about the ways that a traditional college education could be torn down and rebuilt — and about how lots of money could be made along the way.

During a break, one panelist — a banker who lines up financing for education companies, and who had told about meeting consumer demand in a flash, went on to say, “A lot of people have the education bubble.” The banker had a daughter who wanted a master’s in education and was deciding between a traditional college and a start-up that offered a program she would attend mostly online — exactly the kind of thing everyone at the conference was talking about.

For most parents, that choice might raise questions — and the lack of a degree, but for those most parents, however, the well-connected banker could resolve those uncertainties with a call to the CEO of the education venture: “Is this thing crap or real?”

REINVENTION FOR WHOM

In higher education, that is the question of the moment — and the answer is not clear, even to those lining up to push for college reinvention. By some were to take hold, it would replace the vital role that bricks-and-mortar colleges have in many communities.

“Champion something as trivial as MOOCs,” asked a professor of established higher education is to ignore the day-care centers, the hospitals, the public health clinics, the teaching hospitals, the athletic facilities, and all of the other ways that universities enhance communities, energize cities, spread wealth and enlighten citizens,” he says. “Not only is it not about the classroom, it is certainly not just about the direct delivery of information to people’s lives. If that’s all universities did, then publishing and libraries would have been reinvented a long time ago.”

Unfortunately, Vaidhyanathan says, the discussion of college reinvention represents a watered-down version of higher education’s social contract — a process that has been called “The National Call to the West” and is already tough.”

Behind the buzzwords: a path to a two-tier system?

news/ReinventingCollege). A longer ver-

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But if you can’t, entrepreneurs like him are creating an informalized version of higher education that the most fervent disruptionists predict could replace mid-sized state institutions or less-selective private colleges. “I think the top 50 schools are probably safe,” Stevens said.

Higher education does have real problems, and MOOCs, badges...and other innovations have real potential to tackle some of them. They could enliven teaching, add rigor, encourage interdisciplinary, reinforce education’s real-world applicability, and make learning more efficient — advances all sorely needed.

STATE FUNDING CUT

But the reinvention conversation has not produced the panacea that people seem to yearn for. “The whole MOOC thing is mass psychosis,” a case of people “just throwing gadgets against the wall” to see what sticks, says Peter Stokes, executive director for postsecondary innovation at Northeastern University’s College of Professional Studies. His job is to study the effectiveness of ideas that are emerging or already in practice.

He believes that many of the new ideas, including MOOCs, could bring improvements to higher education. But “innovation is not about gadgets,” says Stokes. “It’s not about eureka moments... It’s about continuous evaluation.”

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Tough going for Pathways

By PETER HOGNESS

CUNY’s central administration wants its Pathways curriculum on general education to be securely in place by Fall 2013. But as the Spring semester began, that time frame was looking more difficult to achieve.

Pathways, the administration’s overhaul of rules on general education and transfer, took another hit in January when delegates of the 30,000-member Modern Language Association (MLA) sharply criticized the initiative in a January 6 resolution during their annual meeting in Boston. “The association came out in support of [CUNY] faculty,” said PSC President Mary McGlynn, chair of the English department at Baruch. Commenting on the resolution across CUNY, McGlynn said, “There’s been so much pressure on the presidents and provosts to submit these courses [to central administration], even if not approved by the departments or by college governance.”

A PSC lawsuit filed in August says the university was illegal for obtaining administrators to ignore college governance meetings and make their own private decisions about which courses to approve. Such actions, the union says, violate New York’s Open Meetings Law (see Clarion, Aug. 2012).

REFUSAL

Some CUNY college senates, such as those at Brooklyn College or City College of Staten Island, have not approved any Pathways courses. Some, such as Hostos Community College, have approved some proposed courses but not others.

“The greatest pressure for a rethink of the misguided structure of Pathways comes from governance bodies that decline to approve Pathways courses,” said PSC President Barbara Bowen.

The MLA resolution, approved by a vote of 108 to 2, concludes by “affirm[ing] the right of CUNY’s diverse faculty to determine the appropriate curriculum and graduation requirements, and to withhold implementation of any curriculum that has not been recommended by the appropriate faculty governance body.”

“It was a deeply sympathetic audience,” said McGlynn. “They were particularly concerned by the threats and coerences that faculty at various CUNY colleges have experienced” as administrators have applied pressure to take and win favorable votes (see Clarion, Oct. & Dec. 2012).

NATURAL PETITION

Several college senates have endorsed the call by the University Faculty Senate and the PSC for a moratorium on Pathways implementation, to allow time for a full and open discussion of transfer issues. A national petition, with 5,000 signatures so far, asks for a “moratorium on further implementation of Pathways until an atmosphere free of coercion is established and academically sound alternatives can be considered.”

“Suddenly, there are all these directives, all this pressure: ‘You must vote on this, you must approve that.’ Where is the urgency on this coming from?” Bowen said at the PSC’s January 24 Delegate Assembly. “It’s coming from management, and its own artificial timetable. But it’s faculty who are responsible for the curriculum. We are responsible for its quality.”

With management still facing problems in winning faculty support, many at CUNY are skeptical that the plan can be implemented on schedule. “The truth of the matter is that Pathways will most likely not be implemented, at least not in the way or to the extent that CUNY administration wishes, in Fall 2013,” wrote BMCC Student Maruf Hossain in a comment on the college’s website. After BMCC’s administration announced that Pathways is ready to go, Hossain is vice chair of United Leaders of CUNY, an organization of students in SEEK and College Discovery programs.

In January, the PSC told New York’s Public Employment Relations Board (PERB) that CUNY management’s push to win approval of Pathways courses has violated State labor law. CUNY has attempted to “negotiate[s] terms and conditions of employment, specifically workload requirements, directly with English departments at three CUNY community colleges. Workload, the complaint points out, is “a mandatory subject of bargaining” with the union, and under State law the PSC is recognized as the exclusive bargaining agent for CUNY instructional staff.

NEGOTIATIONS

At issue in the PERB charge is management’s pursuit of negotiations with English departments at several CUNY colleges over workload hours in freshman composition classes. Resistance to Pathways has been particularly strong in CUNY’s English departments, most of which have long taught introductory composition courses on the basis of a 3/4 formula: a class that receives three credits, but meets for four hours a week. But Pathways lowers the total number of credits that can be required in general education classes and an administration directive last year stated that “all courses in the [Pathways] Common Core must be three credits and three hours.”

CUNY’s English Discipline Council, representing English department chairs from across the University, argued that the 3/4 structure was a “best practice” that must be maintained; banning it would “undermine established pedagogic practices within CUNY.”

Four hours a week are needed “to prepare students adequately for the challenges of academic writing in their undergraduate careers,” the Council said. It argued that cutting instruction in introductory classes would “impair student performance in future classes—which would impede student transfer, not enhance it.”

Faced with English departments that refused to approve Pathways-compliant composition courses, college administrations twisted arms, and, in some cases, tried to cut deals to gain favorable votes. They offered several different options, inconsistent from one college to the next and changing over time. In one offer, the class would be offered on a 3/4 basis, but faculty could hold a “conference hour” (essentially an extra office hour). Or perhaps the fourth hour could meet in a classroom, but students would not be required to attend. Or student attendance during the fourth hour would be mandatory, but the session could not include the entire class.

The PSC’s PERB charge cites attempts to negotiate workload requirements for composition classes at LaGuardia’s English department, in which a Pathways-compliant composition course again failed to win the department’s approval, even though this version was not burdened by as many odd restrictions as past proposals.

LAGUARDIA VOTE

Issues raised by the PERB charge were a factor in a January 25 vote by the LaGuardia English department, in which a Pathways-compliant composition course again failed to win the department’s approval, even though this version was not burdened by as many odd restrictions as past proposals.

With 43 department members present and voting (by secret ballot), the revised course proposal drew 20 votes. With 23 who voted not to endorse it (15 voting no and 8 abstaining), the proposal failed. In a sign of the conflicting pressures and sentiments faculty are feeling in the Pathways debates, the department overwhelmingly approved a resolution asking the LaGuardia College Senate to adopt a moratorium on Pathways implementation, by a vote of 37 to 4, with two abstentions. Thus, even most of those favored the composition class deal are asking their faculty not to act on any Pathways courses.

HARSHENING CONFLICT

“These votes are consistent with the PSC message over the past year. In its work with faculty governance, PSC has been emphasizing the importance of collective the voice and power of faculty to maximize their influence and minimize the vulnerability of individual faculty members and departments,” said PSC Treasurer Michael Fabricant on hearing of the LaGuardia votes.

With 60th Street facing its own self-imposed deadline of February 25 to submit its Pathways courses, faculty can expect conflicts over Pathways to sharpen. “Management is likely to be even less available to negotiate this semester than in the Fall,” Fabricant told union delegates in January. “We will win or lose on Pathways based on faculty engagement, one campus at a time.”

Fall 2015 implementation may be hard to reach

Delegates at the Modern Language Association’s annual convention in Boston approved an anti-Pathways resolution by a vote of 108 to 2. In the January 6 statement, MLA delegates affirmed the right of CUNY faculty to “withhold implementation of any curriculum that has not been recommended by the appropriate faculty body.”

More ways for Pathways at MLA in Back Bay.

42
By SA RAH JAFFE

The role of high-stakes standardized testing has dramatically expanded in recent years, shaping teachers’ workdays and narrowing what is taught to the confines of a test. Now, high school teachers in Seattle are saying “No.”

On January 10, the staff of Garfield High School voted unanimously to refuse to administer the Measures of Academic Progress (MAP) test to their ninth-grade students. They’ve held firm since then, even as the superintendent of schools has threatened them with a ten-day, unpaid suspension. Meanwhile, teachers at other Seattle-area schools have joined their boycott.

ALLY S

“Garfield has a long tradition of cultivating abstract thinking, lyrical innovation, trenchant debate, civic leadership, moral courage and myriad other qualities for which our society is desperate, yet which cannot be measured, or inspired by building answer choices,” wrote Garfield High teacher Jesse Hagopian in a Seattle Times op-ed.

Garfield Parent Teacher Student Association and student government are both backing the teachers, and the teachers’ union, the Seattle Education Association (an affiliate of the National Education Association), has been holding phone banks and rallies in support. NKA president Dennis van Roekel called the teachers’ stand a “defining moment within the education profession.”

As the boycott has become national news, it has attracted support around the country. A letter in solidarity was signed by close to 5,000 educators, actors and activists, including former US Assistant Secretary of Education John B. King Jr.; Chicago Teachers Union President Karen Lewis; Jonathan Kozol, author of Savage Inequalities; Deborah Meier of the Coalition of Essential Schools; Pedro Noguera, professor of education at New York University; PSC President Barbara Bowen and more than a dozen faculty members at CUNY. American Federation of Teachers President Randi Weingarten issued a statement of support, which is posted on the AFT’s Facebook page.

To date, nearly $300,000 has been contributed to NYSUT’s Fund by union members regionally and nationally, and by outside groups. NYSUT has received nearly 2,000 applications for grants and has responded to almost half of them with grants of about $500 each. Grants are to cover losses or basic necessities that are not covered by an applicant’s insurance policy or F EMA. As several affected PSC members have noted, every little bit helps.

NYSUT Manager of Accounting and Reporting Jeff Lockwood told Clarion that NYSUT plans a new fundraising effort among members because the Fund has not yet collected enough to cover all the applications to date, and the applications keep coming in at a rate of 25 a day. In the meantime, NYSUT staff have been working diligently to process applications fairly and equitably. Among other things, NYSUT has been calling each applicant to confirm that the application has been received.

To date, 38 PSC members have applied for grants and nearly half of those have been responded to with grants from the NYSUT Relief Fund. All member applications need to be signed by the PSC President, so PSC is asking everyone applying to send their notification to the PSC Office (keep a copy), and PSC will forward it to NYSUT To Apply, go to the PSC website and download an application form (www.nysut.org/members/6990.htm), fill it out and get your signature notarized, then send it to the PSC Office, 61 Broadway, 15th Floor, New York, NY 10006, ATTN: Patricia Young. If you have any questions, contact Patricia Young at 212-354-1252.

FR M STAND

The Seattle teachers’ stand has been “amazing,” Jean Anyon, professor of social and educational policy at the Graduate Center, told Clarion. “There have been very few groups that have decided to defy these tests,” she pointed out. “In terms of the momentum built by the anthology of [Seattle’s] whole education movement, it’s not the first, it’s close to it.”

The MAP test was approved for about $4 million by Seattle’s superintendent simultaneously with the 2012 Spring Enrollment Count last fall. Seattle teachers have until Feb ruary 22 before the threatened in the NYS “Teachers’ Retirement System (TRS).”

The measure allows PSC members who have TRS Tier I & II status to continue receiving an 8.25% interest rate on an investment account known as the “fixed return” that the PSC offers to its members. Those members have the option to invest in the “fixed returns” in their primary pension plan (known as their Defined Benefit Plan or DBP).

Also affected are PSC members in any TRS pension tier who have a Tax Deferred Annuity, or TDA— a supplemental retirement account funded by voluntary before-tax payroll deductions.

Clarin G

FEbruar y 2013

Newsphotographer for the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the Department of City & County of Seattle, a board voted to approve the 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Aron Swartz was a program-mer, a founder of Reddit and an early designer of the tech-nology behind wikis, blogs and communities like Reddit, 4chan and torrent sites.  Swartz was a hacker and an Internet ac-тивist, an archivist of the Creative Com-mons system for sharing access to creative work, and a leader in defeating the Stop Online Piracy Act and its carte blanche for corporate and government cens-sorship online.  Swartz committed sui-cide on January 11 of this year, and his work and his death should give everyone in academia reason to pause and reflect.

Thanks to an over-zealous federal pros-ecution, at the time of his death Swartz was facing charges with a possible 30 years in prison and a million dollars in fines. His supposed crime? Downloading millions of academic articles from the JSTOR repository with the intent to make them freely available on the Internet. (JSTOR provides online ac-cess, for a fee, to more than 1,000 journals.)

**SWARTZ’S CRIME**

Swartz’s mass download from JSTOR was reminiscent of his 2008 “attack” on PACER, an online system that charges a fee for access to public court documents created at public expense. As his friend Cory Doctorow recalled, with the aid of software that “al-lowed its users to put any case law they paid for into a free/public repository,” Swartz “spent a small fortune fetching a titanic amount of data and putting it into the public domain.” For this he was investigated and harassed by the FBI, but never charged. In the JSTOR case, there was at least one crucial difference: Swartz never disseminated any of the downloaded articles. For this and many other reasons, it’s not at all clear that Swartz's downloading constituted a crime. There was no evidence that the downloads caused physical harm to MIT’s very open network or any economic harm to JSTOR – and JSTOR itself declined to press charges. To the contrary, JSTOR has hired the federal authorities and never asked them to back off. MIT “could have stopped this [pros-euction]” by simply changing the style sheet by which they were not the victims of a crime, and they didn’t do that,” Swartz’s partner, Tineh Brincker- Kauffmann, told the Los Angeles Times.

“The government used the same laws in-tended to go after digital bank robbers to go after this 26-year-old genius,” said Chris Soghoian, a technology analyst at the American Civil Liberties Union. But in fact, Soghoian, who typesets it (using perhaps a style sheet provided by the publisher), prepares a cam-era-ready copy and sends it back for pub-lishing. In return for this uncompensated labor, the publishing house makes authors sign forms handing over copyright, then prints the article in a journal that it sells for thousands of dollars per year to the very universities where its authors, reviewers and editors do their work. In effect, Elsevier sells academics’ unpaid work back to them, at an increasingly unaffordable cost.

Once published, the material is not open-access anymore; it is closed behind paywalls. And yet, as Swartz pointed out, even if the service may violate a website's terms of service. Legislation proposed by Rep. Zoe Lofgren, days after Swartz’s death, would reigning federal law to recognize academic open access as a fair-use function.

To put the absurdity and immorality of Swartz’s prosecution into perspective, con-sider the case of HSBC. Despite the fact that this bank admitted to laundering billions of dollars for Colombian and Mexican drug cartels, violating the Bank Secrecy Act and the Troubled Asset Relief Program, the Justice Department pursued no criminal prosecu-tions. Rather than insisting that bankers go to jail, the government settled for a $1.9 bil-lion fine – five times the fines for PIRC. The prosecution of Swartz and his tragic death highlight the skewed priori-ties of our justice system and the perni-cious effects of copyright regimes run-amuck. For those of us who work in academia, it obliges us to consider the scandalous state of academic publishing.

**Most research monographs and journal subscriptions are expensive; rare is the aca-demic who does not find that the hunt for a journal article online is blocked by a paywall.**

Though we inhabit a world in which the distribution and dis-semination of information is easier by the day, some very old policy blocks rese.

**Why is this archaic system of production and distribu-tion still dominant?**

How does it work? It works because academics, ironically enough, underwrite it with our unpaid la-bor. We conspire to make things harder for ourselves in ways that are damaging to our universities. It works because academics collaborate with a system whose incentives and interests are not aligned with our own. Consider, as an example, Elsevier, a pub-lishing house known for “premier” journals like Cell and The Lancet. It is able to sell those journals at high profit because they include results of research conducted by university academics the world over, much of which is publicly funded. Elsevier does not pay for the research, it does not pay for the papers to be written. The editorial boards of Elsevier journals are staffed by unpaid academics, who then ask other aca-demics to serve as unpaid reviewers. By “unpaid,” I mean of course that faculty are not compensated by Elsevier for their work on its journals – but this work also gets little or no recognition in academic workloads. (It is only tangentially acknowledged by pro-motion and tenure boards.)

**PAYOUTS**

Once a research paper is accepted for publication, it is sent back to the author, who does not receive any of the money Elsevier pays to the university. By coupling the furor created by three Fields Medal win-ners – Gowers, Terence Tao and Wendelin Werner – participating in the boycott, many are increasingly aware that academic publish-ing is a racket that relies on self-exploitation. Bear in mind that in 2010, Elsevier reported a 36% profit on revenues of $3.2 billion. Not every publisher is an Elsevier. But others come close, and for-profit, closed-access publishers are all using the same dysfunctional model.

To disrupt this system requires work. The overarching problem is that in the aca-demic world, traditional printing presses still command the greatest power and prestige. Online publication counts for little in institutional decisions, even as it increasingly becomes a forum for cutting-edge scholarship, even when PLOS is cited on the front page of The New York Times as routinely as it were Nature. The dissemina-tion of research is changing, but the tenure and promotion process within universities is not. And so, as univer-sity promotion and tenure boards refuse to give due weight to open-access publication, academics will want to change those forums – and this will act as a serious drag on the speed of change. As long as Elsevier, and closed-access presses like it, are seen as publishing the “prestigious” journals, the ones academics really want to be published in, the current dysfunctional system will hang on.

So, university promo-tion and tenure boards need to pay closer at-tention to open-access journals and presses. They need to acknowl-edge the new models for academic publish-ing and peer review now exist, and must be taken seriously. Univer-sity administrations must act to bring academic publishing back within the control of the academy. Modern publishing’s production require-ments can be financed by a consortium model in which faculty, grad students, professors and graduate students do on the editing, review and distribution of journal papers and research monographs. The work they do on these publications should be counted as part of their workload and should be reckoned with in their promotion and tenure decisions. Institutions must pro-vide institutional backing for open-access publication fees – and many already do.

But most pressing, senior academics, especially those with significant relationships and tenure, need to take the lead. The academy runs on the Matthew Principle: those that have, get more. If this present situation is to change, those that have the most need to give away the most. They need to lend their reputation and prestige to open-access journals and presses so that the profile of those journals can be raised, and articles they publish will start to receive appropriate weight in career decisions.

**MOVING PRESTIGE**

Change will come when those who have sufficient power, who can easily get their fifth book published again by Cam-bridge University Press, will finally say, “I choose to make my book open-access and make it available online.”

Senior academics need to follow the call of Harvard’s Faculty Advisory Council, and “move prestige to open access.” This is a reputation economy, and those that are wealthy need to spread the joy, as it were. It is impractical to expect junior academics to take the lead in this regard.

Other reforms are possible: all federally funded research, not just some, should be subject to an open-access requirement; copyright law should be amended for academic research; and so on. But first and foremost, the university must reform itself. Stop col-laborating with traditional, closed-access publishers, and by using and promoting open-access models of publishing, help them to become the norm. --

**The life & work of Aaron Swartz**

By Samir Chopra

Brooklyn College

Samir Chopra is an associate professor at Brooklyn College. He studies the relations-hips between law, technology & philosophy.

What do you think about open access and the future of academic publishing? Clarion would like to hear your views. Send letters to the editor or proposals or linked articles to our editor, at phoghes@csuemail.org.

Clarion | February 2013
Shifting NYC’s politics away from austerity

Members of the PSC Legislative Committee meet in January to make plans for the coming year.

Advancing a public higher education agenda

This year’s New York City elections could mark a turning point in city politics. Clarion spoke with several members of the PSC’s Legislative Committee about what’s at stake in 2013, the PSC’s plans, and how members can get involved. Discussion participants included Councilmember Ydanis Rodriguez, Jeff Hayduk, Geoff Kurtz, Eileen Moran and Cecelia McCall.

Clarion: On January 26, the union held this year’s “PSC-CUNY 101.” Thirty-three candidates for City Council attended. Tell us, what is PSC-CUNY 101?

Cecelia McCall: It’s basically a seminar for City Council candidates — a two-hour crash course about CUNY and its issues. We have different presentations and we try to cover key facts and statistics about the University: who goes there, how it began, what’s CUNY’s role in the city today. Also, we want to have a discussion with the candidates about their importance to CUNY and why we need them to be advocates for the University.

Eileen Moran: We aim to present CUNY issues in a very clear way, one that will stick with the candidates when they become legislators. For instance, there’s a pie chart that shows what share of CUNY’s budget was paid for by student tuition 20 years ago, and how big a share they’re paying now. It goes from 12% to around 40%, then we connect that with the fact that so many of our students are poor — and yet they’re being asked to shoulder this burden. We show candidates the facts in a way that they’ll remember.

IRIS Delutro: When new councilmembers take office, we want them to really be well-versed in CUNY’s issues; we want them committed to protecting City University and its funding.

Moran: PSC-CUNY 101 has also had a ripple effect. A lot of the candidates who attended when we’d done this in the past didn’t win their race for Council — but later they were elected to the State Legislature. Very often there might be two people or three people we like, all running for the same seat, and this process means that all of them get this exposure, both to the PSC and to CUNY.

McCall: In 2001, the first year we did PSC-CUNY 101, there were a lot of open Council seats. The fact that there was a big buzz, and a lot of pressure from the field to help those candidates win, was a big support for us.

Most of them tended to have a grassroots background, they were rooted in their communities. The PSC was happy to have them as allies and made it a source of strength for us, because all of these newly elected people got to know us from the start.

A good example is Ydanis Rodriguez. He had been a student activist at CUNY, and then a public-school teacher. When we first supported him back in 2001, he didn’t win. But he got elected a few years later, and then became chair of the Council’s Higher Education Committee.

That’s the kind of result we’ll be looking for again this year as we interview candidates. We want to keep building those kinds of relationships.

Clarion: What stands out about the NYC elections in 2013?

Moran: First, the fact that there will be so many open seats. No one in citywide office is running for re-election, and probably more than a third of the City Council seats are up for grabs.

Delutro: A big reason for so much turnover this year is the impact of term limits. Whatever you think of term limits, the fact that so many new Council members are coming in is a good opportunity for us in the PSC. It’s an opportunity to affect the direction of city politics.

Geoff Kurtz: That gets at the second thing about this year, which is that some good things have been happening in New York City politics, and that’s creating some new possibilities. This year we’ve got a chance to start moving the city away from the austerity agenda that’s been so dominant.

After the 2009 election there was a cohort of City Council members who formed a Progressive Caucus, as an attempt to have an organized counterweight to the mayor and to corporate interests. One of the founders, by the way, was Ydanis Rodriguez. The group included a number of other people the PSC had endorsed, and a lot of them were close to the Working Families Party (WFP). They’ve pushed for measures like legislation for paid sick days, and they’ve been speaking out on issues like stop-and-frisk.

Now in this election, this Progressive Caucus is actually campaigning to increase its membership — recruiting candidates, starting to actively support candidates. That’s really exciting. It’s a big deal.

Moran: What’s important is that these endorsements will be based on a set of common principles. The Caucus is going to release a common platform soon, which it’s been developing with labor and community groups from all over the city. The PSC has been part of those discussions. It’s an agenda that expresses some shared commitments — it says that we don’t have to accept an austerity agenda, that we have a choice.

Kurtz: Absolutely.

Moran: Because New York City is not broke. This is one of the richest cities in the world. We have the money to pay for the services we need, and it’s not hard to figure out where the money is. But the people who have the most money are not paying their share in taxes — and that’s a problem. This is a big point of agreement between the Progressive Caucus and the PSC.

Kurtz: This whole question of austerity and fair taxation is a place where politics hits you in the pocketbook. These elections will affect the state of municipal labor relations, and that affects us in the PSC. We have a chance this year to elect a new generation of labor-friendly councilmembers. That’s pretty exciting. And the mayoral election is also important for us, because it’s going to set the climate for public-employee contract negotiations. Right now every municipal union is working under an expired contract.

Ron Hayduk: Like Eileen mentioned, the PSC has been part of the discussions on developing the Progressive Caucus platform. It’s the something like “Thirteen big ideas for NYC in 2013,” and it’s a good list. Our public schools and public higher education, transportation, affordable housing, how rebuilding is going to happen after Sandy. All things that affect our daily lives.

But what’s just as important as the specific issues is that it’s come out of a process with unions and grassroots community groups. In the same way that the Working Families Party is a coalition of labor and community-based organizations, the Progressive Caucus platform expresses an increasing desire of different groups to work together on a joint agenda. And that reflects some broader trends.

McCall: On all these issues, Occupy Wall Street really changed the conversation. It made people focus on the fact that there’s a real class struggle going on, even if the media doesn’t like to talk about it. Suddenly people were talking about economic inequality and how it’s getting worse, how that’s bad for our society. “We are the 99%” — that really touched a chord, and I think it still resonates.

And Occupy isn’t dead. Occupy has been active in Red Hook and the Rockaways with Occupy Sandy. Occupy has been organizing for debt relief, they’re doing all kinds of things.

Hayduk: The Occupy movement helped to open that space where labor and community groups have been coming together and starting to flex our muscles. The energy that created has led to some coalescing elsewhere. Look at last year’s May Day march for labor and immigrant rights — it was the largest in years, and groups that have not always worked well together worked together to organize that.

So, this kind of motion is also reflected in the Progressive Caucus agenda. And this kind of coalescing is a top priority of the PSC’s political strategy. Whether it’s with Occupy or May Day, or taking part in the endorsement discussions of the WFP and the NYC Central Labor Council, we want to encourage unions, community groups and progressive activists to come together around a common agenda.

Kurtz: That’s the critical point. The PSC isn’t big enough to change New York City politics by ourselves alone. But with the active, engaged membership of the PSC in solidarity with our allies and with our labor friends and community-based organizations — that’s how we’ll have the greatest impact. That’s how we can work to keep politicians accountable.

Whether someone positions themselves as a moderate, or a progressive, or a liberal, who’s to say what they will actually do when they get into office? They’ll be under tremendous pressure from Wall Street, from the real estate industry, from the tabloid editorials, from the right. If we all apply pressure on our own, we can’t expect a good result.

So yes, we want to prevail, we want to get the best possible candidate, but we also want to make sure that we’ve got the capacity to work with our allies and hold them accountable.

Moran: And that’s a real benefit of developing the Progressive Caucus platform. It’s saying that’s what our philosophy commits us to. It’s taking a stand. So that’s something we can go back to after people are elected.

Clarion: So what is the PSC planning for the months ahead?

Delutro: We’ll be hosting a mayoral candidates’ forum this spring, and every PSC member is strongly encouraged to attend! We want a good turnout, to show candidates that we are a significant organization — but also because this is part of the PSC’s endorsement process.

Kurtz: That’s right. We’ll be discussing the 2013 elections at chapter meetings this spring. So if we have a good number of members at the mayoral forum, they can come back to us in Red Hook and the Rockaways with Occupy Sandy. Occupy has been organizing for debt relief, they’re doing all kinds of things.

Ed DeLutro: To get involved, contact Amanda at aaltheas@pscmail.org, or 212-354-1250.

To get involved, contact Amanda at aaltheas@pscmail.org, or 212-354-1250.
I suppose it was predictable that a historian would have mixed feelings about Steven Spielberg’s Lincoln. The director’s best effort to date is smart, the cinematography is gorgeous and the acting — notably Daniel Day Lewis’ — is terrific. But Lincoln is also based on several dubious premises about the significance of the events it depicts and about the respective roles of President Lincoln and Congress in the passage of the Thirteenth Amendment. I liked it as a movie; I wish I could say it was good history.

Lincoln is unusually sophisticated in the way it weaves its themes into a compelling narrative. One of these themes is the relationship between the struggle to abolish slavery and democracy, but distinct, struggle for racial equality. The movie opens with two black Union soldiers, one recently enslaved and the other a free man from Boston, discussing the war with the President. They are very different people, these two men. They dress differently, they speak differently and what they have to say to Lincoln is different. For the Bostonian, the racial discriminations suffered by black soldiers — first the unequal pay and now the lack of promotions — is foremost in his mind. The recently freed slave is clearly frustrated by these complaints. He is fighting for his freedom, not for a promotion. This is no abstract distinction. The ferocity of battle depicted in the film — of black soldiers in unyielding hand-to-hand combat with white Confederates — stemmed from the fact that if they were captured, the black soldiers would not be treated as prisoners of war. They would either be executed or re-enslaved. Screenwriter Kushner is already making his point: racial equality is a critical issue, but right here, right now, it was not an issue that the Civil War would resolve. Slavery was. The two were closely related, but not identical.

ABOLITION

This is the same point former slave turned activist Elizabeth Keckley makes to Lincoln late one evening on the White House lawn. As Stevins listens to the black woman beside him, she need not appeal to Lincoln’s heart, but rather to the fact that he needed to do so when the war is over; and, in one of the most moving scenes in the film she asks, “What my people are to be, I can’t say. Negroes have been fighting and dying for freedom since the first of us was a slave. I never heard any ask what freedom will bring. Freedom’s first.” First slavery must end, she says, then we can talk about what comes later.

Whether or not these are sentiments likely to have been expressed by African Americans at the time, Kushner’s historical and political point is right on target. He’s saying: let’s get slavery abolished, then we will settle the meaning of freedom. The struggle over racial equality was destined to take center stage once the war was over, but in order for it to be addressed, slavery must first be ended.

Thaddeus Stevens in Lincoln comes to terms with the same fact of political life in January, 1865. Despite his admirable commitment to racial equality, racism remains anathema to him. Of course, he must shelve that larger, broader project of racial equality — for the time being — because slavery must be abolished first. Kushner returns to the theme near the end of the film. When Stevins listens to the black woman beside him reading the second article of the Thirteenth Amendment aloud — the clause empowering Congress to enforce emancipation by appropriate legislation — the lips on Tommy Lee Jones’ face curl ever so slightly into a smile. Article I secured emancipation; armed with Article II, he would set about to enforce it.

PARTY MAN

Kushner distinguishes the struggle for racial equality from the struggle to abolish slavery while at the same time recognizing how closely related they were. Few historians have managed this as well, and few commentators have even noticed it. What most people focus on is a second theme — the paradoxal “nobility” of down-and-dirty politics. Among those of us who’ve studied Lincoln closely, it’s not news that the 16th president was, in his heart of hearts, a politician. He was a party man — at first a devoted Whig and, when that party collapsed, an equally devoted Republican. He worked tirelessly to maintain party unity; he crafted his own positions to insure that they aligned neatly with the official positions of his party. Yet during the secession crisis Lincoln was pressured to issue a formal statement clarifying his own position, the only thing he would say was that he was a Republican and that his views were those of his party. Those in search of heroes who “rise above politics” will find little inspiration in Lincoln’s biography.

Spielberg’s movie takes dead aim at this anti-political strain in contemporary America. For many people, “politics” is the antithesis of “principle.” Politicians are compromisers, trimmers, people interested in getting and holding onto power rather than using government to pursue the greater good. Lincoln upsets this dichotomy — he is the hands-on, backroom politician, the party boss who pursues power and uses it for one of the noblest ends in our history — the abolition of slavery. He demands compromise, but only in pursuit of great principles. He brings together the radicals and conservatives within his own party so that they may defeat the enemies of emancipation. It is what commentators admire about Lincoln, and I certainly share their admiration.

Nevertheless, the movie develops this theme in troubling ways — ways that compel Kushner to depart from the known historical facts of the Thirteenth Amendment. Most disturbing is the film’s narrow conception of how politics work. Several historians have complained that Lincoln gives no credit to the slaves, whose determination to be free played an integral role in the process by which slavery was destroyed. Kushner responded in a December interview on the PBS show Moyers & Company: “I don’t accept the idea that the only thing to tell about emancipation is that the victims of oppression are always the authors of their own emancipation, because it’s not the case. Frequently people that are severely put upon and severely oppressed don’t have the means...to rise up and destroy [oppression] on their own.”

While there is some truth in this, it scarcely accounts for the large body of scholarship demonstrating the importance of slave resistance during the Civil War. You don’t have to argue that the slaves “freed themselves” to recognize — as Lincoln and his fellow Republicans themselves recognized — that slaves fighting for their own freedom were “indispensable” to Union victory and therefore indispensable to emancipation.

Yet even on its own terms — not as the broad story of how slavery was destroyed but as the smaller, though fascinating, tale of Lincoln and Congress in January of 1865 — the film operates from a cramping conception of how politics work. Indeed, the movie does not fully jettison the anti-politics it attempts to critique, for Lincoln is the story of a man on a white horse, a singular political genius, who goes down into the muck but only to drag everyone else out of it. Lincoln’s fellow Republicans squabble among themselves and Lincoln corrals them into order. He flatly, he turns, he twists, he promises patronage, he even sanctions bribes — in his determination to bring the radicals and the conservatives within his own party into line. Lincoln sees what Thaddeus Stevens, in his unsavory wrestling, supposedly cannot see: sometimes the best way to get to “true north” is by going around the swamp, not straight through it.

This is not history, its pure fiction — and it’s fiction in the service of some fairly troubling notions of politics. Do Kushner and Spielberg want us to sanction bribery and political corruption in the name of the great-
CUNY Law prof tapped for top New York court post

By JOHN TARLETON

CUNY Law School, the nation’s top-ranked public interest law school, gained another feather in its cap on January 15, when one of its own was nominated to New York State’s highest court, the Court of Appeals.

Professor Jenny Rivera “has worked to defend the legal rights of all New Yorkers and make our state a fairer, more just place to live,” said Governor Andrew Cuomo in announcing her appointment. Seymour James, president of the New York State Bar Association, said that Rivera will bring “her keen intellect, insightful legal scholarship and a commitment to equal justice for all New Yorkers” to the state’s high court.

COMMUNITY SERVICES

Rivera earned her law degree at New York University and subsequently clerked for future Supreme Court Justice Sonia Sotomayor. She worked as a lawyer for the Legal Aid Society’s Homeless Family Rights Project, and later became an associate counsel for the Puerto Rican Legal Defense and Education Fund (now known as LatinoJustice PRLDEF). Rivera is slated to receive the American Bar Association’s Spirit of Excellence Award this February.

“She’s taken the spirit of law as public service to heart,” said Victor Goode, a professor at the law School. “Her range of experience, her academic preparation and the fact that she’s grounded in a number of community services in New York City will make her well prepared for the bench.”

“She’s going to bring the spirit of the ‘wise Latina’ to this court,” said Law School professor Rick Rossein, echoing an expression first popularized by Sotomayor during her 2009 Supreme Court nomination hearings.

In a city where expensive law schools at Columbia and NYU get much of the media’s attention, the nomination of a professor from the CUNY Law School struck a chord in the wider legal profession.

“This has been very powerful for us,” Rossein said. “I can’t tell you how many e-mails and phone calls I’ve received. I got a call from a friend with a more traditional legal background who said, ‘Wow! You guys have really arrived.’ But the thing is, we actually arrived years ago.”

NATIVE NEW YORKER

Rivera, 51, grew up on New York’s Lower East Side when it was still a predominantly poor and working-class immigrant neighborhood. She joined the faculty at CUNY Law in 1997, and is the founder of the Law School’s Center on Latino and Latina Rights and Equality (CLORE), which promotes scholarship, public education and litigation in support of expanded civil rights, with a focus on issues affecting the Latino community in the United States. Its initiatives include the Language Access Project, which addresses discrimination based on language and national origin or ethnicity, and the Gender Equity Project, which develops legal strategies to overcome gender-based discrimination and its effects on the Latino community.

Each year, two Law School students are tapped to serve as CLORE Fellows and work closely with Rivera. During her time as a Fellow in 2009-2010, Natasha Leyla Ora Bannan helped organize forums on gentrification in East Harlem, the struggles of Latino and Chinese low-wage workers, and the former US naval bombing range in Vaques, Puerto Rico.

“Her mentoring was the highlight of my year,” Bannan said of working with Rivera at her fellowship. Now a legal fellow at the Center for Reproductive Rights, Bannan told Clarion that she still thinks of Rivera as a mentor and seeks her advice.

“I’ve known very few people with such solid, solid legal thinking and analytical skills, mixed with a deep understanding of where she comes from,” said Bannan.

CIVIL RIGHTS

From 2007 to 2008, Rivera went on leave from CUNY Law School to work as Special Deputy Attorney General for Civil Rights under Cuomo when he was New York State Attorney General. Rivera has also served as an administrative law judge for the New York State Division of Human Rights, and as a member of the New York City Human Rights Commission.

Jonathan Harris, CUNY Law Class of 2010, told Clarion that when he took an administrative law class with Rivera, her detailed knowledge of government regulations was always linked to their practical effects.

“She used a lot of real-life examples of how regulations affect us in daily life even when we don’t realize it,” Harris said. “For her, the law is not esoteric. That’s why it will be terrific to have her on the top court in New York.”

Rivera is set to begin her confirmation hearings before the State Senate in February. If confirmed, she would have a 14-year term in office. The seven-member court currently has four members appointed by former Governor David Paterson. The four Republican appointees will see their terms expire between 2014 and 2017. In addition to Rivera’s seat, Cuomo is expected to fill the Court’s other open seat in March.

HIGHER ED

RF Central Office workers boycott anniv. breakfast

The CUNY Research Foundation (RF) marked its 50th anniversary January 24 with a fancy breakfast. CUNY. RF Central Office workers represented by PSC-CUNY would have celebrated too, if they had a fair contract offer on the table. RF Central Officers workers, who administer post-grant fiscal matters for city, state, federal and private awards, tell Clarion they boycotted the breakfast because an omelette is no substitute for respect and a fair contract.

Management continues to offer nominal salary increases while demanding significant hikes in employee contribution to health insurance premiums and major concessions in benefits for new hires. Stay up to date on the workers’ contract campaign at psc-cuny.org/rfo.

Adjuncts’ actual work hours and health care reform

The IRS wants to know how many hours adjunct faculty actually work.

The Internal Revenue Service is preparing guidelines for new Affordable Care Act (ACA) rules that take effect in 2014. Under the ACA, employers with 50 or more employees will be expected to offer health care coverage to workers who put in 30 hours or more per week, or will pay a penalty. At the start of this year, the IRS noted in the Federal Register that “educational organizations generally do not track the full hours of service of adjunct faculty, but instead compensate adjunct faculty on the basis of credit hours taught.” Along with the Treasury Department, the IRS is inviting comment “on how best to determine the full-time status of employees” for adjuncts and other workers in similar situations.

Some part-time faculty activists have voiced concern about employers cutting adjuncts’ hours to avoid having to provide coverage under the new law.