

# ILLINOIS ACADEME

## What Faculty Unions Do

By Cary Nelson

When faculty members at the University of Illinois at Chicago began mobilizing for a union recognition drive in 2010 they were motivated in part by concern that the central administration was drifting away from the campus's historic commitment to its urban mission. Located in a substantially racially segregated city with many minority families having no college graduates, the campus had long studied urban life and offered upward mobility opportunities for local residents. Rather than just plead this cause with the administration, faculty members increasingly saw the need to sit down and negotiate binding levels of support for this mission.

When I visited the University of Northern Iowa in

2010 a different topic was under discussion. Faculty members were increasingly concerned about the debt levels their students were accumulating. They felt their union should make it a priority to address the issue and propose solutions to the problem.

At the University of Rhode Island the faculty union took on the task of helping graduate student employees there organize for collective bargaining. Wages and

FACULTY UNIONS *continued on page 7*



## President's Message

Michael Harkins  
President, Illinois  
AAUP



Over the past few months the officers and committees of the Illinois Conference have actively addressed issues affecting higher education. Conference leaders have supported faculty members in cases involving academic freedom, layoffs, governance, legislative initiatives, chapter development, and membership. In addition, specific presentations have been made at campuses throughout Illinois highlighting effective governance and the benefits associated with state and national membership. On a regular basis, the Conference provides speakers and consulting expertise in conjunction with our National office.

The Conference encourages existing chapters and faculty leadership teams to contact our committees for resources, assistance and services. The goal of the Conference is to assist all faculty, existing chapters, and to create new chapters to further the mission of AAUP. Over the past few months, Conference members have visited campuses to discuss chapter formation. We have been well received.

Today, more Illinois AAUP members are in contact with our state conference and National than in the past. The current issues that are confronting higher education across our campuses need a collective response. AAUP is here to meet these issues and support all faculty. Our updated web site serves as an excellent source for our members to locate current information on issues that impact all faculty. The site also provides copies of documents as well as positions taken by the state conference and National.

I am delighted to announce that in April for the first time the Illinois Conference will hold a joint annual meeting and conference with the Collective Bargaining Congress of the AAUP. The combined meeting and conference will take place on Saturday April 30th in Chicago at the Crowne Plaza Chicago Metro, 733 West Madison Street, Chicago, Illinois. Detailed information will be on our Illinois Conference web site. The conference is open to all AAUP members and interested higher education faculty. The conference will address a number of the leading issues confronting higher education not only in Illinois, but the country. Major keynote speakers from the National AAUP will be in attendance.

This summer the Illinois Conference will be sending Ken Andersen from the University of Illinois, and Joerg Tiede from Illinois Wesleyan University as our elected delegates to the ASC meeting and the National AAUP annual meeting. John Wilson from Illinois State University will serve as the elected alternate delegate.

The Illinois Conference of the AAUP is dedicated to helping all higher education faculty in Illinois. If you need help at your institution or information about current issues or any AAUP positions, please contact your state leadership team. Together we can meet the challenges of today by supporting each other and the values of our profession.

## The Real Road to Prosperity, Together

By Gary Rhoades

We seem to be in a time warp. A warped time in which some Republican governors and state legislators (e.g., in Wisconsin, Ohio, and Michigan, among other states), argue that the path to prosperity in a time of high unemployment lies through attacking working people, rescinding longstanding, democratically selected rights to collectively bargain, depressing the wages and benefits of modestly/low paid public sector employees, and reducing educational investment. In Missouri, one state senator has proposed repealing child

labor laws.

For these people the way ahead is to go back, WAY back in time, when employees had no workforce protections or voice, no benefits, no pensions, and when higher education was for a select few.

In seeking to race back in time, these states are pursuing a race to the bottom, to becoming low income, low education states (most of which do not have public sector collective bargaining but nevertheless have substantial state budget challenges). They are on the road to poverty, not prosperity.

ROAD TO PROSPERITY *continued on page 7*



## Illinois AAUP Annual Meeting & AAUP Collective Bargaining Congress Regional Conference

Saturday April 30th

9:30am-4:30pm

Crowne Plaza Chicago Metro, 733 West Madison St.

Chicago, Illinois

FREE Registration

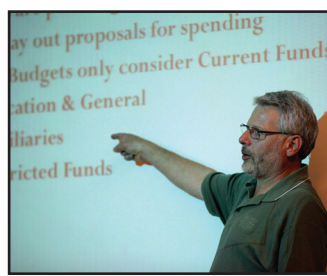
Please RSVP to Jennifer Nichols, [jnichols@aaup.org](mailto:jnichols@aaup.org) to ensure we have an accurate headcount for breakfast, lunch, and workshop materials

### Featuring:

- ◆ Lunch with Cary Nelson and Gary Rhoades
- ◆ Presentation on analyzing institutional finances by Howard Bunsis and Rudy Fichtenbaum
  - ◆ Illinois AAUP Business Meeting
- ◆ Panels on legislative issues, academic freedom, graduate students, and organizing AAUP advocacy chapters.



Howard Bunsis,  
CBC Chair

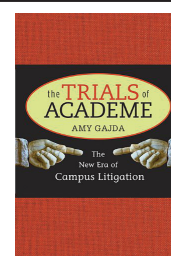


Rudy Fichtenbaum,  
CBC Treasurer

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University Professors of Illinois  
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NORTHWESTERN  
UNIVERSITY

# Destroying Our Seed Corn

## KEN ANDERSEN



A myriad of issues deserve attention -- local, national, global: the dangers of pension changes threatening hiring of new faculty; the underestimated monetary perils that confront Illinois; threats of a downturn in the national economy due to state and federal cutbacks in employment; external threats to everything from the price of gasoline, explosive unrest in Northern Africa and the Middle East to natural disasters linked to global warming that we can no longer avert. But in looking to the future I see a threat that we can manage if we have the will.

Facing national and state financial limitations we are rather systematically destroying our seed corn. We are cutting back on funding education at the level required to be competitive in the knowledge based world economy of the future. We must ensure the competitiveness of our students in that future if the nation or state is to prosper.

I have been astonished at the number of articles in magazines, newspaper columns, business and industry, saying we are falling behind in the education of the next generation whether in elementary, secondary or higher education and calling for greater effort to reverse that trend. We are doing very well at developing student self-esteem. American students report they are doing very well in math, reading etc. Yet recent comparative studies show we are lagging behind many countries by more than one decile.

Our students spend fewer days in school than students in other developed countries. We have shorter school days and shorter school years. James Warren in the *New York Times* Chicago Section of March 13 noted Chicago's school day was only five and a half hours long, shortest of any of the 40 largest districts in the nation. A Houston student gets four more years of schooling in terms of total

K-12 class time.

What of teacher quality? Tony Wagner of Harvard argues that students need three skills to compete in a knowledge economy: ability to do critical thinking and problem solve, communicate effectively, and to collaborate. Nations such as Finland and Denmark where students stand out in these skills draw teachers from the top third of college graduates. We do not.

In many states the goal is to cut the number of teachers, their pay and benefits while significantly increasing class size to manage shortfalls in the budget. Imagine a class of 60 students in elementary school. Will such changes attract top graduates to teaching?

How should we allocate student aid? Private for profit institutions reap a high proportion of federal scholarship funds. Some spend comparatively high amounts on recruiting students who do not graduate and are left with significant student debt. You cannot use bankruptcy to escape student debts because they follow you forever and the interest grows. Listen to Suze Orman! The federal government has begun an investigation of abuses suspected at some private for profit colleges.

State budget constraints have moved many states to reduce funding for higher education. Now the student not the state often carries the major cost of attending a public college.

There are unlimited factors to blame for the growing lack of competitiveness of students. Certainly parents are responsible in part for the failure of students to maximize their potential in elementary and secondary schools as is the class status of many parents and students.

Students: recent reports note the decline in hours col-

lege students actually study. One report found the average college student showed no increase in critical thinking skills after two years of college while earning very high grade point averages. So teachers are also at fault in the failure of students to maximize their potential.

Money is not the only resource needed to ensure the competitiveness of our students in a global economy. But it is an essential resource. State after state cuts educational funding. The public increasingly blames teachers for everything from pension shortfalls to holding cushy jobs. Doesn't every college faculty member mow lawns at 3pm on Tuesday or Wednesday and spend only 6 to 9 hours a week teaching, if that?

Many, many aspects of the educational system need improvement: teacher quality, instructional methodology, length of the school day and term, a commitment by all parties to maximizing student learning.

While the public may have a distrust of many governmental functions, most people recognize and support the need for a high quality educational system. Individuals disagree about how to achieve that goal. But most would prioritize adequate funding of education over many of the concerns that occupy the attention of state and national legislators, such as continuing the low tax rate for the wealthiest among us.

Legislators will not sufficiently address the need to prepare for the future by ensuring our students get the education they need. Just as the farmer must protect his seed corn to get a good future crop, so we must protect ours.

## Committee A Report: Bradley University and DePaul University

By Peter Kirstein

Committee A was contacted by the AAUP chapter at Bradley University concerning a promotion and tenure case. Documents were examined ranging from departmental, college and university-level deliberations. A rather lengthy assessment of various documents was compiled by the chair in a running commentary format for about ten pages. A formal Committee A investigation was not forthcoming nor requested.

One item of note: if a faculty member at Bradley wins an appeal subsequent to a denial of tenure and promotion, the case is referred back to the original units for reconsideration. This strikes me as outlandish and highly prejudicial to the faculty member. Departments, deans and other unit levels are not inclined to reverse themselves merely because an appeal board seeks a reconsideration. If one wins an appeal, she should receive more than merely another round of review by the same units: this makes a mockery of the appeals process at Bradley.

Bradley should change their Handbook to ensure a successful appeal recommendation goes directly to the president for acceptance or rejection under carefully controlled circumstances. Apparently university lawyers, of all people, have rendered interpretations that are either binding or consciously cited when determining which units should constitute the reconsideration process. The professoriate and not lawyers should determine what the appeals process is! Shared governance needs to be robustly addressed at Bradley University based on the considerable amount documentation I examined in this case.

At Bradley and elsewhere, if a faculty member wins an appeal, that decision should go directly to the president or governing board and unless there are extraordinary reasons for rejection, a successful appeal should be accepted. Part of the corruption in higher education today is the calamity of justice in appellant reviews whereby a university president gets a second or even a third opportunity to deny a faculty member tenure and promotion.

Certainly the Bradley model where a

successful appeal does not even generate a report to the president seeking reversal of tenure denial, but another repeat performance by various units, is stunningly egregious.

The Chronicle of Higher Education, Chicago Sun-Times, Inside Higher Ed and the Chicago News Cooperative have covered Illinois Committee A on Academic Freedom and Tenure's involvement in Assistant Professor of Philosophy Namita Goswami's tenure and promotion case at DePaul. Committee A submitted its initial report in July 2010 after it was reconstituted by Michael Harkins in 2009.

The report was cited by a DePaul Faculty Review Board that recommended a reversal of President Rev. Dennis Holtschneider's denial of tenure to the professor on academic freedom and procedural grounds. The report is online and widely available.

Committee A played a decisive role in Dr Goswami becoming the first professor to win an academic freedom appeal at DePaul. The Committee has laboriously worked on this case on an almost daily basis since July. We were able to impress upon national AAUP the need to write letters to President Rev. Dennis Holtschneider concerning adherence to the appeals process and procedural mandates in the faculty Handbook. Those letters are online as well.

There are many significant issues surrounding this case that are still unfolding and I believe it prudent to limit these comments to the summation above and reiterate our ongoing efforts to defend professors in the state of Illinois who are denied academic freedom and who claim academic discrimination. Your Committee A is on a steep learning curve as it attempts to enhance its effectiveness and is ready to assist those who are denied academic freedom with robust determination and dedication to cause.

Your Committee A members are Kurt Field, Bradley, Matthew Abraham, DePaul and John Wilson, editor of *Illinois Academe*.

Peter N. Kirstein, chair, Committee A (Ill.) [kirstein@sxu.edu](mailto:kirstein@sxu.edu); 773.298.3283.

## Building Chapters, Strengthening the Professoriate: Notes from the Illinois Conference

By Hans Joerg Tiede

As a colleague of mine recently pointed out, having an AAUP chapter on campus is like an insurance policy. While it is true that an AAUP chapter can respond to emergencies, such as assisting a faculty member alleging academic freedom or due process violations, an AAUP chapter can also weigh in on important campus issues and provide advice regarding AAUP policies to governing boards, administrators, and campus committees. In fact, unlike an insurance policy, having an active AAUP chapter can help prevent emergencies.

While both the National AAUP and state conferences regularly assist faculty members at institutions that fail to observe the generally recognized principles of academic freedom, tenure, and shared governance approved by the AAUP, the best way to assure that institutions adopt such policies and principles is for the AAUP to have an active presence on every campus through local chapters. Active AAUP chapters are a first line of defense against violations of academic freedom, tenure, and shared governance. AAUP chapters can review faculty handbooks and make recommendations that AAUP-sanctioned policies be adopted into handbooks.

Over the course of the last six months, the Illinois Conference of the AAUP has made a concerted effort to increase the number of advocacy chapters in the state of Illinois. As part of that effort, I have been visiting several campuses in Illinois and speaking to interested groups of faculty. While the kinds of institutions that I have visited have been quite diverse, including community colleges, liberal arts colleges, and a state university, the concerns that emerge at many institutions -- attacks on academic freedom and shared governance, or the overuse of contingent faculty -- are common to many kinds of institutions and are those an AAUP chapter can help address.

Our chapter development work started with contacting AAUP members at several institutions in the state. After an initial contact was made, we offered an overview of chapter development at a State Conference meeting to interested faculty. Such overviews can point out the wealth of existing resources, such as the material for chapter development at the AAUP'S web page, or the sample chapter web pages on Cary Nelson's web site. In addition, Cary Nelson's web site has a Powerpoint presentation for campus visits that outlines the mechanics of forming and best practices for running an active chapter. Experienced chapter leaders can provide helpful examples of the work a new chapter can undertake. State conferences can also offer chapter development grants, like the ones offered by the Illinois State Conference at [ilaaup.org](http://ilaaup.org).

Whether helping to form a new chapter or revive an existing chapter, chapter development can be a very rewarding activity for state conferences and one that is likely to pay off by increasing the presence of the AAUP in your state.

*Hans Joerg Tiede is President, Illinois Wesleyan University Chapter of the AAUP, and a member of the State Council of the Illinois Conference of the AAUP*

**[www.ILAAUP.org](http://www.ILAAUP.org)**  
Visit Illinois AAUP online for more news,  
and learn how to get more involved.

# Legislative Report: A Perfect Storm

By Leo Welch

The 96th Illinois General Assembly that adjourned on January 12, 2011, will be noted for passing an income tax increase through 2015 raising rates from 3% to 5% for individuals and from 4.8% to 7% for corporations. The vote was strictly along party lines with the Democratic majority in both the Senate and the House supporting the tax increase and the Democratic governor Pat Quinn signing the bill, Public Act 96-1496.

With the inauguration of the 97th General Assembly, there has been a flurry of bills introduced. As of the February 10th deadline for the Senate and a February 24th deadline for the House, an estimated 6,000 specific bills were introduced together with 400 additional "shell bills" that could be utilized at a later date for almost anything. Bills of interest to higher education faculty are:

House Bill 1503 (Rep. Chapin Rose) would require the Illinois Board of Higher Education to incorporate performance-based funding into its annual budget request to the General Assembly, beginning with fiscal 2013, as recommended by the Higher Education Finance Study Commission.

Under this proposed bill, funding would be determined partly by graduation rates and retention rates at all public universities and public community colleges. Since community colleges by law have open admissions and public universities each have different admission requirements, it remains to be seen what types of formula will be developed to determine the level of "performance" funding.

Many other questions remain unanswered. Will historically poor-performing institutions like Chicago State University and the City Colleges of Chicago be financially penalized while selective institutions such as the University of Illinois at Urbana-Champaign are rewarded? Will there be increasing pressure on faculty to retain poor-performing students to maintain or increase funding? Will grade inflation take a dramatic jump? Will academic integrity be compromised? None of these questions will be answered until after the bill is passed, signed into law, and imple-

mented. Because of the bipartisan support for this bill, it is expected to pass.

Senate Bill 135 (Sen. Martin Sandoval) would remove the power of the boards of trustees at community colleges and public universities to set tuition and fee rates, and give the authority to the legislature. Another Sandoval bill (SB 114) would freeze tuition and fees for the next two years at the rates in place for the 2011-2012 academic year.

Illinois has 12 public universities and 48 public community colleges, and yet Sandoval appears to think that the legislature has a better grasp of budgetary issues than local boards of trustees. The community college trustees, who are elected from their respective districts, have a state-wide organization, the Illinois Community College Trustees Association, that wields significant political clout. Since public university trustees are appointed by the governor and have no state-wide organization, the university presidents will have to voice opposition to these two bills. There is expected to be strong opposition to both bills.

House Bill 146 (Rep. Jack Franks) would set a ceiling of \$106,800 of earnings that would be used to calculate pension benefits for retired state employees. This bill would certainly impact the recruitment and retention of some faculty and administrators. \$106,800 would not even be considered an adequate starting salary in medical or law schools as well as in many other positions. This bill is just one of many legislative attacks on public pensions. I expect more bills of this nature that might impact current and/or retired employees.

Senate Bill 59 (Sen. Ira Silverstein) would create the Student Transfer Achievement Reform Act to require that a community college graduate with an associate's degree is eligible to transfer into a public university baccalaureate program with a minimum of 60 credit hours earned with at least a grade point average of 2.0. In addition, public universities must give priority admission to a local community college graduate into a major that is similar to the student's major or field of emphasis at the community college.

This is the first attempt to legislate transferability of community college graduates into a public university. This bill may reflect the failure of the Illinois Articulation Initiative, which allows transfer of courses on a course-by-course basis by agreement between participating institutions.

House Bill 152 (Rep. Monique Davis) would create a new Department of Education that would have oversight of the Illinois State Board of Education, the Board of Higher Education, and the Illinois Community College Board. The motivation for adding another board to all the other education boards is unclear. At this time the bill appears to have little support since no other legislator has signed on as a co-sponsor.

Outside of Illinois we see attacks on collective bargaining rights in Wisconsin, Indiana, Ohio, Missouri and other states. Republican-dominated legislatures want to abolish rights of public employees to collectively bargain claiming budgetary reasons. Make no mistake. These attacks are political not financial. Similar attempts in the Illinois General Assembly labeled "educational reform" measures bear close attention. These so-called "educational reform" bills would gut most of the collective bargaining rights of K-12 employees. If these "reforms" are implemented by legislation, why assume that higher education collective bargaining rights would remain intact?

This is becoming a perfect storm of attacks on pensions, collective bargaining rights, tenure, state appropriations, governance, health benefits, and sabbaticals—all factors that contributed to a higher education system that at one time was rated number one. When did higher education stop becoming a public good?

Leo Welch

AAUP Illinois Conference Legislative Liaison

*Legislative bill abstracts from the Illinois Board of Higher Education*

## OBITUARIES



### Sam Gove 1923-2011

By Ken Andersen

Illinois lost a giant in the history of Illinois politics with the death of Samuel K. Gove. Sam was an Emeritus Professor at the University of Illinois Urbana-Champaign and former Director of the Institute of Government and Public Affairs.

Although he did not hold a Ph.D., his writings and presentations on governmental issues, particularly those related to Illinois, earned him a national reputation. His last and lasting contributions are reflected in the book *Illinois Politics*, reviewed in this issue. That book was an expansion and revision of an earlier book on the same subject written with James Nolan.

Sam was instrumental in preparations for and during the famous late 1960's Constitutional Convention that developed the Illinois state constitution under which we now function. He served as a mentor to many young individuals who went on to becoming important political figures including former Governor Edgar. Many continued to rely upon his shrewd and thoughtful advice. He was there at the founding of the monthly journal *Illinois Issues* and continued active involvement on the Editorial Board for many years well into retirement.

I believe his greatest contribution was his incredible insight into and understanding of the workings of the political process, both the good and bad. He was an amazing mentor with a great sense of humor, a keen intellect, a sometimes wry style and smile, and maintained for himself a high ethical standard.

Those of us who knew him as friend and colleague obviously miss his warmth and humor, his insights and good advice. Most citizens of Illinois will never realize how much he contributed to the state and its citizenry and those contributions will be missed in the years to come. But as educator and mentor, he prepared many whether active in the political arena or commentators upon it to continue his work. We will continue to profit by his legacy and as individuals treasure the memory of interacting with him over a good drink or during intermission at a concert at Krannert.

### Victor Stone 1921-2010

By Ken Andersen

Past National AAUP President Victor Stone embodied the values of the AAUP with his dedication to shared governance, freedom of speech, civil rights and civil liberties, and his stated "passion for justice and the underdog." Vic and wife Susan were known for their involvement in the civic life of community, state and the University of Illinois.

A native of Illinois, Vic graduated from Oberlin College, served with the Navy in the South Pacific in WWII, and graduated from Columbia University School of Law in 1948. After briefly practicing law with a Chicago firm, he joined the U of I College of Law in 1955.

Capping many years of activity in the AAUP, he served as General Counsel 1978-80, National President 1982-82, and on the AAUP's Foundation Board of Trustees 1983-90.

Active in the ACLU, he was co-founder of the Champaign County Chapter and served on the Board of the Illinois Division 1987-96. He was awarded the ACLU's highest honor, The Roger Baldwin Award in recognition of "a lifetime commitment to civil liberties" in 2002.

Not surprisingly, Vic participated in shared governance activity ranging from chairing the Senate Committee on Academic Freedom and Tenure to serving on a university presidential selection committee, not to mention three years as U of I Associate Vice President for Academic Affairs.

His teaching of courses such as Civil Procedures, Conflict of Laws, Torts, Federal Courts, and seminars on the European Community and the Supreme Court Docket was recognized in an outstanding teacher award. Work on a number of state legal committees and commissions was tied to membership in the National, Illinois State and Chicago Bar Associations. He argued a civil rights case, *Mark v. Chesny*, before the US Supreme Court.

He served in his community in many roles: co-founder of the Champaign County Urban League and a legal Special Advocates Program and through memberships in the State Appellate Defender Commission, American Arbitration Association, State University Annuity Association, Planned Parenthood, and for 15 years on the Oberlin College Board of Trustees with Oberlin awarding him an honorary doctorate.

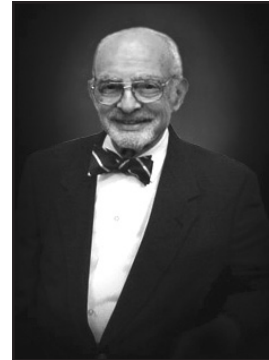
Service and honors in full measure. But such a focus misses his wit and personal charm, his and Susan's involvement in a rich array of friendships, world travel, Krannert Center concerts, his Philosophy Club discussion of books and ideas, his great reverence of the English language and precision in its use.

He is survived by his wife, Susan; three children, Mary, Jennifer and Andrew, their spouses and five grandchildren.

Victor Stone embodied the ideals and commitments that are the American Association of University Professors at its best. His was a commitment to the many communities in which he was involved: academic, legal, civic, familial.

Victor Stone exemplifies Aristotle's "good" man, virtuous and wise.

*Biographical data provided by the Stone children.*



**Write to Illinois Academe**  
 Illinois Academe is seeking articles, opinion pieces, chapter news, and letters to the editor. Email Illinois Academe editor John K. Wilson at [collegefreedom@yahoo.com](mailto:collegefreedom@yahoo.com).

# Academia on Trial: How Campus Litigation Transforms Universities

Amy Gajda's *The Trials of Academe: The New Era of Campus Litigation*. Cambridge: Harvard University Press, 2009.

Reviewed by Matthew Abraham

"Litigation is academic politics by other means." This appropriation of Carl von Clausewitz's famous saying that "War is politics by other means" is a fitting way to understand Amy Gajda's overall argument in *The Trials of Academe: The New Era of Campus Litigation*.

In an era where students, faculty, and administrators are increasingly turning to the courts to resolve matters ranging from failing grades to tenure and promotion denials, the courts have become the last resort for those seeking to resolve grievances, which in the past would have been resolved within the academic institution.

Historically, American courts have simply dismissed what they deemed to be frivolous litigation by invoking the concepts of "academic abstention" and "institutional authority"—the notions that academic matters should be handled by academic experts and that the courts had not business in questioning expert judgments about grading, faculty competence, and administrative skills—Gajda reports that this is no longer the operative rule.

Academic abstention and institutional autonomy are now being seriously undermined and called into question by the legal system's recognition that higher education's commercialization requires protecting the expectation and reliance interests of consumers such as students.

The variety of behaviors that can now be litigated on behalf of a disgruntled student, faculty, or administrator runs the gamut of the imagination. Students unable to complete medical or law school due to poor academic performance are now suing these educational institutions alleging breach of contract; employing novel contract interpretation theories such as "quasi contract" and "implied contract" and by drawing upon vague language in university handbooks that suggests merely completing a program "leads" to the granting of the M.D. or J.D. degree.

Motivated students have even tried to advance their rights by arguing that they are third-party beneficiaries of contractual rights that inhere between faculty members and the university.

Professors who are unable to achieve tenure are now suing their academic in-

stitutions alleging everything from hostile work environments, sexism, racism, resistance to certain research topics and methods, and academic freedom violations.

Gajda tells us about the Atria case at Vanderbilt, where a professor's supposedly lax way of handing back exams enabled a student to allege that he was framed by another student for cheating. We also learn about a student who fails to graduate from chiropractor school due to poor academic performance, attempting to argue that he was owed a degree for making it to the end of prescribed course of study.

Gajda introduces us to a law student who is unable to successfully take his exams because of dyslexia, arguing that the institution did not provide him the conditions under which he could perform at his best.

In all of these cases, we see students pressing legal claims based upon an implied guarantee that by successfully completing the education program they will automatically have access to a career and lifelong earnings simply because they were admitted to an institution of higher learning.

Students can sue their professors if they feel demeaned in class, or are "touched" by the professor as part of a demonstration in a tort class. A female colleague receives death threats from a pro-gun organization, leading the chancellor to tell the History department—that posted photos of two male colleagues wearing civil war costumes and touting guns—to refrain from displaying the photo in the name of "collegiality." The two professors successfully sued the Chancellor for violating their academic freedom.

By threatening academic researchers with defamation lawsuits, powerful drug companies or wealthy individuals can deter the completion of important and innovative research that calls into question a company or individual's integrity.

Indeed, academic researchers are steering away from research that might end them up in court, even though the research on important social questions should obviously continue unimpeded.

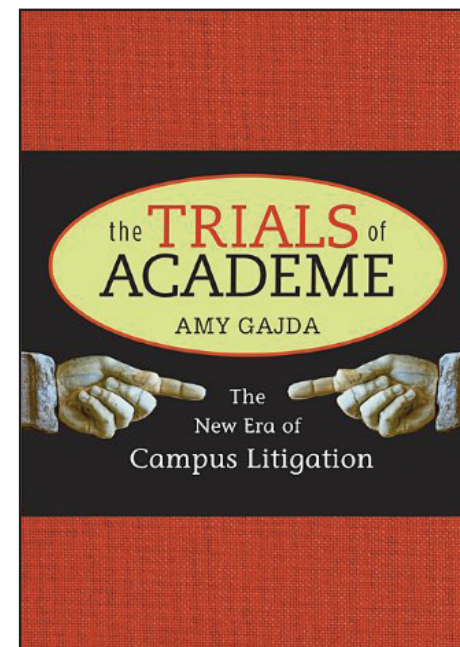
Even academic administrators can be left "high and dry," so to speak, when they ultimately do not receive the much sought-

after promotion they were banking on.

Gajda tells the story of a college dean, seeking to move up in the institutional higher anarchy, who sunk a small fortune into remodeling his house for the express purpose of entertaining university guests. On the strong verbal assurances of the president of the university that he was about to receive a lucrative promotion, the dean went forward with the home remodeling effort, until he learned he was not the favored candidate for the position after all. The dean died shortly thereafter, allegedly because of the levels of stress he had to endure. His widow was left to settle all of the outstanding home improvement bills. She successfully sued the university because of the president's implied promise.

As someone who writes regularly about scholarly debates on the Israel-Palestine conflict, I found Gajda's book extremely helpful. By alerting me to the potential legal pitfalls that potentially await academics straying into the potentially hazardous waters of contentious debate, it is useful to know what might be awaiting someone who comes up against powerful parties seeking to deter criticism of an organization or special interest group.

Gajda believes firmly that the mission of the academy is being threatened by the increased tendency of various actors to take disputes that at one time may have been resolved inside the institution to the courts. This tendency means insurance companies will now instruct university general counsel offices to declare certain lines of research inquiry off limits, especially if it is likely the university might be



sued because a faculty member offers an argument that offends a key constituency.

Sadly, Gajda points to a loss of community within most university settings, a loss which contributes to the increasingly litigious environment that undermines the educational ethos. Competition for grades, class ranking, jobs, promotions, and good salaries makes the contemporary educational landscape both complex and fascinating.

Gajda is an adept guide at leading readers through the numerous issues presented by this increasingly troubling tendency within academe. This is a must-read book for every academic, as well as every citizen concerned about the future of the university.

## Illinois AAUP Speakers Bureau

The Illinois AAUP offers speakers to AAUP chapters and other groups, and the Illinois AAUP can cover most expenses for AAUP chapters. Speakers include Ken Andersen, Peter Kirstein, Leo Welch, and John K. Wilson.

Speakers can discuss topics such as academic freedom, shared governance, financial exigency, faculty handbooks, collective bargaining, tenure, adjunct rights, and many more subjects of vital importance to higher education.

Email the Illinois AAUP at [collegefreedom@yahoo.com](mailto:collegefreedom@yahoo.com) for more information on hosting a speaker.

## Book Review: Illinois Politics: A Citizen's Guide

Reviewed by Ken Andersen

*Illinois Politics: A Citizen's Guide* by James D. Nowlan, Samuel K. Gove, and Richard J. Winkel, Jr. (University of Illinois Press, 2010), is much more than an update of the classic 1996 predecessor, *Illinois Politics and Government*, by Gove and Nowlan. Every person with an interest in the future of Illinois needs to read and keep handy on the bookshelf for use as needed to understand Illinois politics.

The thrust of the book is captured in the first sentences of the opening paragraph: "Since its earliest days, Illinois has been captive to a political culture that treats government as just another marketplace in which to do business. In turn, this marketplace has provided a fertile setting for corruption, which has flourished." The paragraph concludes on the hopeful note "assertive good government groups and more ethical behavior may be forthcoming," in part due to US attorney Fitzgerald.(1) The climate for corruption is linked to Daniel Elazar's characterization of the individualist strain in politics, i.e. seeing the "democratic order as just another marketplace."(2)

The material in the book is so rich in data and insights that it is tempting to quote large sections of every chapter. A listing of chapter titles suggests the fullness of coverage:

1. Illinois in Perspective
2. Power, Parties, Groups and the Media
3. Elections (By Kent D. Redfield)
4. Constitutions
5. The Legislature
6. The Executive

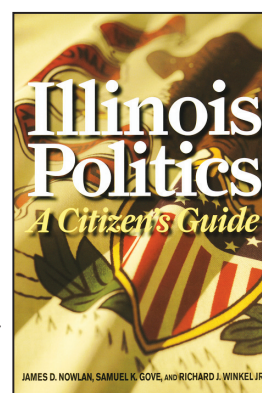
7. The Courts
8. The Intergovernmental Web
9. Education
10. Taxing and Spending
11. Illinois: Strong but Not Achieving

Chapter 1, "Illinois in Perspective" was of great value to me as I never had a course in Illinois history. It traces the founding of the state dominated by river towns in Southern Illinois, growth of the railroads and the gradual shift to the dominant role of Chicago. It concludes with a section, "Corruption: A Tradition in Illinois" bringing us up to date with Blagojevich.

The first chapter notes that regional differences on varied issues are largely those of self-interest. This theme is picked up by Redfield in Chapter 3 tracing regional, partisan and racial fault lines and how the "pragmatic, individualistic, often corrupt political culture" shapes Illinois politics.(43) The chapter includes multiple tables ranging from voting results to comparing political contributions by specific groups. The tables alone provide rich insights.

Chapter 7 focuses on the reality that Illinois has more governmental units than any other state in the union. (My thought: consolidation could be a great way to save money and increase efficiency.)

In 2005 it had 102 counties; 1,433 townships; 77 road districts; 1,292 cities and towns; 377 elementary school districts; 297 unit school districts; 101 high school districts; 39 community college districts; 2, 220 special districts



such as fire protection, parks, water authorities, mass transit for a total of 6,039.

The causes for and decline in higher education funding are graphically displayed as well as extensive coverage of elementary and secondary education issues in Chapter 9.

The final chapter places Illinois squarely in the middle on many measures just as our taxes are shown to be moderate in the previous chapter. In 2008 Illinois was named "the most average state in the nation" by the Associated Press.(231) This is noted in the chapter's concluding section titled, "A State Mired in the Middle."

As the authors make clear, much of that is tied to its climate of corruption and actions and responses of its citizens. (My thought: the need for the state to invest in human capital through its higher education system has never been more obvious if we are to escape "being a state mired in the middle.")

Have no doubt; this is a book by scholars who have made the study of Illinois politics a lifetime pursuit. All three authors are associated with the Institute of Government and Public Affairs at the University of Illinois. The book has 23 pages of footnotes, is helpfully indexed, and richly supplied with relevant cartoons. It is not dull reading.

For those with any exposure to Illinois politics, name recognition of the players will abound. It is a great read, learned, fun and disturbing in many respects as one contemplates the future of Illinois.

## Letter to DePaul University about the Goswami Case from Philosophy Graduate Students

*Graduate students at DePaul University wrote the following open letter to protest the denial of tenure to philosophy professor Namita Goswami:*

We are writing to express our growing concern with the events that have surrounded Professor Namita Goswami's case. In particular, recent attempts by members of the Philosophy Department to renew its image as a body loyal to the principles of academic freedom and fair conduct have brought into greater relief several inconsistencies that might be clouding the current perception of the affair. In the context of an impending hearing in Professor Goswami's case, and the hope that such a hearing be as transparent and principled as possible, we feel it incumbent on us to speak to certain departmental failures that might otherwise go unnoticed and thus conceal these inconsistencies.

### I. Letter to the Faculty Council

To begin, we would like to draw your attention to a letter dated 1/26/2011 from members of the Philosophy Department to the Faculty Council. This letter, which was not signed by all the members who voted on Professor Goswami's tenure case, was an unsolicited response to the Council's motion to withdraw the judgment in Professor Goswami's case. While the latter motion made its case on the basis of the Appeals Board Committee's findings of academic freedom violations, the select faculty members attempted to allay all anxieties by "remind[ing]" the council of the "well known...facts" that any tenure process involves. These facts betrayed three salient features, according to these members of the Philosophy Department, in Professor Goswami's tenure review. One, the disproportionate amount of time given to Professor Goswami's case (five hours) was to serve as evidence of an uncompromised process. Two, the substance of this five hour long discussion was to be gleaned from its alleged "depth," its "serious and thoughtful manner," the use of "informed and responsible judgment," and the difficulty involved in making the final decision to deny tenure. Finally, the tenure denial was in no way to be construed as the department's "rejection or devaluation of the candidate's areas of specialization, and most notably Postcolonial Theory"; as further evidence for its commitment to such areas of study, the department cited its offering of the course PHL 394 (Topics in Postcolonialism).

In an ideal world, facts would be sufficient. Unfortunately, ours is a world where institutional guarantees of intellectual freedom and fair conduct require constant vigilance to ensure that the claims we make for ourselves and on others are as transparent as they can be. In this respect, it pains us to have to point out that the above so-called facts of the case cannot withstand scrutiny.

First, the qualities of depth, seriousness, thoughtfulness, and responsibility are immediately cast into doubt when confronted with a Majority Tenure Report that shows certain faculty members deliberating Professor Goswami's case in a language that is alarming and profoundly unreasonable. Claiming that Professor Goswami's "problem is not a writing problem, but a thinking problem" and that her "one good" article was "co-authored by her husband" does not fulfill the criteria for responsible judgment. Indeed, when juxtaposed with Professor Goswami's ten peer-reviewed articles and a book manuscript under contract with a respected philosophical press, these characterizations appear to abandon precisely those objective standards of assessment that safeguard fairness in the tenure process.

Second, even if these qualities could withstand scrutiny,

they do not in themselves prove that an academic freedom violation did not occur. For surely, one can approach a subject with careful and serious deliberation—not to mention, hours of reflection—yet still make the wrong decision.

Third, the report cites faculty members calling into question the philosophical nature of her work tout court, and deciding to deny her tenure partly on such grounds. In this regard, it distresses one to read the faculty letter citing PHL 394 (Topics in Postcolonialism: Postcolonial Feminism) as an example of the department's commitment to intellectual pluralism. In a department with Masters and Doctoral degrees, a single undergraduate course cannot serve as a criterion for serious commitment to any area of specialization. The point, however, that gives one greatest pause is the fact that this course was developed by Professor Goswami herself. (When Dr. Goswami forwent teaching PHL 394 this past quarter due to exceptional circumstances, it is worth noting that no other faculty from the Philosophy department stepped in to teach it. In fact, the course was taught by a faculty member outside the Philosophy department.)

If the Philosophy Department can lay any claim to a specialization in Postcolonial Theory, it is largely thanks to Professor Goswami. She has been harshly criticized for proposing a course bridging Theodor Adorno and Postcolonial thought, but no mention has been made of her graduate courses on Gayatri Spivak and Postcolonial Feminism. The 2007 Excellence in Teaching Award and the seven invitations to sit on dissertation committees should be taken for what they are—graduate students' value for Postcolonial Theory bound with appreciation for Professor Goswami's instruction. (It is worth noting here that graduate students have felt greatly misrepresented in our reasoned support for Professor Goswami. For instance, regarding the Teaching Award, it has been rumored that she solicited a nomination from us. The fact is that Professor Goswami was on leave and it was agreed by the signatories of the nomination letter not to communicate the decision to her.)

In the majority report, Professor Goswami is deemed incapable of training graduate students in Postcolonial Theory, but, by any objective measurement (in terms of teaching reviews, conference presentations, publications, and activity in professional associations), Professor Goswami's students have been as successful as any in the program. Unanimously, graduate students supported Professor Goswami's tenure, and the Majority Report's glossing of graduate student support as uncritical not only suggests condescension, it highlights the illegitimacy of some of the judgments that comprised the final vote.

There remain a few points worth making in regard to the Philosophy Department's alleged commitment to Postcolonial Theory. With the potential termination of Professor Goswami, following the passing of Emmanuel Eze more than two years ago, Darrell Moore would remain the only member in the department with a teaching dossier in Postcolonial Theory. When the department hired a new faculty member this winter, it invited no candidates who could contribute to a specialization in Postcolonial Theory. No graduate courses in Postcolonial Theory are scheduled for the coming year. The department has even recently redacted from its publicity materials the offerings of Postcolonial Theory and Critical Race Theory that were once mentioned. In the absence of concrete commitments to this "essential and vital part of contemporary philosophy," there is no reason to believe that the department plans to support a specialization in Postcolonial Theory in

the future.

### II. Meeting with the Chair and Graduate Director

Bearing in mind these inconsistencies in the faculty letter, we would also like to address the fact that on 1/28/2011, approximately 20 graduate students and instructors met with the Chair and the Graduate Director of the Department of Philosophy to voice concerns relating to the case. During that meeting, the Chair and Director's treatment of the above three points exacerbated rather than alleviated concerns.

In the face of the Majority Tenure Report, the Chair and Graduate Director expressed agreement about the problematic and unreasonable nature of the two abovementioned claims that Professor Goswami's ability to think was questionable and that her only acceptable publication was coauthored with her husband. This admission by the Chair and the Graduate Director, it must be recorded, expressly contradicts the faculty letter's insistence that the tenure meeting was characterized by nothing other than "informed and responsible judgment."

The Chair and the Graduate Director urged us, however, to maintain the perspective requisite to a seventeen page document in which the discussion surrounding Professor Goswami's case was, "on the whole," balanced and thoughtful. By insisting on the tenure review process, in general, as still balanced and thoughtful, the Chair and Graduate Director make an untenable claim. For if Professor Goswami's career is decided upon by a committee of faculty members with sound judgment, and if such an institutional structure makes each vote vital to the outcome, then even a single outlier making his or her decision on unjustifiable grounds compromises the larger process. In other words, to claim that "on the whole" the decision process was thoughtful, while there remained some unthoughtful views held by others, does not eliminate the nature of these views or how they affected the outcome of the process.

Lastly, when asked if the finding of an academic freedom violation in this case (the first in DePaul's history) gave them any pause, the Chair and Graduate Director stated that the finding raised absolutely no doubts in their minds about the viability of their tenure deliberations or the subsequent decision. Recalling that, in Professor Goswami's appeal case, the violation of academic freedom was intimately connected to a violation of proper procedure, the Philosophy Department's words and deeds warrant more scrutiny. For example, the confidence expressed by the Chair and Graduate Director cannot hide the fact that an ad hoc committee was formed in 2009 with the clear intent of preemptively terminating Professor Goswami's contract. Here, the Chair and Graduate Director undercut the authenticity of their touted commitment to Postcolonial Theory. If, in fact, issues of Eurocentrism (central to Postcolonial Theory) are of paramount importance to them, the mere suggestion of possible complicity (another key concept of Postcolonial Theory) should doubtless warrant a moment of self-reflection—especially in view of the documented historical involvement of both the University and Department in polarizing controversies.

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We hope that the foregoing remarks will allow for a more inclusive and transparent hearing in Professor Goswami's case. Institutional guarantees of fair conduct, as we have already said, require constant vigilance, assuring the veracity of claims made. We feel that this burden has come to rest also on our shoulders, and we hope that our concerns will be duly noted.

## Sex Toys and Academic Freedom at Northwestern University

By Peter N. Kirstein

Psychology Professor John Michael Bailey of Northwestern University on February 21, 2011 in his Human Sexuality course chose to present an optional class in which a woman was brought to orgasm by a motorized stimulant sex toy. The course topic is human sexuality. One course objective is that it "will treat human sexuality as a subject for scientific inquiry."

The following points strongly suggest to me that the professor was well within his rights and that his actions fall clearly within the American Association of University Professors 1940 Statement of Principles on Academic Freedom and Tenure.

1) The participants in the sex act were consenting adults and not students of the class. Faith Kroll and her fiance Jim Marcus volunteered for this "live sexual demonstration" in which Kroll was naked as Marcus activated the device. The participants were not coerced into this act or in any way threatened by the professor with any form of retaliation for refusal to participate. The participants to reiterate were not members of Bailey's class; that is a seminal point in countering any complaint of coercion or sexual harassment.

2) The demonstration was clearly related to the course material. It did not constitute controversial extraneous in-

struction unrelated to the class. AAUP encourages controversy in teaching but does caution against controversial pedagogy that is consistently unrelated to the course as defined in either a catalogue or a syllabus. Whether the action itself was of heuristic value for the educational mission of the class is not for the public or administration to determine. Professors have the right to determine content and pedagogy. It appears that the professor was exercising unusual but not unreasonable judgment in the specific area of advancing student knowledge related to course material.

3) The sexual orgiastic display was not a required component of the course. The incident was scheduled after the regularly scheduled class ended and students at Northwestern were free to exercise a decision to leave or stay. They were not ordered to ditch their next class if they were required to attend one. Students were not given extra credit for attending this event; that would clearly have been discriminatory against those students who chose not to attend. No student was, therefore, morally compromised or academically compelled to witness an incident that may have been construed as provocative and inappropriate to some.

4) The American Association of University Professors 1915 Declaration of Principles on Academic Freedom and

Academic Tenure states, "the scholar has professional functions to perform in which the appointing authorities have neither competency nor moral right to intervene." It is important that academic freedom be preserved in this incident. Any sanctions, any punishment or any retaliation against Professor Bailey would in my opinion, as vice president of the Illinois Conference of the American Association of University Professors and chair of its Committee A on Academic Freedom and Tenure, merit investigation.

While I do not speak for any organization and do not claim to possess all of the facts of Professor Bailey's optional after-class event, I strongly defend his rights to teach his own course in his own name and determine whether this type of sexual demonstration advances the pursuit of truth in a course on sexual identity. Whether it is an action that other professors would emulate is beside the point. Whether it contradicts societal norms is beside the point. Whether it could be construed as sexism is debatable but nevertheless not grounds for pedagogic censorship.

The essence of this episode is that academic freedom exists to protect free inquiry and controversial teaching. It exists to defend the professoriate from conformist insistence upon middle class or puritanical mores and provide a safe haven from those who wish to impose their ideologies onto another's classroom teaching.

# The Suspension of David Protes at Northwestern University

By John K. Wilson

In March, Northwestern University administrators removed journalism professor David Protes from teaching his class on investigative journalism in the spring quarter. Students in Protes' class wrote a petition protesting his removal as the professor.

For years, Protes led classes of his students to investigate the cases of innocent convicts, many of them on Death Row in Illinois. Protes exposed police and prosecutorial misconduct, and brutal police torture taking place in Chicago. He and his students proved the innocence of many convicts. Almost certainly because of his classes, the Illinois General Assembly passed a law, signed by Gov. Pat Quinn in March, to abolish the death penalty in Illinois.

Apparently in retaliation, the office of Cook County state's attorney Anita Alvarez decided to go after Protes and his students in the appeal of convicted murderer Anthony McKinney. After Protes and his students found evidence indicating McKinney's innocence, prosecutors demanded their notes and even their grades. The key question in this dispute is what evidence had been provided to McKinney's lawyers, and what evidence was protected by journalistic privilege.

Northwestern officials think that Protes deceived them about what evidence was provided. Protes claims that he simply didn't remember what records had been turned over to McKinney's lawyers. It's possible—but in no way proven yet—that Protes was not honest in his dealings with administrators. Until that clear and convincing proof is offered, no university can remove a professor from a class without endangering academic freedom.

Normally, faculty are only removed against their will from teaching a regularly scheduled class because of the most severe reasons, when they are proven guilty of serious misconduct by a jury of their peers, or when their continuing presence in the class endangers the safety or rights of their students. Nothing like this has even been alleged in this case.

No one can question Protes' qualifications to teach a class on investigative journalism. Protes may be the most highly regarded journalism professor in the country, because the investigations conducted by his students dramatically changed the lives of numerous innocent people and the laws of the state of Illinois. Numerous students cite his class as the most significant one they ever took, and his teacher ratings are among the highest of any professor at Northwestern.

Northwestern University hired former U.S. Attorney Anton Valukas to investigate Protes and the Innocence Project, which was a highly unusual step. It is common practice for universities to having faculty investigate faculty; hiring a former prosecutor to investigate a professor is almost unheard of in academia.

Likewise, any punishment of faculty should only come from a determination of misconduct by a faculty committee, which also recommends an appropriate penalty. However, removal from teaching a class is among the most serious penalties that a faculty member can receive. The removal of a teacher should only be undertaken when there is clear evidence established before a faculty committee.

And that's exactly what Northwestern requires. Northwestern's faculty handbook is not a well-written document. The section on academic freedom merely quotes the outdated language of the AAUP Statement of Principles that the AAUP updated over

40 years ago.

But it is quite clear on the rules and procedure for a suspension: "If the University believes that the conduct of a faculty member, although not constituting adequate cause for termination, poses a sufficiently grave infraction of the principles of academic freedom or of faculty responsibility to justify suspension from service for a stated period or some other severe sanction, the University will follow the procedures below in conducting proceedings that may impose such sanctions."

The removal of a faculty member against his will from a regularly scheduled class due to allegations of misconduct is the quintessential definition of a suspension. A suspension is still a suspension even if the term is not officially used. Although the administration is given broad latitude in scheduling classes, the removal and replacement of a teacher less than two weeks before a class begins, for no reason other than allegations of misconduct, cannot be defined as anything other than a suspension.

In the case of a suspension or termination, the faculty handbook requires a "rea-



## NORTHWESTERN UNIVERSITY

sonably particularized statement of charges against the faculty member by the president of the University or the president's delegate." These charges "shall be referred to the Faculty Committee on Cause for mediation." If no resolution is made, then the Administration can continue proceedings before the University Faculty Reappointment, Promotion, Tenure, and Dismissal Appeals Panel (UFRPTDAP).

What is most notable, however, is the failure of the Administration to follow its rules on temporary suspensions: "Pending a final recommendation by the Panel, the faculty member will not be suspended or assigned to other duties in lieu of suspension, unless immediate harm to the faculty member or others is threatened by continuance." Not only is there no evidence of "immediate harm" compelling a suspension in the Protes case, but a temporary suspension cannot take place without the first stages of the suspension process—a written statement of charges—being made. Nor does it appear that the required consultation with the UFRPTDAP committee was ever made, as is required: "If the Administration wishes to suspend a faculty member pending an ultimate recommendation on the faculty member's status through the hearing procedures, the Administration will consult with the UFRPTDAP Executive Committee concerning the propriety, the length, and the other conditions of the suspension."

If the Administration could temporarily or permanently remove faculty from any teaching or research assignments and avoid any of the rules for suspension by using a different name, it would make a mockery of the Faculty Handbook. According to



the story in the *Daily Northwestern* quoting director of Undergraduate Education Michele Bitoun, "Bitoun also said that as a matter of Medill policy, professor changes can be made at any time." By the

Northwestern Administration's logic, they could ban Protes from ever teaching another class without needing to charge him with any misconduct. Clearly, this cannot be true. A suspension is a suspension, no matter what excuse is used to justify it.

It does not appear that the Administration followed any of these rules required

**These procedures are important to protecting the right of faculty to teach freely, and the right of students to be taught. It is dangerous to allow arbitrary punishment of faculty without any proof of misconduct.**

by the faculty handbook. These procedures are important to protecting the right of faculty to teach freely, and the right of students to be taught. It is dan-

gerous to allow arbitrary punishment of faculty without any proof of misconduct. It is dangerous for the administration to issue punishments such as suspension before any evidence of misconduct is offered or a final determination of appropriate penalty is made. Northwestern University's statement on the Protes case does not answer any of these issues, except to indicate that an investigation of Protes is ongoing (which would make the suspension illegitimate under Northwestern's rules). (Northwestern officials refused to comment on the violation of the Faculty Handbook procedures.)

Protes agreed under the extreme duress of an illegitimate suspension to take a leave of absence in the Spring semester. But this fact should not cause anyone to ease up the pressure on the Northwestern administration and demand an explanation for why they violated the Faculty Handbook and the rules of the university in suspending Protes from his class.

In the decades that I've spent studying academic freedom, I've never encountered a case where a university of Northwestern's prestige has violated a faculty member's due process rights so completely as this Administration has.

The faculty should be outraged at this violation of shared governance and due process, and angry to learn that they can be banned from their classes, their labs, and their offices at the whim of an administrator. The students should be appalled to learn that they pay vast sums of tuition money only to have their faculty removed from classes for unknown reasons at the last minute.

First, administrators need to file formal charges of misconduct, and prove to the satisfaction of a faculty committee that Protes intentionally engaged in unethical conduct that violates the fundamental rules of Northwestern. Then they need to show this alleged misconduct is directly relevant to Protes' qualifications as a professor, and so extreme that it would outweigh all of the positive reviews of Protes' teaching and research as to require something virtually unknown in the history of the Northwestern University: the termination of a tenured professor.

Northwestern administrators must immediately provide clear and convincing evidence that Protes committed a serious academic crime. Their failure to do so can only lead to the conclusion that this suspension had no legitimate basis.

The fact that Protes is deeply despised by powerful political interests for his activism on the death penalty makes the violation of University procedures in this case all the more troubling. Is the Administration making a sound academic judgment about the qualifications of a journalism professor, or is it seeking to punish a professor who it believes may have embarrassed the institution?

Northwestern University needs to immediately overturn this suspension and restore Protes to his classroom until it can follow proper procedures and prove misconduct that justifies such an extreme penalty.

### AAUP Letter to Northwestern on David Protes

March 18, 2011

Dear President Schapiro:

Dr. David Protes, professor in the Medill School of Journalism, has consulted with our Association as a result of the decision earlier this month by Dean John Lavine to remove him from teaching his assigned course in investigative journalism in the spring quarter (which begins today). Professor Protes reports that the notification of his suspension came without warning, that no stated explanation for it has thus far been provided, and that it is being imposed without affordance of opportunity for an independent faculty hearing.

Under Regulation 7a of our Association's enclosed Recommended Institutional Regulations on Academic Freedom and Tenure, incorporated in all essential respects in Northwestern University's official policies, if the administration "believes that the conduct of a faculty member ... is sufficiently grave to justify the imposition of a severe sanction, such as suspension from service for a stated period, the administration may institute a proceeding to impose such a severe sanction." The proceeding, akin to one in which dismissal is sought, is to be an adjudicative hearing of record before an elected faculty body in which the administration bears the burden of demonstrating adequacy of cause for the sanction it seeks to impose. See our enclosed report, *On the Use and Abuse of Faculty Suspensions*.

Our concerns in this matter are heightened by press accounts of the events which preceded Professor Protes's suspension, particularly a longstanding conflict between him and the dean which reached a head only days before his removal from the course that was about to begin. These accounts suggest to us the possibility that the decision to remove Professor Protes from the course may have been taken for reasons that violate his academic freedom.

The information in our possession relating to the case of Professor Protes has come to us primarily from him, and we realize that those at Northwestern with administrative responsibilities may have additional information that would contribute to our understanding of what has occurred. We shall therefore welcome your comments. If the facts as we have recounted them are essentially accurate, we urge, absent demonstrated cause or threat of immediate harm, that Professor Protes be informed of reinstatement as soon as feasible to his regular teaching duties.

Sincerely,

B. Robert Kreiser

Associate Secretary, AAUP

## FACULTY UNIONS continued from page 1

working conditions for teaching and research assistants needed improvement. The only way to get them was to organize. A few years later they helped part-time faculty organize. Though it is not guaranteed, unionized faculty are more likely than their nonunionized counterparts to promote the welfare of all members of their college or university community.

Faculty unions are not simply about their own bread and butter issues. Indeed research shows that, although unionized community college faculty earn more than their nonunionized counterparts, full-time unionized and non-unionized faculty at 4-year institutions earn about the same. But those are average figures. The AAUP has unionized campuses in Ohio and elsewhere—and jointly affiliated units—that have done very well in comparison to their nonunionized peers. Moreover, when comparisons with peer institutions show that campus employees are poorly compensated, that information can be an effective argument for salary increases at the bargaining table.

Most unionized faculty, indeed, have stronger benefits packages, and union contracts have proven good protection during a recession. Contractual raises were honored, and contracts prevented administrators from imposing furloughs without faculty consent.

Yet the need to protect and enhance shared governance is instead often what motivates faculty members to form unions. Shared governance refers to the structures the administration and the faculty put in place to assign primary responsibility for various elements of campus life. As professional educators, faculty members are particularly concerned with their role in curriculum design, setting hiring priorities, and shaping instructional budget decisions.

Unfortunately, on too many campuses the faculty is being supplanted in its areas of expertise by administrators who have no experience in or training for making decisions on academic and educational issues. A union contract is the best way to secure agreements on these matters. Thus a unionized faculty often has a better chance

of putting its professional judgment to use, judgment that can otherwise be depreciated or dismissed.

Since the parties to a contract negotiation can have different interests and priorities, the process can be tense and difficult. Negotiations can break down if either or both parties are acting in bad faith or are unwilling to compromise. Yet the process offers a structure fundamentally directed toward resolving conflicts, not exacerbating them. Union negotiations can in fact restore working relations between faculty members and administrators on a campus where they have broken down.

As corporatization increasingly penetrates campuses, as business men and women come to dominate boards of trustees, and as a burgeoning class of career administrators with no classroom experience takes charge of decision-making, faculty members often realize they need to level the campus playing field if they are to have a chance to win support for the values they believe should define higher education.

Of course for the thousands of faculty members who teach part-time or full-time on temporary appointments, most of them cut out of any meaningful role in campus governance, unionization is literally the only route to a living wage and decent working conditions. Not only may they have no health care coverage without a union contract; they may have no office space or campus mailbox without one.

But even tenured faculty increasingly feel disempowered. A faculty senate can bewail a campus trend to decrease investment in the primary mission of instruction. A union can negotiate to guarantee reinvestment in instruction. As one common slogan has it, “United We Negotiate, Divided We Beg.”

A union can negotiate actual agreements for hiring the teachers departments need. Faculty unions have negotiated agreements increasing the proportion of the full-time faculty necessary to provide students with fully committed teachers. Many such faculty contracts benefit students by establishing required office hours, teaching loads, and student course evaluations.

## ROAD TO PROSPERITY continued from page 1

In these times we need serious strategies for recovery that bring people together and build our communities up, not dogmatic ideologies for regression and repression that tear communities apart and bring us down. And whatever creative strategies we develop must invest in both the public and private sectors of our economy and society, as well as foster greater educational attainment.

You cannot cut your way to prosperity. If we balance our state budgets by cutting this generation’s health, safety, and educational opportunities we cheat them and our future.

The facts of our history are clear. Significant public investment in various forms of infrastructure has yielded great national returns and prosperity. The growth of major American industries has depended on public investment and subsidy: the railroads needed public lands and military protection to expand; the auto industry required public construction and maintenance of roads and bridges; agribusiness and pharmaceutical industries rely upon public investment in university research to develop and test methods and products; and various Internet companies required federal investment in building the Internet.

Similarly, we have grown as a country by investing in public infrastructure and employees in health, sanitation, and public safety. And we have fostered prosperity by investing in education: at the turn of the last century we made secondary education available to all; in the post-World War II era at the federal level we invested in a GI bill and then in grant and loan programs that expanded educational opportunity in higher education, and we invested at the state and municipal level in constructing thousands of state and community colleges to make higher education available for all.

It is time to stop demagogically attacking public sector employees and to start seriously attacking the challenges we face not simply in balancing short-term budgets but more importantly in constructing a real road to prosperity in our states and our nation. Bashing, trashing and slashing public sector employees may make for good copy. It does not make for good public policy.

Our nation’s growth historically has been defined by expanding, not rescinding the rights and educational opportunities of our employees and citizens. If we are to move forward as a country, we cannot afford to go back in time. The American Association of University Professors stands with our public sector employee colleagues who are under fire. We call for an end to the attacks and for a focus on how together we can build a prosperous future for our states and nation.

## On Criteria and Procedures in the Hiring and Promotion of Faculty

**Position Statement by the Faculty Advisory Council of the IBHE (Illinois Board of Higher Education), March 18, 2011**

It is our view that faculty are the backbone of our institutions and that the quality of higher education depends on recruiting and retaining excellent faculty. Towards that end it is imperative that institutions of higher learning have in place clear procedures and criteria on the hiring, evaluation and promotion of their faculty. Further, it is critical that these procedures and criteria are transparent and adhered to in a consistent manner in all cases. Hiring and promotion procedures should be based on standards and criteria developed by the faculty in collaboration with the administration, and when appropriate, should follow the guidelines established by the American Association of University Professors.

Clearly defined criteria and standards regarding recruitment, along with effective procedures in the evaluation and promotion of faculty, are the basic foundations for a healthy work environment. Such standards ultimately ensure quality and faculty dedication in an atmosphere of enhanced productivity, transparency and accountability. Academic freedom, tenure and due process are essential elements to this academic work environment. These can ensure a rich and learning environment not only for faculty but also for students who look to their instructors as sources of guidance, information and enlightenment. If the intellectual endeavors of faculty are threatened or compromised, it necessarily follows that the intellectual endeavors and experiences of their students will be diminished. When violations of established criteria and procedures occur they can lead to unnecessary tension, expensive legal procedures, low faculty morale and the waning of trust between faculty and administration. We strongly encourage all institutions of higher learning in our state to maintain, through their own faculty governance groups, clear standards, criteria and procedures on matters of hiring, tenure and promotion for faculty, to which all parties in the institution are expected and committed to adhere.

Union contracts can also win contractual status for the fundamental values of academic freedom and shared governance. A legally binding contract is a much stronger guarantee than a faculty or staff handbook. The AAUP recommends specific language to secure these and other critical values, and union negotiators for faculty members, academic professionals, or graduate student employees can get that language included in contracts. A good union contract can protect the right to speak forthrightly about campus policies. Without that protection, faculty members and academic professionals are vulnerable to sanctions or dismissal if they disagree with administration policies or proposals. A corporation can demand conformity from its employees; a university should not be able to do so.

On many campuses, faculty members and other employees can be punished for vague, improper, or unsupported charges without any opportunity to defend themselves or confront their accusers. Sometimes the only appeal is to the very administrator who acted rashly in the first place.

Union contracts typically establish clear, enforceable procedures to assure that faculty members, academic professionals, and graduate student employees receive due process. And they make the experience of pursuing grievances far more orderly by assigning them to dispassionate negotiation. For some people the due process clauses in a contract will prove its single most important feature. They ensure that justice can prevail at critical moments in a professional career.

Maintaining these values requires constant work. As I argue in my book *No University is an Island* (New York University Press, 2010), faculty unions can grow stale over time, the passion of their founders can be supplanted by the complaisance of later generations. Those faculty unions that have lost touch with their larger, community oriented social missions need to recover them. The current assaults on public employee unionization may trigger exactly that sort of renaissance.

Critics of faculty unionization often argue that faculty members are not like workers in an auto plant. How can such individualistic people benefit from a union? But as the paragraphs above suggest, a contract for faculty members or other academic professionals is a very different document from one for an assembly line

worker. A good higher education union contract protects the freedom of choice and expression we value in members of a university community. It should embody fundamental universal AAUP principles of academic freedom and shared governance but also reflect an institution’s distinctive character and mission and the priorities of the local faculty.

A well written union contract helps faculty members become the individuals they want to be. The disparaging contrasts anti-union commentators have drawn between faculty members and industrial workers are fundamentally contemptible. Neither industrial nor campus solidarity is a form of herd mentality.

Faculty solidarity is a collective method for securing individual rights and freedoms and a way to give authority and leverage to the values faculty endorse. Collective bargaining restores the balance of power that has been distorted by increasingly centralized administration.

In that context, the wave of anti-union legislation that has overtaken state houses in 2011 is revealed to be far more sinister than an effort to cut investment in public higher education, wretched though that is for equal opportunity in a democratic society. It embodies a much larger cultural agenda, larger even than the aim of undercutting unions’ impact on future elections.

In the case of the attack on faculty unions at public colleges and universities, it is, I believe, an effort to produce docile campuses, campuses where faculty members and academic professionals who speak their minds can be cast out of the community because they no longer have unions to protect them. That is one impulse behind the special vengeance Ohio legislators have focused on faculty unions.

Convinced by aging culture warriors that American campuses are overwhelmingly progressive, Republican legislators want to legislate a silent Spring in American higher education. Those who care about higher education and academic freedom should spare no effort to defeat these efforts and restore the fundamental right of all employees to organize their voices as they choose.

*Cary Nelson is president of the AAUP and Jubilee Professor of Liberal Arts and Science and Professor of English at the University of Illinois at Urbana-Champaign.*

# Wisconsin Governor Is Not Telling the Truth

By AAUP President Cary Nelson

Disguising it as an effort to balance the budget, Wisconsin's governor Scott Walker is seeking effectively to strip most public employees of their ability to negotiate their salaries, benefits, and working conditions. With salary increases to be limited to the cost of living, those teachers now denied a living wage will spend the rest of their lives in state-enforced poverty.

What's more, several key provisions in Walker's proposed legislation have nothing to do with budget savings. They are about breaking unions and making public employees second-class citizens. Consider this: unionized employees all across the county have charitable contributions, parking fees, union dues, and other expenses automatically deducted from their salaries. Walker is only going to prohibit the deduction for union dues.

Then consider this: unionized employees have always had the right to call for a vote to decertify their union, but Walker wants to harass unions by requiring a new vote to certify a union every year. Not only will unnecessary annual votes held all across the state force employees to take time away from their other duties; they will also waste state revenues. Why would a governor concerned about the Wisconsin budget want to spend money this way?

Another nasty strategy is a proposed requirement that unions have to negotiate a new contract every year. Of course both rational state budgeting and personal financial planning benefit from multi-year contracts. What's more, union contracts can take weeks or months to negotiate. Wisconsin's public employees will have to waste time and money on nonstop bargaining. And the state, once again, will take on added costs itself. Walker is clearly willing to spend state revenues on union busting.

Unions often win "fair share" agreements so that all employ-

ees who receive union-negotiated salaries and benefits must pay a portion of the union's expenses. Walker would make that illegal.

If all the provisions pass, faculty members and graduate students in fact would be singled out and lose all their bargaining rights. Two campuses that recently established faculty unions by democratic vote would have them taken away. The graduate student employees would be stripped of their unions. University of Wisconsin hospitals would no longer be unionized. Their hard won voice in campus governance would be silenced.

In the only sections of the law that do result in savings, Walker wants to restrict salary increases and require employees to pay more for health care and retirement benefits. Those provisions should be subjects of negotiation, not policies imposed by the legislature.

Governing by bluster and disinformation is little better than demagoguery. Wisconsin's citizens deserve better. Public employees provide critical services and bind our communities together. Scapegoating them tears our communities apart. Willfully depressing their wages and benefits only further depresses the state economy. Everyone who believes in employee rights and a healthy democracy should oppose this deceptively promoted legislation.

Like so many other principled struggles, the battle in Wisconsin to retain faculty rights is really a struggle on behalf of faculty members and public sector employees everywhere. It is also a struggle over the soul of our democracy. Colleagues in Michigan and Ohio are already at work to defeat similar legislation in their states, though it appears the Wisconsin legislature is poised to be the first that acts. In the coming weeks and months, a massive local and national campaign will be required if public employees are to retain the collaborative workplace that collective bargaining at its best makes possible.



AAUP supporters join a Wisconsin solidarity rally in Washington, DC on Feb. 23, 2011.

## AAUP News Briefs

### DePaul Bans Cannabis Group

DePaul administrators have banned recognition of a student group, Students for Cannabis Policy Reform (SCPR). DePaul Vice President for Student Affairs James R. Doyle explained the ban to the Foundation for Individual Rights in Education, "Considerable research indicates that the use of cannabis does not contribute to healthy decision-making." Of course, considerable research indicates that the use of censorship does not contribute to healthy decision-making on campus, too. The SCPR is a group that promotes changes in political policy, and cannabis can be used for many purposes other than smoking. Doyle claimed, "My issue was advocating a group on campus that was interested in legalization of the drug. I would, however, fully support a program for open discussion and debate on campus, and that is the main difference." But the only way to have open debate of an issue is to allow the existence of student groups that argue any side of the topic they want to.

### Republicans Use FOIA to Target Labor Professors

The Republican Party of Wisconsin filed a Freedom of Information Act (FOIA) request against University of Wisconsin professor William Cronon, seeking all of the emails he wrote and received about the labor dispute in Wisconsin. The AAUP has urged the university not to comply with the request. Cronon wrote a widely-read New York Times op-ed criticizing the Republican governor of Wisconsin Scott Walker. The Mackinac Center For Public Policy submitted FOIA requests to the Labor Studies Center at the University of Michigan, the Douglas A. Fraser Center for Workplace Issues at Wayne State University, and Michigan State University, seeking all emails from labor studies faculty that mention Scott Walker, Wisconsin, Madison, Rachel Maddow, or the collective bargaining situation in Wisconsin. In light of these attacks on pro-labor professors, all faculty may be wise to use a private email address for all their work in order to prevent FOIA requests or administrative spying.



## Campaign for the Future of Higher Education

More than seventy faculty leaders met in Los Angeles in January at the invitation of the California Faculty Association to construct a positive counter-narrative in the national debate over the future of American higher education at a time when public higher education is at great risk. They identified April 13 as a national day of taking class action in support of higher education, with faculty organizing various actions at the local level.

They also established the following guiding principles for the Campaign for the Future of Higher Education, which will be formally launched May 17:

1. Higher education in the twenty-first century must be inclusive; it should be available to and affordable for all who can benefit from and want a college education.
2. The curriculum for a quality twenty-first century higher education must be broad and diverse.
3. Quality higher education in the twenty-first century will require a sufficient investment in excellent faculty who have the academic freedom, terms of employment, and institutional support needed to do state-of-the-art professional work.
4. Quality higher education in the twenty-first century should incorporate technology in ways that expand opportunity and maintain quality.
5. Quality higher education in the twenty-first century will require the pursuit of real efficiencies and the avoidance of false economies.
6. Quality higher education in the twenty-first century will require substantially more public investment over current levels.
7. Quality higher education in the twenty-first century cannot be measured by a standardized, simplistic set of metrics.

# Join the AAUP!

## The Greater Our Numbers, the Stronger Our Voice

If you care enough about the future of higher education to be an AAUP member, we hope you'll now take the next step and encourage your colleagues to join at [www.aaup.org](http://www.aaup.org).

The AAUP is introducing a new simplified dues structure based on income:

- \$30,000 and less: \$45**
- \$30,001-\$40,000: \$60**
- \$40,001-\$50,000: \$80**
- \$50,001-\$60,000: \$100**
- \$60,001-\$70,000: \$140**
- \$70,001-\$80,000: \$165**
- \$80,001-\$100,000: \$185**
- \$100,001-\$120,000: \$205**
- More than \$120,000: \$225**

The most effective way to get new members is to go door to door to your colleagues' offices, because people are more likely to join if asked directly and offered the chance to talk with you in person about the work of the AAUP on behalf of the profession, at the local, state, and national level. Give them the new dues schedule, ask them what their key concerns about higher education are, and try to show them what AAUP is doing to help. See if they will join while you are there.

**To Join the AAUP, Visit [www.AAUP.org](http://www.AAUP.org)**



Join former AAUP president Jane Buck in the "I'm Still Fighting" campaign.

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