

The Forum

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Your Albany Chapter Newsletter

Issue 138

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Know Your Rights!

You've heard the old adage: there are no stupid questions. This is especially true where there are so many avenues that your chapter officers can help you navigate in your day-to-day work life. Let's explore some of them.

- * Your supervisor tells you that she has received a complaint about you and you are afraid you will be summarily fired.

Provided that you are not on a temporary appointment, the University must provide you the process laid out in Article 19 of the contract before taking disciplinary action. Additionally, you may be entitled to union representation in the meeting.

- * Your father is ill and needs you to take him to his doctor's appointments.

There are both contractual (Article 23) and statutory (FMLA) benefits related to taking time for family leave.

- * Can my supervisor transfer me?

Transfers occur between SUNY campuses; you can't be involuntarily transferred (Article 34). The employer can reassign you to another position on the campus but only within the limits of the inherent duties of your state title.

- * I am coming up for reappointment.

Article 30-32 address the required content of appointment letters, set forth the minimum due process necessary for evaluation and promotion, provide for access to your personnel file and the minimum notice required if the employer decides to non-renew your term appointment.

- * I'm a part timer and need health insurance.

Article 39 addresses what criteria are necessary for a part timer to be eligible for many benefits, including health insurance.

- * My supervisor is changing the way things have always been done.

The Taylor Law (Civil Service Law §§200 et. seq.) sets the criteria on what the employer can change and what it must negotiate to conclusion before it can be changed in the workplace. One example of the latter would be any changes to procedures related to reappointment and promotion which are a mandatory subject of negotiation.

- * My supervisor has given me an evaluation but I didn't have a performance program.

Appendix 28 of the contract requires that employees have a current (not back-dated) performance program prior to an evaluation being done. Many of the rights and procedures available to professionals are contained in this provision.

- * A student has threatened to sue me.

Article 50 of the contract notes the statutory indemnification protections provided to State employees.

These are but a few of the issues on which the Chapter officers can offer information and advice. Two important notes: there are time limitations that apply in almost every circumstance so getting to an officer as soon as you know there may be an issue is imperative and the Chapter keeps all your information confidential and will not move forward without your knowledge and permission.

You can always reach out to the Chapter grievance officer Greta Petry @ GPetry@uamail.albany.edu or call (518) 956-8034.

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By the Numbers:

\$20,508	Average Annual Salary for Part-Time Faculty Employed at a Single Institution.
\$80,095	Average Annual Salary for full-time ranked faculty.
.5%	Increase in annual salaries (over 2015-16 and after adjusting for inflation) for all ranked faculty.
\$334, 617	Average Annual Salary for University and College Presidents.
4.3%	Increase in annual salaries (over 2015-16 and after adjusting for inflation) of University and College Presidents.
\$212,774	Average Annual Salary for Chief Academic Officers at American Universities.
\$202,048	Average Annual Salary for Chief Financial Officers at American Universities.
\$104, 493	Average Annual Salary for Male Full Professors
\$98,524	Average Annual Salary for Female Full Professors
\$80,895	Average Annual Salary for Male Associate Professors
\$77,751	Average Annual Salary for Female Associate Professors
\$70,446	Average Annual Salary for Male Assistant Professors
\$67,647	Average Annual Salary for Female Assistant Professors
5.05%	Average net increase in college tuition over the three-year period of 2012-14

All data is from the AAUP Annual Report on the Economic Status of the Profession

Reasons to Celebrate, Work to be Done

Bret Benjamin

This will be the last of my Chapter President Columns as I pass the baton to Aaron Major on June 1. I've never much cared for the nostalgic goodbye address, so I'll simply say that that serving in this capacity has been richly rewarding, both intellectually and politically. I've learned a great deal about our university, about the SUNY system, about our union, and about you, my colleagues. I leave the job as an even greater believer than when I began in the immeasurable benefits that stem from having a strong union statewide and a dynamic chapter on campus. Our pay, our benefits, and our capacity to assert control over our workplaces would be vastly diminished without a union. I have every confidence that Aaron and the other newly elected officers and leaders will make us an even stronger, more effective Chapter.

As I leave, I think there is much to celebrate. Among the things I'm proudest of is the fact that we've increased membership engagement and participation over the past four years. We've begun to build a sustainable organizational structure within the Chapter that can maintain continuity with the many initiatives that have been undertaken, and at the same time recruit new leaders and initiate new ideas and projects. This bodes well for the long-term success of our chapter, and I look forward to seeing what sorts of projects our Chapter takes up in the years ahead.

We have had some considerable successes at the campus level, and I think there is room for optimism on a number of fronts here. Most notably our advocacy for contingent faculty has made a major impact with all signs pointing to considerable progress forthcoming in the near future. We've seen increased salaries, longer-term contracts, and greater attention to the equitable treatment of contingent faculty on campus. We will likely see pathways to tenurable positions for many of our full-time contingent faculty, along with graduated ranks and better job security. This issue will, of course, require continued advocacy and persistence, but I think it is right to celebrate what are substantial gains.

Likewise, I think we have made significant progress on a range of other important issues. We've worked with HR to develop better systems for tracking performance programs and evaluations for Professional faculty. After a few years of persistent work, it seems as though we will soon have the tools in place to ensure sustained, high-levels of compliance. This coupled with regular trainings and consultation with members means greater due process protections for our members.

We've also seen some success in our recent efforts to wean the University away over-reliance on student observations in the evaluation of faculty teaching effectiveness. Moreover, we continue to work with departments to revise their by-laws and tenure guidelines to ensure that the procedures are clear, transparent, and in accordance with the contract. After years of staunch advocacy for the role of the Arts and Humanities within a public research university (a topic we take up again in this issue), we have begun to see some movement with the recent Critical Conversation and, perhaps, have reason to believe that the Management ears onto which our arguments are falling may be slightly less deaf to our concerns than in years past. Our community outreach activities with the Ban the Box campaign and our partnership with St. Vincent de Paul's food pantry have been great successes.

Furthermore, I think our statewide union is as strong as it has been in some time. It has had some meaningful success in advocating for a legislative agenda and in influencing political races. It has also undertaken some meaningful internal reorganization to make it more effective and efficient.

In all of these areas and many others, there is reason for optimism. But I cannot say that I leave office without considerable reservations about the state of our union and the state of our University. Some dark clouds loom both on campus and in the broader political arena that make it clear we'll soon be facing some fierce fights.

Locally, we have raised concerns about what seems to be a rash of unilateral administrative decisions on issues that are mandatory subjects of negotiation. The most egregious of these cases—and the most troubling—is an undertaking in the new College of Engineering and Applied Sciences

that would substantially increase the teaching load of many current tenure-line faculty and lead to the non-renewal of many contingent faculty.

We have been working with Management to clarify the University's obligations under the Taylor Law to negotiation such matters with UUP. However this remains unresolved, and there are some indications that Management may be gearing up for more far-reaching efforts to raise or redistribute faculty workloads. We take such matters extremely seriously, and will aggressively fight with every available tool to preserve the workload and jobs of our members. We try to be constructive partners with Management on matters of mutual interest. But in other moments a fundamental antagonism between Labor and Management reveals itself, and UUP is fully prepared to fight on behalf of our members when needed. Externally, the political landscape for public sector unions looks dire. As you likely know, National Right to Work legislation has been introduced in Congress. Neil Gorsuch's confirmation to the Supreme Court means that in the next year or two we will almost assuredly face another case on the model of *Friedrichs v California State Teachers Association*, which will in all likelihood strip our union of its ability to collect fees from employees whom we represent, but who have not joined as members. This threatens to dramatically reduce our union's financial resources and its capacity to politically advocate on behalf of its membership. Here, too, UUP must be ready to fight for its members, demonstrating clearly the value of union membership—that the 1% we pay in union dues buys a great deal more than a 1% salary bump gained by opting out.

Much uncertainty remains, as usual. We'll be likely soon be working with a new Chancellor, and a new President. The impact of the new Excelsior program, the hiring requirements tied to the tuition increases, and the maintenance of effort language remain matters of speculation. The budget situation for New York State and SUNY will almost assuredly remain a constant site of struggle in the years ahead.

All of this posits both a big picture agenda for Aaron and our new Chapter leaders, and the broader political context in which such an agenda will be fought out. I offer no pithy advice, but I pledge to contribute in whatever ways I can be of help. As always, the union's capacity to act is predicated, ultimately, on the active participation and engagement of our academic

and professional faculty. I know which side I'm on in these fights. I trust you'll join me in fully supporting the Chapter and its new leadership.

* * *

Strengthening Research

Paul Stasi

The Strategic Planning Steering Committee presented its three imperatives at the University Senate Meeting on April 20th, 2017: Foster our Culture of Excellence, Innovate our Programs and Strengthen our Research. A dominant theme of the discussion that followed was the significance of SUNY Albany's status as a public research university and the need to support faculty in their research endeavors. The point was made many times that we can only improve our standing if we take a cold hard look at where we are. A few points, towards this end, seem worth addressing as the University pursues these imperatives, in particular in relation to the ways we might strengthen our research mission.

1) **Research at the University takes many forms.** Over the last few years, the University has made its desire for external funding abundantly clear. What this relentless focus on external dollars risks doing, however, is under-valuing forms of research that neither generate nor require these funds. Indeed, academics in a wide range of departments—from English to Computer Science, from Social Welfare to Public Policy—have conducted ground-breaking research without any external funding. A public research university, by definition, must recognize, value, and support research in all of its forms consistent with the disciplinary standards of each department.

2) **Similarly, productivity takes many forms.** We all agree that faculty should continue to be productive throughout the entirety of their academic careers. But productivity is not so easily quantified as an assessment driven culture seems to suggest. There are times in an academic's career where teaching might demand more effort. Or perhaps one enters the stage of academic life where the service burden is increased. This is clearly the case for our Associate Professors who do the bulk of the work of running the University. At the same time, research does not always proceed linearly. Avenues are pursued that might not yield results and a truly productive

faculty is able to pursue leads wherever they might lead, without the fear of someone demanding an article or a grant or a book in a fixed amount of time. Indeed this is one plausible definition of the much-prized notion of academic freedom.

3) Increased teaching loads is the easiest way to destroy the University's academic excellence. Periodically the idea is floated that faculty deemed "non-productive," will simply have their teaching loads increased. A new round of this is happening in CEAS, with hints that the idea may spread to other colleges. We recognize that the distribution of our professional obligation is traditionally a management prerogative. But in the versions of this idea that we have seen there has been no explicit reduction of the research or service burden when teaching loads increase. Instead, teaching is used, in the CEAS case before us currently, as a punishment for conducting research that does not bring in extramural funding, whatever other intellectual merits it may have. Faculty are effectively being punished for carrying out the research they have always done. The ideology at work here is transparent and shows, all lip-service to the contrary, which part of our professional obligation actually matters, and, more damningly, which types of research are valued and which are utterly dismissed. The premise is both anti-intellectual, in that it acknowledges only money and not the creation of new knowledge as productivity, and anti-academic, in that it treats teaching as punishment. Moreover, its proposed solution to a perceived problem is deeply counter-productive by nature. First, and most obviously, increasing a faculty member's teaching is no way to help her produce research. Second, every department's tenure and promotion procedures rest on the production of research. More to the point, so do the national norms of our disciplines. To lessen a faculty member's research expectations is, effectively, to deny them the ability to do the only work on which they can be promoted, whether here or at another university. And if we hope to increase our research profile, this type of punitive teaching assignment is precisely the wrong way to go about it, for its only obvious result will be to lessen the amount of research produced at the University.

4) Increasing teaching loads is the best way to destroy faculty morale. If the University truly believes everything it says about valuing faculty and the people who work here, it will stay away from policies that

are, by their very nature, divisive and punitive. Faculty should be treated as what they are: experts in their disciplines. Any attempt to increase academic “excellence” should start by asking the very people who are the judges of academic excellence in their own work—in the peer-review process, through the evaluation of tenure files for this and other Universities and for the graduate students they teach—what resources they need for their departments to become nationally competitive programs. Punitive policies treat faculty as children to be disciplined. And they will create a two-tiered structure within departments that will only lead to more divisions and tensions within an already demoralized professoriat.

5) We must, instead, find ways to support productivity rather than punish its perceived lack. In some ways, this is easy. There are many bread-and-butter issues that would create a stronger research environment at the university, including greater funds for conferences and research travel and more frequent opportunities for leaves and sabbaticals. At the same time, the University needs to hire more tenure-line faculty to strengthen departments, improve graduate programs and, in doing so, create a lively and research environment that is campus-wide. Hiring more tenure-line faculty will also relieve the service burden of the Associate Professors, which will, in turn, allow them greater time for research. And graduate programs need to be supported not just by tenure-line faculty but also by increased assistantships for our graduate students so they might be able to produce top quality scholarship as well. Productivity, in other words, is not the failing of a set of individuals—I, personally, have met very few tenured academics who are not driven, in some basic way, to conduct research—but rather something that is structural, supported or disabled by the larger institutional environment in which research is conducted.

UAlbany is at a crucial moment in our history, one where we can choose to strengthen the University’s core mission while expanding its offerings. But this requires treating faculty with the respect they deserve and providing them with the resources they need to do their jobs. Anything less is an abandonment of the mission we all profess to support.

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Report of VP for Professionals

Tom Hoey

This has been a busy semester with many union activities in full swing. We had Chapter Elections and the University finally had the Employee Recognition event that we have been requesting at Labor/Management for the past 5 years. While UUP did not participate in the organization of the event we applaud our professional and academic faculty members who were honored. We will continue to push for programs and events that recognize the excellent work of our members do that benefits the University at Albany community. We are holding a Performance Program and Evaluation workshop on the Downtown campus this semester and will hold other workshops soon. Please stay active in your union and work with us in getting a good contract. You can go to uupinfo.org and click on Negotiations to see how you can help!

* * *

Systematic Exclusion

Rebekah Tolley

Last year, one of our Contingent Concerns Committee members was invited to run for faculty senate as a part-time faculty representative. Not only did we not know the position existed, but it turned out we, as part-time faculty could not even vote for her. While part-time academic faculty make up about a third of all academic faculty, we are not eligible to vote in Senate elections, not even for our own representative. The Contingent Concerns Committee raised this issue with the faculty Senate, and the Senate leadership attempted to rectify this basic issue of democracy in university governance by introducing an amendment to the Senate bylaws that would give part-time academic faculty the ability to vote for their own representative. Unfortunately, the amendment did not pass. Not due to lack of support but, frustratingly, due to voter apathy. Of the 308 votes cast, 274 (89%) were in favor of the amendment, but the total votes cast fell far short of the number needed to achieve a quorum.

So how do you get voting eligible faculty to take the time to vote for those who are disenfranchised? And moreover, how did we get to a point where such a large percentage of faculty have no voice? Part-time faculty used to be the exception, but are now on the frontlines of every student's classroom experience. We have grown greatly in numbers, but policies have not changed or adapted to reflect the needs of our burgeoning cohort.

The university has made a commitment to improve the lives of contingent faculty on campus but much depends on the attitude of the incoming president. Whomever is chosen to fill this position must understand and appreciate the efforts that have been made to recognize and begin to address the problems of mass contingency in our university, and must also follow through on the commitments that have already been made to continue this. Unfortunately, because of these policies around faculty governance, part-time faculty have no voice in the current presidential search. SUNY guidelines stipulate that only full-time faculty can participate in the search committee, excluding those who teach over half of the classes at UAlbany.

As these two issues illustrate, the way we treat contingent faculty is deeply buried in rules, policies and practices from a time when mass use of contingent faculty was not the norm. Our exclusion is systematic, built into the bylaws and so prevalent in every aspect of the university that it's almost as if it were poured into the concrete of the buildings themselves. Clearly it will take not only a monumental effort to dismantle these unjust structures, but it will also take the willingness of those who are not affected, at least not directly, by a university addicted to the "low cost" of contingent labor.

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EOP students fight for funding

John Mason

"Restore the \$5 million": That was the message two busloads of students and staff from the University at Albany's Educational Opportunities Program

brought state legislators March 8. Gov. Andrew Cuomo's budget included a cut of more than \$5 million from the EOP, as well as \$5.3 million from the related Educational Opportunities Centers. A record-setting 700 SUNY students, plus staff, from around New York state descended on the Capitol March 8 for the annual, UUP-sponsored EOP Advocacy Day. And the upshot? The newly approved budget restored the funding for both programs.

The morning of the annual event is devoted to breakfast, planning, and inspirational speeches. This year's surprise guest was Assembly Speaker Carl Heastie, D-Bronx, who promised to continue the state's financial support of the programs. Heastie is a former EOP counselor from Stony Brook.

UAlbany's EOP Director Maritza Martinez said it was an exciting moment when Heastie took time out of his busy day to come out and reaffirm his commitment to fighting for EOP.

After several other pep talks, the students and staff broke up into teams, each one with a schedule of assembly members and senators to call on. Jocelyn Dilone, a UAlbany freshman from the Bronx, said she had a chance to talk about why the program is important to her and how it's helped her personally. She said tutoring in psychology and statistics has meant the difference between success and failure for her, she told "an actual assembly member," not a staff person. "I feel they heard us," Dilone said. "They were on our side of all of it; they cared."

Martinez was pleased with how the day went. "When we went in there, people knew about opportunity programs. 'We're aware of your success,'" she said. "What I love most is not only that we get to tell our story, but that the young people do --- you see them blossom. By the end of the day, they feel they've made a difference."

Among other topics that the students addressed were the retention rate and the five-week summer program that's intended to introduce them to the rigors of academia. "They talked about it -- most of our students are not ready to be in the University at Albany," Counselor Jonathan Rojas said, explaining their appreciation of the summer. "They (also) spoke about the tutoring services that are free, and the counselors' one-on-one attention."

There were also personal stories. One student talked about coming from a life as a foster child, and how finding the EOP family was important to her. Another said having regular meals from a meal plan and a comfortable bed to sleep in were experiences to feel thankful for. Counselor Lisa Clarke said one of her students felt that, as a child of undocumented parents, he would not be here without the financial support of the EOP. Another said she knows it's a struggle to get ahead in life without a college education, yet she can't imagine not being here nor navigating through this without EOP supportive services.

Corey Reneau, a junior English major, said he was glad to hear that the funding was restored. "It means our voices do matter," he said.

* * *

UUP Walk to Support Food Pantry

Greta Petry

The Albany chapter of United University Professions sponsored its first 5k walk on April 30 on the main campus to raise awareness about the nationwide problem of food insecurity on college campuses.

All proceeds from the walk went to St. Vincent de Paul Food Pantry, 984 Madison Ave., Albany. The food pantry serves the Albany community, including UAlbany students who live on campus or those who live in the Pine Hills and Eagle Hill neighborhoods.

A front page Times Union article in December drew attention to the University and the union's partnership with St. Vincent de Paul, and to the growing problem of food insecurity on college campuses. "I'm thrilled that UUP Albany sponsored this Walk to Fight Campus Hunger," said UUP Albany Chapter President Bret Benjamin. "Fighting hunger on campus and in our community is simply the right thing to do."

Angela Warner, director of the food pantry, said that St. Vincent's Food Pantry served 5,000 households in 2016.

Since the pantry can purchase food at a reduced price, every dollar raised at the walk buys \$4 worth of food.

If you were not available for the walk but would still like to make a donation, make out a check to St. Vincent's Food Pantry and write "For UUP Walk for St. Vincent's" at the bottom of your check. Mail it to the chapter office at 1400 Washington Ave., CS B21, Albany, N.Y., 12222. You may also drop the check off directly at the chapter office

The walk is a Chapter Action Project, sponsored by the statewide UUP to promote union engagement in the community. More information is available about the food pantry partnership between UAlbany and UUP.

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What Kind of University Do We Want to Be?

Paul Stasi

As the University at Albany continues to expand its degree offerings, we at UUP decided to try to look at how the composition of the faculty has changed over the last ten years. This data breaks down into two periods: the first from 2007-2010 is a period of loss, the second, from 2010-2016 is one of expansion, largely due to SUNY 2020. We are in the process of producing a full report on these issues. For the purposes of this article, and in the context of the recent "critical conversation on the Arts and the Humanities," we will look closely at the College of Arts and Sciences and of the Arts and Humanities within that college.

Indeed, examining where we have gained tenure-track lines and where we have lost them gives us one concrete measure of the institution's values and priorities. We, at UUP have consistently maintained that any expansion of the University should not come at the expense of its core teaching mission and its commitment to maintaining strong research programs across all of its colleges. Based on the data from this most recent period of expansion, this does not seem to have been the case.

What the preliminary data indicates is that during the period between 2007 and 2016 CAS—the largest college in the University and the most

undergraduate intensive—had a net loss of 30 tenure-track lines. The hard sciences (Atmospheric & Environmental Sciences, Biology, Chemistry and Mathematics) gained 10 faculty; the social sciences (Anthropology, Economics, Communications, Geography & Planning Psychology and Sociology) gained 7; the Arts & Humanities (Africana Studies, Art & Art History, East Asian Studies, English, History, LACS, LLC, Music & Theater, Philosophy and Women’s Gender & Sexuality Studies) lost 47. These numbers tell a clear story: the college has lost faculty and it has lost them in one specific area: the Arts & Humanities.

The argument has been made that the loss of faculty is due to drops in enrollment. But when we correlate hiring data with enrollment data the picture is less clear. Several departments have seen enrollments increases matched with the loss of faculty (LACS, LLC, Women’s, Gender and Sexuality Studies), while others have seen a drop in enrollments correlate with positive growth (Atmospheric & Environmental Sciences) or no hires (Philosophy). The point, however, is that even if declining enrollments match declining numbers of faculty—as they do in the two largest Humanities departments in CAS, English and History—they are a flawed method of allocating resources for a public research university, whose goals must, necessarily, be comprehensive in scope.

Unfortunately, declining enrollments are often understood to measure something called “student desire,” to which, it is then argued, the University must cater. And the University then uses these numbers to justify its own hiring practices. But when we consider declining enrollments to be a problem—and a problem with our culture’s understanding of how higher education works—it then becomes something we can tackle at the campus level, not simply by stating that we value all departments equally but by doing something about them. Indeed, everyone on campus who is committed to the values of higher education—to the idea of free and open inquiry, to the importance of a critically informed citizenry and to public education’s key role is promoting these ideals—should view the declining enrollments in the Arts & Humanities with alarm. For it suggests, as incoming President of the Association of American Colleges and Universities Lynn Pasquerella has argued “that the prevailing rhetoric has created a

false dichotomy between vocational and a liberal education."¹ Instead, we must recognize that the Arts & Humanities, while valuable in their own right, are also particularly relevant for today's rapidly changing workplace. This idea is consistently reflected in poll after poll asking business leaders what they want from potential employees. The American Academy of Arts and Sciences reported in 2013, for instance, that more than 90 per cent of business leaders regard liberal education as important for future success.² We can put to rest, then, the idea that there is some intrinsic hostility between the Arts & Humanities and the economic needs of our students.

At the same time, enrollment drops are real and while some of them are attributable to the "false dichotomy" described above—a dichotomy our University should be combatting at every level from the highest levels of administration on down—they are also the direct result of policies undertaken by the state of New York, by SUNY and by our campus. Again I will use English, my home department, as an example of how policy dictates enrollments. We can start with shifts in teacher education requirements and the recent hyper-critical environment of teacher prep in New York which have constricted one stream of students who used to regularly take English classes. Then we can add the inevitable fallout from the program deactivations of 2010 which clearly sent the message that certain departments and programs were less valuable than others and has had a ripple effects on all of our humanities programs. More directly, the creation of a new writing program, Writing and Critical Inquiry, outside of English means that students are no longer taking English classes early in their careers. Relatedly, changes to the Gen Ed requirements a few years ago pushed writing instruction into the majors, eliminating an upper division writing requirement that was the sole purview of English while also removing the US Diversity and Pluralism gen ed, of which English had historically taught many sections. Quite predictably, the net result of all these changes is a sharp decline in English enrollments. What we see here

¹ <http://www.chronicle.com/article/College-Leaders-Must-Heed/238717>

² <http://magazine.utoronto.ca/presidents-message/the-enduring-relevance-of-the-humanities/>

is neither the active agency of student-consumers nor the mismanagement of a department whose course offerings are somehow at fault for chasing away students, but rather the more boring agency of institutional and structural decision making with its inevitable intended and unintended consequences.

Nevertheless, when declining enrollments are understood as the fault of departments, they become a justification for denying resources to those departments. And given that no existing department has the ability to draw new students to the university, the fetish of enrollments forces departments to compete with one another. But why should English seek to profit at the expense of Philosophy or Biology? Don't we function better as a University when all of our programs work together rather than compete for scarce resources?

Indeed, we have a responsibility as a comprehensive public research institution to develop strong programs across the entire range of departments and programs on our campus. A careful look at our aspirational peers reveals that top-rated public research institutions do not have niches. They have strong research departments in all areas, including the Arts and Humanities. Rationale for hiring must not be based solely on undergraduate enrollments then, but on the national norms and expectations for departmental size and resources. And these national norms are not just about undergraduate education but also about research productivity. We, quite rightly, have aspirations toward national competitiveness both as a university and, in particular, as departments. It is worth noting that the University's recent history on this front has been somewhat schizophrenic. At times we are told that, with limited resources, we must build to strength with pockets of excellence. That philosophy, however, runs counter to our recent expansion, in which we have placed enormous resources into building brand new colleges from scratch, the opposite of building to strength. We note too that the NYSUNY 2020 funds that have largely fueled our recent faculty hiring had very strict conditions attached, effectively foreclosing opportunities for growth in programs that were unable to generate considerable external research funding. All of this has led to a very particular form of institutional growth during the recent expansion, in which hiring has been largely located in particular pockets of the campus. As a union we are, of course, happy to see faculty hiring in

any form and are pleased to see an influx of new faculty in the School of Public Health or the Department of Atmospheric and Environmental Science. Our position, however, has been that as a public research university we must commit to building strong research programs across the university.

The picture of the shifting composition of faculty—the net loss of faculty in CAS with all of them coming from the Arts & Humanities—does not represent a conscious attempt on the University to eviscerate the Arts & Humanities. What it does show, though, is what has happened, a general movement away from these fields due to a series of small decisions and the attitudes embedded within these decisions. The University is engaging in a new round of strategic planning and it will have a new influx of tuition monies earmarked for full-time faculty hiring. As it sets its priorities it should try to take control of this process, decide exactly what kind of university we want to be, what the core mission of the University is and how to strengthen it. It will be no surprise to anyone who has read *The Forum* over the last few years, that we believe that the core disciplines—in all areas, Arts & Humanities, Social Sciences and the hard Sciences—should be supported and should be at the center of the education we offer undergraduate and graduate students. The only road to do this is by hiring strong faculty and supporting them adequately, both financially and also intellectually.

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The Hidden Cost of Free College:

Aaron Major

After years of battling with teacher's unions and subjecting the state's institutions of higher education to austere budgets, Governor Cuomo seemed poised to mark himself as a champion of college affordability when, flanked by Bernie Sanders in January, he announced his proposal for the Excelsior Scholarship and proclaimed "free college" for middle class families. And yet when the legislation was passed earlier this month, as part of the annual budget, the response to what was supposed to be a clear win for progressives was, even among that crowd, decidedly mixed.

As with most headline-grabbing legislation, the devil is in the details, and the more people have looked at the details of the Excelsior Scholarship legislation, the more devils they have found. The most glaring, and thus the one that has perhaps drawn the most criticism, is the requirement that students who receive the scholarship are expected to continue to live and work in New York state for as long as they received the benefit, penalizing those who go on to pursue graduate educations out of state, or join many other New Yorkers who live near the state's borders and find work in neighboring Connecticut, Massachusetts or New Jersey.

Other critics have pointed out that, in order to remain eligible for the Scholarship, students are required to attend college full-time (30 average credit hours per year) and complete their degrees within four years. The most obvious implication of this rule is that it puts the promise of free college out of reach for the large proportion of part-time students, many of whom attend two-year community colleges and are trying to squeeze a college education in between work and family obligations.³ The very students who most need financial assistance for college seem unlikely to receive it under the proposed program.

Looking a little more closely at the wording of that full-time requirement reveals another detail that will likely bedevil many students who get college aid through the Excelsior Scholarship. In laying out the rules for eligibility, the legislation requires that the student "enrolls in at least twelve credits per semester and completes at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study..." The problem lies with that last phrase, "applicable to his or her program or programs of study." While seemingly benign, this same stipulation is used to determine eligibility for the state's Tuition Assistance Program (TAP)--what has been, and will continue to be the largest provider of college aid to New York's students. In recent years, as part of an effort to reduce the cost of this program, the agencies responsible for overseeing the TAP program have operated under a narrow,

³ Data from the National Center for Education Statistics finds that, nationally, 23% of students attending 4-year colleges, and 61% of students attending 2-year colleges, attend part-time.

and ultimately punitive, interpretation of this requirement which has not only thrown many students' financial aid eligibility into jeopardy, but has done so in a way that is opaque and capricious, throwing students' lives and campus offices that seek to serve them, into chaos.

Carrying this language into the Excelsior Scholarship legislation adds yet another mark in its demerits column. To appreciate the significance of the costs and burdens that it will impose on students and campuses we need to unravel the tangled, often hidden threads of the TAP program.

The shifting sands of "full-time status" under TAP

Since it was created in 1974, the Tuition Assistance Program has been the primary source of New York state financial aid for higher education. In the 2014-2015 academic year, over 350,000 New Yorkers received, on average, \$3,300 in TAP awards. While the program has helped to make college affordable for millions of New York households, in recent years, state officials have reinterpreted existing rules and regulations around TAP eligibility and, in so doing, have led many students to make their college plans based on the promise of TAP aid only to find it vanish even when they think they are following the rules.

TAP eligibility is dictated by several rules and regulations, key among them being that students must be enrolled in at least 12 credit hours per semester in coursework that makes progress towards completing an accredited, academically sound program of study. If a student is found to be non-compliant with these rules, the TAP award needs to be repaid to the state. If the student is found to be non-compliant because they lied on their application form or misled their campus in some way, then the student must repay the award. However, if the student is found to be noncompliant because either the program that they are enrolled in does not meet the standards of being intellectually sound or because the campus did not ensure that the student was enrolled in the right type, or number, of courses, then the campus is still required to repay the award to the state. In other words, a student could, in good faith, enroll in a program offered at a SUNY campus and, nevertheless, be found to be in non-compliance with the TAP guidelines.

The Office of the Comptroller conducts occasional audits of campus TAP programs and, on the basis of those audits, determines if that campus has improperly given out TAP awards and, if so, how much needs to be repaid to the state. A search of the Comptroller's Office website uncovers reports of 132 audits of campus TAP programs from October of 1994 to the present. Each report provides the total amount from TAP awards, if any, that needs to be repaid to the state and the reasons for which the campus was found to be out of compliance. Reading through these audit reports reveals that somewhere around 2011, the Comptroller's Office began to interpret the "full-time status" rule much more narrowly, only counting courses that applied directly towards a student's program of study towards the 12 credit minimum.

I have been unable to find a policy document that makes clear how an auditor should determine whether or not a course is part of a student's program of study. Rather, the available documents explaining the full-time rule are contradictory. On the one hand, the Higher Education Services Corporation, the body that oversees the TAP program, provides the following definition of the full-time rule on its "TAP Coach" website: "full-time study requires enrollment in credit-bearing courses applicable to the student's program of study, for at least 12 semester hours in a semester of not less than 15 weeks..."⁴ This statement is clear and seems to offer wide latitude to students to take a variety of courses across subjects. However, on the other hand, a 2012 report from the Comptroller's Office entitled "Effective Oversight of the Tuition Assistance Program" (with the more ominous subtitle "Schools Can Avoid Disallowances by Ensuring Eligibility"), gives a hypothetical example that posits a much narrower definition of what it means to be full-time:

Consider Marlene, a full-time bachelor's degree-seeking student who, during her third year of college, has decided to change her declared major. She is taking 15 credits and has switched from economics to nursing. Marlene is taking one class in marketing, one in psychology, one in elder care, one in accounting and one in pharmacology. Each

⁴ <https://www.hesc.ny.gov/partner-access/financial-aid-professionals/tap-and-scholarship-resources/tap-coach/F.html>

class is three credits. Only the elder care, pharmacology and psychology classes count toward her nursing degree. (p. 9)⁵

Anyone familiar with a standard four-year university curriculum will quickly see how unrealistically narrow this definition of “full-time” is. The example suggests that any courses that a student takes that are not related to their major do not count towards full-time eligibility. For most students, however, the bulk of their undergraduate curriculum is made up of courses outside of their major or minor. Indeed, in this example poor Marlene is punished for continuing to pursue her interest in economics while completing her major in nursing. Moreover, as she completes the courses required for her nursing degree, but still needs to complete her 120 credits to graduate, one can easily see how she could start signing up for courses that will allow her to complete her degree in four years and yet still put her outside of this definition of “full-time,” thus jeopardizing her financial aid.

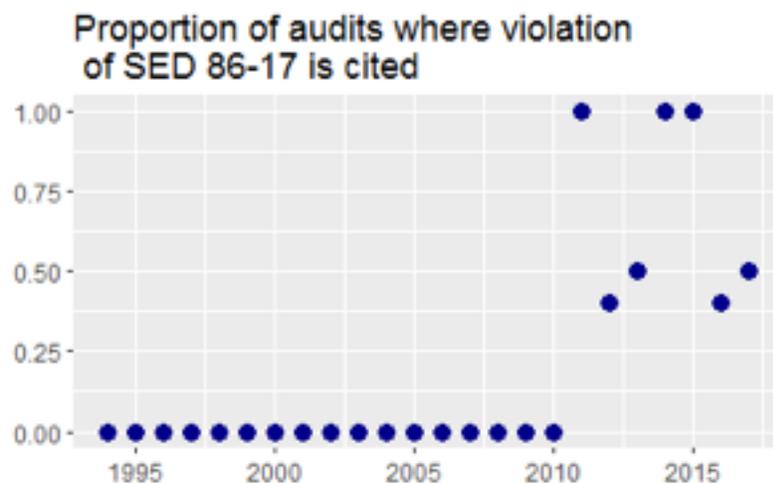
As narrow and convoluted as this interpretation of what it means to be a full-time student is, reviewing the Comptroller’s audits of campus TAP programs shows that it has, nevertheless, been put into practice when assessing campus compliance with TAP regulations. The figure below labeled “Proportion of audits with findings of full-time, non-applicable” shows the percentage of campuses that were audited each year that were found to have one or more students who were deemed ineligible for TAP because, even though they were taking at least 12 credit hours of coursework, those courses were deemed not to apply to their program of study. What this figure shows is that prior to the early 2000s this reason was never cited as a reason that a campus was out of compliance. Yet, in all but two years between 2011 and 2017, every audit found campuses non-compliant under the Comptroller’s narrow interpretation of “full-time status.”

⁵ “Effective Oversight of the Tuition Assistance Program: Schools Can Avoid Disallowances by Ensuring Eligibility,” Thomas P. DiNapoli, State Comptroller, Division of Government Accountability, March, 2012.



In order to support its interpretation of the full-time requirement, the Comptroller's audits frequently cite a passage from a 1986 memo from Donald J. Nolan, then Deputy Commissioner for Higher Education, that sought to clarify some of the rules around TAP eligibility. The passage reads: "Basic to the payment of State student aid is the requirement that courses that make up a student's minimum course load be creditable toward the degree, diploma or certificate program in which the student is enrolled."⁶ The next figure, labeled "Proportion of audits where violation of memo 86-17 is cited" shows the percentage of campuses that were audited each year where this language was used to support a finding of non-compliance with the full-time rule. Two points need to be highlighted about that memo in order to understand why this trend is so troubling. First is that while this rule was put in place in 1986, it only began to be routinely used in Comptroller audits after 2011. Second, and even more importantly, the passage itself is cited out of context in a way that distorts the intent of the rule. This memo was circulated, as stated in its opening paragraph, because of the perceived "need for clarification regarding the impact of repeated courses on a student's financial aid eligibility," and did not directly address the question of how regulators should determine whether a course is applicable at all to a program of study.

⁶ "Repeated Courses and State Student Financial Aid Eligibility," Memorandum to Chief Executive Officers of Post Secondary Institutions in New York State," No. 86-17, December 1986.



This is clearly a case of reinterpreting and, really, stretching, the meaning of existing rules to serve some other purpose, and given the timing of these changes it seems likely that the underlying purpose was to support Governor Patterson's efforts to cut state spending for higher education as part of broader cuts to spending in the 2010-2011 budget. Facing a projected \$3.2 billion budget gap, the Governor's proposed budget called for a \$254 million dollar reduction in state aid for higher education over the 2010-2011 academic year. Of that \$254 million reduction, \$46 million came from cuts to the TAP program, part of which came from "increasing academic standards for TAP eligibility."⁷ Rule changes and reinterpretations were a way to make cuts to a popular and successful state program under the guise of accountability.

The impact that these new interpretations of the eligibility rules had for campuses was driven home in 2014 when the state attempted to recover \$3.4 million and \$4.2 million in TAP payments from Medgar Evers College and Stony Brook University, respectively, after Comptroller's audits found that many students who received TAP awards were ineligible. While the results of the Stony Brook audit drew some media headlines, it is not just the amount of money that the state was seeking to recover that is significant here. In fact, the state had gone after other campuses for TAP repayments of this magnitude in the past, but most of those cases

⁷ New York State 2010-2011 Executive Budget Briefing Book, pp. 44-45.

concerned for-profit institutions of higher education that were found to intellectually unsound in some fundamental way. In the Medgar Evans and Stonybrook cases, however, most of the issues of noncompliance were attributed to students who, while they were enrolled in at least 12 credit hours of coursework, were deemed to be enrolled in coursework that counted towards their degree programs. Though it was the campuses that were forced to pay the money back to the state, this clear signal that campus TAP compliance would be assessed under a new interpretation of the rules that was simultaneously more strict and more opaque has imposed real, if hidden, costs on campuses and students.

The hidden costs of savings through rule-making.

Those who support attaching these kinds of requirements to student financial aid argue that these rules need to be in place lest taxpayer dollars are wasted. However, such proponents focus entirely on the superficial allure of “accountability” and lose sight of the real, but hidden, costs they impose.

First, there is the high cost of administering these rules. In the limited time that I have had to deal directly with undergraduate issues in my own department it has become painfully clear that all of the offices that, in one way or another, deal with students in the admissions, financial aid, and course registration process are scrambling to help students navigate the increasingly murky, and treacherous, waters of state college aid. The hypothetical “Marlenes” have become all too real. This is time and energy being spent by our financial aid officers, admissions officers, and undergraduate advisors. In addition to these charges against the physical and emotional energy of our current faculty and staff, campuses are hiring more staff just to deal with compliance. On our own campus, the last round of Compact Planning included a permanent \$90,000 funding line for TAP compliance.

Second, there is the high cost imposed on students who, often accidentally or unknowingly, take a course outside of their major or alter their program of study and suddenly find that the TAP money that they were counting on has been taken away from them. Too often in my limited time serving as my department’s Director of Undergraduate Studies, I have sat down with

bright, motivated students who are panic-stricken because the classes that they signed up for, and need to graduate, have for some completely unclear reason caused them to lose their TAP eligibility. For some of these students their academic plans and financial stability can be salvaged, but I strongly suspect that many more are forced to take on additional financial burdens or withdraw from classes altogether.

A consequence of both of these real, but hidden, costs is reinforcement of the troubling tendency of seeing our university move further and further away from its academic mission of providing a broad, liberal education and towards a model of higher education that demands that students lock themselves into a narrow, and fixed program of study. Students that want to explore different fields and broaden their intellectual horizons--pursuits that institutions of liberal higher education are supposed to not only value, but encourage--will be steered away from these scholarly adventures by well-meaning advisors lest they put their financial aid eligibility in jeopardy. This is the punitive and austere logic of "accountability" that is all too often attached to state benefits. Under the guise of ensuring prudent use of taxpayer dollars, these rules and regulations impose a particular, moralistic view. The ideal student is focused and career-minded while the student that takes a wide ranges of courses and is slow to settle on a program of study shiftless and wasteful. The ideal university works best when it steers students into a narrow track of study and fails when it flexibly accommodates uncertainty and curiosity.

Recent experience with oversight of the TAP awards adds yet another reason to view the Excelsior Scholarship with a watchful, skeptical eye. The Governor has staked his progressive bona fides on a program that proclaims "free college," but does so on the cheap. The obvious strings--the residency and full-time requirements-- that make it a less than perfect program are part of keeping these costs down, but at least they do so in a more or less transparent way. These rules will shut many deserving students out of the program, but at least they will know that they are shut out, and can plan accordingly. The more subtle requirement that course work be applicable to a program of study may not keep students out of the program initially, but it will often catch them in a manufactured "slip-up," turning an ostensible scholarship into a burdensome loan.

Moreover, as recent experience with TAP shows, when these rules are vague and subject to arbitrary reinterpretation, campuses go on the defensive, which means a higher administrative burden and heightened sense of caution that keeps students on the academic straight and narrow. So, in addition to its obvious limitations, Excelsior will likely bring with it hidden, but high costs that, by virtue of the opacity of their underlying source, will make what is supposed to be a pathway to a stable future a source of confusion and turmoil for many students.

As academics and professionals who are committed to our students, our campus and the values of liberal higher education, we need to join those critical voices that responded to the Governor's triumphant pronouncement of Excelsior by saying "good, but not nearly good enough." We need to continue to advocate for those who are excluded from these systems, but also advocate for those who are brought into them only to have the rug pulled out from under their feet.

Let us know what you think. Send your comments to:

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