



PRESIDENT'S MESSAGE

by Nicholas C. Yovnello

AFTER THE NOVEMBER ELECTIONS

The November elections brought major changes—a 47-33 advantage for the Democrats in the Assembly and a Democratic majority in the Senate. Now, according to *The Star-Ledger*, the state is a “party bastion” from “governorship to Legislature.”

As the related article on page 1 indicates, the Council supported many of the Democratic victors. Now, this “party bastion” has to deliver for both state employees and working families. The Democratic majority and the McGreevey Administration have a lot to do.

The McGreevey administration and the new Democratic-controlled legislature must use the new legislative majorities to address the many major unmet needs of state colleges/universities in particular and public higher education in general.

The Administration will begin by floating a bond referendum in November 2004 that will partly address these needs. They are considerable. According to the Commission on Higher Education, New Jersey's institutions of higher education have unmet academic and capital needs totaling over \$5.8 billion. The public institutions

themselves are carrying too much debt—they are the most leveraged public institutions in the nation.

Despite the State's fiscal woes, the Legislature must increase the State's investment in operating aid and student assistance programs. The salary transfer (Interdepartmental Account) must be fully funded if the state colleges/universities are to be able to begin to catch up after many years of underfunding. The indirect taxation of students by using tuition and fee increases to cover the funding gap must stop.

The Legislature and the Governor have yet to deal with some of the Council's legislative initiatives. We recently succeeded in getting two public employee members appointed to the State Health Benefits Commission, and secured access to NJPLUS through the State Health Benefits Plan for part-time employees and adjunct faculty. However, many of our legislative priorities have yet to be enacted. During the “lame duck” session of this Legislature, we are targeting the following:

Domestic Partnership Legislation. A-3743, sponsored by Assemblywoman Weinberg (D-37) would



extend to domestic partners the same rights as married couples in the areas of state health benefits and pensions, inheritance, hospital visitation and medical decisions.

Subcontracting and Anti-Privatization

Anti-subcontracting bills (A-1714 and S-1537) would protect jobs in public schools and colleges/universities by prohibiting the employer from subcontracting work performed by bargaining unit employees during the term of a union contract. Upon expiration of a contract, the employer must negotiate over the impact of the decision to subcontract. The anti-privatization bills (A-706 and S-1543) establish strict criteria for privatization of state services that would require a showing of a substantial savings to the State independent of labor costs. If in fact there are no real savings, public employee unions could pressure the State not to privatize.

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Full-Time/Part-Time and Adjunct State-Union Agreements Ratified

Both the Full-Time/Part-Time and Adjunct State-Union Agreements were overwhelmingly ratified by large margins on Wednesday, October 15, 2003. Ballots were counted by the American Arbitration Association. The new agreements run from July 1, 2003 - June 30, 2007.

The Full-Time/Part-Time Agreement vote was:

1,517 - YES - 85%
270 - NO - 15%

The Adjunct Agreement vote was:

847 - YES - 96%
32 - NO - 4%

Several hundred more votes were cast by both units in this ratification than for the 1999-2003 agreement.

DEMOCRATS WIN CONTROL OF STATE LEGISLATURE

91% of Council-endorsed candidates are victorious

In a startling political development, the Democratic Party won a decisive victory in the elections for the state legislature, which gives it control of both the Assembly and Senate for the first time since 1991. The Democrats added six seats to their majority in the Assembly and broke the current tie in the Senate by winning two more seats.

The Council endorsed ninety-three candidates in thirty- six out of forty election districts. Eighty-five of them won, including four in hotly-contested races: Ellen Karcher, who ousted Senate President John Bennett in the 12th district and Senators Stephen Sweeney (D-3), Paul Sarlo (D-36) and Joseph Coniglio (D-38), who fended off major Republican challenges. The Council Political Action Committee (PAC) contributed to each of their campaigns and Presidents of locals with members in their districts did a direct mailing urging a vote for these candidates. Council's PAC contributed \$4000 and various Locals gave \$8,450 in support of our endorsees.

(Continued on page 4)

KFT Rallies Against Threat to Dismiss 30 Untenured Faculty



KFT President Dean Casale addresses rally

On Wednesday, November 19th, the Kean Federation of Teachers, Local 2187 held a protest rally in support of "the Kean 30", untenured faculty who received letters from Interim Provost José Quiles stating he would not recommend their re-appointment for the 2004-2005 academic year. Although the Interim Provost cited weaknesses in teaching, scholarship and/or service, nearly the entire targeted faculty received positive recommendations from both their department and college retention committees. This action is unprecedented not only at Kean University, but also in the recent history of the State Colleges and Universities.

The University sent the Interim Provost's letters to junior faculty via certified mail on Friday, November 7th, so that most of them were delivered on Saturday or on the following Monday. By Monday November 10th, the KFT and Council learned of the magnitude of the threatened non-reappointments. The Council took immediate action to convince the University to extend its deadline for faculty appeals to the President from Friday, November 14th to Friday, November 21st. The Council staff spent many hours assisting affected faculty with writing their appeals.

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Demonstration Held To "Make Montclair State University Union Friendly"

On October 27, Montclair AFT Local 1904 held a successful demonstration on the MSU campus to protest the anti-labor policies of University President Susan Cole.

Montclair Adjunct Local 6025, the MSU CWA chapter, and representatives of the Council and the

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KFT Rallies Against Threat to Dismiss 30 Untenured Faculty

(Continued from page 1)



KFT Emergency Meeting

Overflow Crowd at Emergency KFT Meeting

The KFT decisively responded to the University's attack by turning what was supposed to be a membership luncheon on November 12th into an emergency meeting. Over two hundred KFT members packed the Little Theatre, where KFT president Dean Casale informed them of the University's action against the junior faculty. The KFT distributed copies of a resolution condemning the University for the threatened dismissals and for flouting the peer review process. During the meeting, many senior faculty denounced "managerial intimidation" and declared support of their junior

colleagues. Those at the meeting not only signed the resolution but also voted unanimously to pass it.

KFT Holds Protest Rally

The KFT planned the rally for Wednesday, November 19th during "College hour," when no classes are held. Despite short notice, a crowd of over 200 faculty, students and members of other unions massed at the clock tower. KFT officers as well as students addressed the crowd. During the rally, unit members, students and volunteers circulated a letter directed to Governor McGreevey, which informed him of the dire situation at Kean, including the University's unprecedented threat to dismiss the "Kean 30." Many signatures were obtained.



Prior to the rally, the Kean University police chief told KFT President Dean Casale that University President Farahi had forbidden protesters from marching to the Kean Administration building, where Dr. Farahi has his office. Casale informed the gathering that he would walk to the Administration building alone to deliver the copies of the resolutions signed by faculty at the emergency meeting. When Casale began his walk across campus, supporters followed him carrying their signs, blowing whistles and chanting their support. The protest continued in front in front to the Administration building, as the police stood by.

After delivering the resolutions, Casale thanked rally participants for their support. He specifically noted the presence of a delegation from NJCU Local 1839, consisting of Council Vice President Ivan Steinberg, John DeBrizzi, President, and Bob Arey, past president. DeBrizzi and Arey briefly addressed the crowd. Casale also thanked the other unions on campus, Communication Workers Local 1031 and IFPTE Local 195 for their participation. Finally he thanked the Kean campus police for their professionalism during the rally.

University President Reacts to KFT Protests

A few days later, President Farahi acted on the thirty recommended non-reappointments. He reversed twenty-two, upholding the dismissal of at least seven full time and one part-time faculty member. This still amounts to nearly 10% of the untenured faculty and our preliminary investigation reveals that most of them received strong positive recommendations from their peers. The fight is far from over.

The KFT is planning additional protests on December 8, 2003 to coincide with the next Kean University Board of Trustees meeting.

To read the KFT's resolution or to see more photos of the rally, visit the KFT's website at www.kft2187.org.

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KFT Vice President Irwin Nesoff speaking at rally

CNJSL Officers and Staff Wish You and Your Families
A VERY HAPPY NEW YEAR!!!

Demonstration Held To “Make Montclair State University Union Friendly”

(Continued from page 1)

Essex-West Hudson Labor Council also participated.

The demonstration was held at a groundbreaking ceremony for a new academic building. Governor McGreevey was scheduled to appear, but did not. Local 1904 planned to use the opportunity to draw his attention to MSU President Susan Cole’s destructive labor relations policies. However Congressman William Pascrell (D-8), whose district includes the MSU campus and Congressman Steve Rothman (D-9), from Bergen County, both spoke at the groundbreaking cere-

ate in good faith. The Union has been forced to file more Unfair Labor Practices against the MSU Administration in the past five years than in the previous twenty-five years. Since President Cole has come to MSU, Local 1904 has been forced to spend over \$36,000 in legal fees to defend our members and our bargaining rights.”

President Cole’s latest offenses involve union released time and parking. She is seeking to abolish a twenty-five year practice whereby the Local purchases alternate on-load time for selected officers at the adjunct rate. In-



mony and pledged their support for organized labor. Upon leaving the event, they conversed with demonstrators and invited Local 1904 officers to meet with them to discuss their issues.

The 100 plus demonstrators distributed leaflets to the several hundred persons who attended the ground-breaking ceremony and held up signs with slogans: “New Academic Building Yes - Union Busting No” “Working Conditions Are Negotiable” “Honor Our Contract: Free Adequate Parking” “President Cole: Negotiate Don’t Dictate” and “Governor McGreevey - Appoint Labor Reps to the Board of Trustees - Make MSU Union Friendly.”

According to Local 1904 leaders, “MSU President Cole does not negoti-

sufficient alternate on-load time makes it impossible for union officers to carry out their responsibility to protect the rights of unit members. Thus, Cole’s actions amount to union busting.

A Local Agreement requires that MSU provide “free and adequate” parking for faculty and staff. By eliminating more than 300 parking spaces, the Administration has forced many faculty and staff to pay for parking at the new Red Hawk Deck. Paying for parking amounts to a unilaterally imposed pay cut.

The new academic building is being constructed on a former faculty and staff lot, which prompted one of the demonstrators to remark “It’s kind



Local 1904 President Catherine Becker speaking to press

of nostalgic standing here on my former parking space.”

Another longstanding MSU issue involves lack of union representation on its Board of Trustees. Most of the students at New Jersey’s state colleges and universities come from working class families. Yet, the overwhelming

Cable TV News 12 and the *Montclair Times* gave extensive coverage to the demonstration, quoting both demonstrators and President Cole. Although NJN broadcast a 10 second spot that did not mention the demonstration, the *Record* covered the event and quoted several Local



CWA Local supporting Local 1904

majority of MSU’s Board of Trustees comes from the corporate world. The MSU Board of Trustees -- and all Boards of Trustees -- should include representatives from organized labor, who can represent the views of working people and who can articulate the needs of workers on a unionized campus.

1904 members favorably.

According to Local 1904 President Catherine Becker, “More than new buildings are needed at MSU. We hope our demonstration will help lead to improved working conditions of all employees at MSU. We need to continue the fight to change the atmosphere on campus from one of intimidation and unilateral administrative mandates to one of collegiality and cooperation.”

HAPPY HOLIDAYS

DEMOCRATS WIN CONTROL OF STATE LEGISLATURE

(Continued from page 1)

Three candidates who are also union leaders i.e. "labor candidates," were victorious: Sweeney, from Local 399, Iron Workers Union, Coniglio, from Local 14, United Association of Plumbers as well as Assemblyman Joseph Egan (D-17) from Local 456, International Brotherhood of Electrical Workers.

The Council suffered significant setbacks in only two races, where two strong pro-labor and pro-higher education incumbents were defeated. They were Senator George Geist (R-4), who lost a very close race to Democrat Fred Madden and Assemblywoman Arlene Friscia (R-19), who, after losing the Democratic line in a bitter primary battle, went down to defeat as a Republican.

Democratic control of the State House places the Council in a better position to achieve greater success in Trenton than it did in the last session. However, in January, when the new legislative session begins, all bills from the last session must be re-filed and each bill must begin from scratch. The Council will have its work cut out for it to advance its legislative agenda

and will need your full and active support.

Meanwhile, the legislature is in "lame duck" session. During this period, the Council will work with the State AFL-CIO to get bills that have already passed one house of the legislature through the other house and onto the Governor's desk. These include A-1714, a bill that would restrict subcontracting in public education and A-706, a bill to limit the privatization of state services. We are also determined to put all our muscle behind A-3743, the Domestic Partner bill. **We urge you to use the CAPWIZ program to contact your elected official about this bill.** The program is easy to use and can be found at www.cnjscl.org.

The Council thanks all of you for supporting our political action program. Special thanks are due to those locals that made political contributions—Kean AFT Local 2187, NJCU, Rowan and Stockton and William Paterson Locals — and Kean University Adjunct Faculty Federation, Local 6024, for contributing personnel.

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PRESIDENT'S MESSAGE

(Continued from back page)

Tuition Assistance Bills (A-180, A-1684 and S-1303) in the Assembly and Senate would expand the Tuition Aid Grant (TAG) Program to include part-time undergraduate students.

Double Taxation of Pension contribution

S-1240, sponsored by Senator Ciesla (R10), would eliminate double taxation of public sector employee contributions to retirement savings plans and bring New Jersey in line with nearly all other state and private sector employees in the State, where income taxes are deferred until retirement.

New Legislation Needed

When the new Legislature meets in January, with the Democrats in the majority, the Council expects not only support but enactment of legislation that has languished in recent years. We

already have sponsors for legislation that will deal with the following topics:

Pension equity for full-time membership

Those members of our unit in PERS and TPAF received enhancements to their pensions through a change in the retirement formula. As a matter of equity, we are seeking an increase in the State contribution to ABP (Alternate Benefit Program), the pension program to which the overwhelming majority of our unit members belong. New Jersey's contribution to this plan is lower than that of the surrounding states.

Pension equity for part-time and adjunct faculty.

PERS, which covers our adjunct and part-time faculty members, does not give them credit for summer work.

STATE HEALTH BENEFITS ON THE WAY FOR ADJUNCT FACULTY

By mid or late December, all adjunct and part-time faculty and other part-time state employees who are members of PERS, a State retirement plan, should receive applications from their institutions to join the NJ PLUS plan within the State Health Benefits Program. Adjunct faculty will have approximately one month to enroll. Coverage will start on March 1, 2004.

Adjunct faculty will be responsible for the entire premium, but will achieve substantial savings over a similar private market plan. Due to administrative costs and separate rating, the premium for adjuncts will be 110% of the NJ PLUS standard rates.

For information on this benefit, including a breakdown of options and premiums, please go the Council website at www.cnjscl.org and click on "Adjunct Faculty Information."

Once the enrollment period begins on or about January 2004, you can also get information from the New Jersey Division of Pensions and Benefits website at www.state.nj.gov/treasury/pensions.

If you do not receive an application by January 1, please contact the Council office immediately. The Council will closely monitor College/University compliance with State regulations to insure that all employees who wish to participate receive this new benefit.

Part-time employees in other state agencies receive pension credit for work performed during the summer months.

College and university accountability

Since the demise of the Board of Higher Education, New Jersey's colleges and universities have often acted without regard to the higher education needs of New Jersey's citizens. If the colleges/universities are to serve us effectively and efficiently, there must be some restoration of higher education's accountability to elected officials. A central regulatory body to ensure that taxpayers' money and tuitions are directed to the needs of the state should be established.

Labor representation on Boards of Trustees.

The Governor has yet to fulfill his campaign promise to appoint labor representatives to all the boards of trustees. It is time to go further and set

aside seats on the boards of trustees that would be selected by the bargaining agents on each campus.

Collective bargaining

A bill that expands the scope of negotiations that would make class size, the academic calendar, etc. negotiable is long overdue.

We will need your help to implement this ambitious agenda and remind the governor and legislators of their campaign promises. As legislation is drafted and begins moving through the legislative maze the Council will be asking that you write to your representatives. Use the Council's CAPWIZ program, a tool to contact your legislators via Email. We have a link to it on our web site (www.cnjscl.org). **We are currently asking that you use the program to urge passage of A3743 (Domestic Partnership Legislation).**

The bulk of our legislative efforts are financed from COPE contributions. Please sign a COPE payroll deduction card to help finance what you



BUY UNION



© Copyright – New Agreement Defines When It's Yours

College and University employees have long had special concerns about copyright and the boundaries between their personal work and work done as part of their regular duties. For the first time, the State-Union Agreement addresses these concerns directly and provides significantly more ownership rights than existed in the past.

To the best of our knowledge, the State Colleges/Universities have not asserted any property rights to unit members' intellectual work products. But, given the lack of specific contract language in this area and the fact that more attention is being paid to these matters throughout academe, it became clear that contract language was needed.

During the negotiations for the new Agreement this past summer, the Council made an extensive Intellectual Property proposal to the State. The State and the College/University Presidents rejected it and countered with a draconian proposal that gave the institutions ownership of copyright in almost all instances. As negotiations continued, we were able to reverse the State's position and succeed in specifying more ownership rights for employees in the new contract.

Copyright Law

The Copyright Act of 1976 defined ownership of copyrightable works in a way that reinforced the right of an employer to assert ownership of the intellectual property of its employees. Section 201(b) of the Copyright Act provides that:

The employer or other person for whom the work was prepared is considered the author for [copyright] purposes ... *unless the parties have expressly agreed otherwise in a written instrument signed by them.* [Italics added.]

The Act also defines a "work made for hire" as:

"A work prepared by an employee within the scope of his or her employment. The general premise behind the work for hire doctrine is that an employer who provides office space, pay, benefits and often research tools is entitled to ownership rights in the works of its employees that are produced in the normal course of business. These works are often the direct result of the employer's instruction to an employee and the employee's corresponding execution of his or her duties. Generally, the courts have held that an employee's work falls within the scope of his or her employment when:

- It was the kind of work he or she is employed to perform;
- It was created substantially within authorized work hours and space;
- The purpose of the work, at least in part, was to serve the employer."

Our New Agreement

The new 2003-2006 FullTime/PartTime State-Union Agreement is the Union's "written instrument" that provides added protections for employees working under the contract. The Agreement clarifies the differences between an employee's work and a "work made for hire" that belongs to the employer. It also recognizes the considerable opportunity that employees at colleges and universities have to produce their own work and establishes their right to own that work — except when the employer has clearly assigned or commissioned the work. Having this Agreement limits the application of the law because we have negotiated specific allowable exceptions.

Before outlining the circumstances under which there is employee ownership, it is important to note what copyright is and what can be copyrighted. Copyright protects "original works of authorship" that are fixed in a tangible form of expression. The fixation in tangible form need not be directly perceptible so long as it may be communicated with the aid of a machine or device. Copyrightable works include the following categories:

1. literary works
2. musical works, including any accompanying words
3. dramatic works, including any accompanying music
4. pantomimes and choreographic works
5. pictorial, graphic, and sculptural works
6. motion pictures and other audiovisual works
7. sound recordings
8. architectural works

These categories should be viewed broadly. For example, computer programs and most "compilations" may be registered as "literary works"; maps and architectural plans may be registered as "pictorial, graphic, and sculptural works."

Several categories of material are generally **not eligible** for federal copyright protection. These include among others:

- Works that have not been fixed in a tangible form of expression (for example, choreographic works that have not been notated or recorded, or improvisational speeches or performances that have not been written or recorded)
- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as

distinguished from a description, explanation, or illustration

- Works consisting entirely of information that is common property and containing no original authorship (for example: standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources)

When Copyright is yours

The good news in all of the previously described technicalities is that the new 2003-2007 State-Union Agreement gives you ownership to your creative work. It is important that the State has agreed to acknowledge your ownership within the language of the Agreement and that the contract is no longer silent on this matter.

What follows are the circumstances under which you own it — especially when you are utilizing normal academic resources commonly available to you as an employee, such as the use of your office, computer, Internet services, library facilities, and/or office equipment:

- The copyrightable property is embodied in textbooks, manuscripts, scholarly works, works of art or design, musical scores and performances, dramatic works and performances, choreographic works, popular fiction and non-fiction works, poems, or other works of the kind that have historically been deemed in academic communities to be the property of their author, including lecture notes, course outlines, handouts, exercises and tests developed by employees to support their own teaching activities.
- The copyrightable property is embodied in a storage medium such as films, videos, audio recordings, multimedia materials, distance learning materials, and courseware.
- The copyrightable property has been released by the College/University to the creator.
- The copyrightable property is created on sabbatical leave with no more than incidental use of College/University facilities.
- Where the employee owns the copyright to the work, the employee shall retain all royalties or other benefits from any commercialization of the copyrightable property he/she owns. However, the College/University reserves the right to use the copyrightable property royalty-free as long as it is a viable course, unless the creator has specifically demonstrated that such royalty-free use significantly impairs the creator's right to commercialize the copyrightable property he or she owns. The employee may make reasonable revisions or updates at his or her discretion upon notification to the Provost/Vice-President for Academic Affairs.

tion to the Provost/Vice-President for Academic Affairs.

When the College/University owns the work

- The copyrightable property is embodied in a work that is commissioned by the College/University pursuant to a signed contract.
- The copyrightable property is embodied in a work that the employee is specifically assigned to create.
- The College/University indicates, in writing, at the time it grants an alternate assignment within load, whether it intends to claim ownership of copyright to any work made possible by the alternate assignment.
- The copyrightable property is created with **more than** incidental use of College/University facilities or financial support. "Incidental use" means normal academic use of resources commonly available to the employee such as the use of an employee's office, computer, Internet services, library facilities, and/or office equipment.
- The copyrightable property that is created in the course of research supported by the College/University which is funded by the College/University and/or a sponsor pursuant to a grant or research agreement, or which is subject to a materials transfer agreement, confidential disclosure agreement or other legal obligation affecting ownership, will be governed by the terms of such grant or agreement, as approved by the College/University. The College/University will ordinarily own copyright to such property.

The College/University ownership rights described above may be modified by an agreement between the creator and the College/University. Additionally, where the College/University owns the copyright to the work, it retains all royalties or other benefits from any commercialization of such work, unless there is a mutual written agreement between the creator and the College/University regarding shared ownership of copyright to such work.

There is one other area of ownership that must also be noted. Copyright ownership of any type of recorded synchronous course shall be determined by mutual agreement between the creator and the College/University. The parties shall enter such agreement prior to the recording of the course.

Copyright Caveats

Undoubtedly, disputes over ownership will occur under the provisions of the new agreement. The body of interpretative decisions under our new Agreement will grow with each dispute over the ensuing years. However,

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© Copyright – When It's Yours

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the new language defines from the outset what your ownership rights are without your having to first engage a very expensive copyright lawyer.

If you are creating a copyrightable work, it is very important to clearly understand if your institution has assigned or commissioned you to do it. If it has, get it in writing and don't sign any document until you are certain that you fully understand the specific implications of the document. Contact the Council office if you have any concerns regarding this matter.

If your institution hasn't assigned or commissioned you to create a work — it's yours. However, it is still a good idea to keep a log of your use of the institution's resources when you

are working on your own projects. While you may never face questioning, it is good to have records.

Even if you don't think there are future riches from potential commercialization of your creative work, and in order to maintain control over a future use, it is vitally important that you assert your claim to ownership of your intellectual property when you're sure it's yours as follows:

- A notice of copyright "© 2003 Jane Doe," should be affixed to all work products. If the work is unpublished, the notice takes the form "Unpublished Work © 2003 Jane Doe"
- If there is any conceivable commercial value in the work, or if there is any possibility that you

will want to use the work in another context, or if you have any desire at all to maintain control in future use of the work, you should register your copyright with the Copyright Office of the Library of Congress in your name and not as a "work for hire."

You may be wondering whether patents and inventions are addressed in our Agreement since they are also creative works. Unfortunately, they are not. A different body of law deals with these areas so patents and inventions remain an issue that will have to be collectively bargained during negotiations for the next Agreement. If you are concerned about an invention or patent, the basic principle of clarifying ownership before embarking on a project should be followed. Please remember that you can call the Council office for additional consultation.

We have made considerable progress in this contract toward protecting your intellectual property, but there may be unanticipated gray areas and

questions will arise. We will be vigilant in making sure that individuals are given the protections promised under the Agreement.

For more information on copyright and how to copyright your work, visit or refer to CNJSCL pamphlet titled "Protect Your Copyrights!" available from the Council of New Jersey State College Locals office.

Sources:

David Strom, *Intellectual Property, Issues for Higher Education Unions: A Primer*, Washington, DC, AFT Copyright © AFT 2002.

Council of New Jersey State College Locals *Protect Your Copyrights*,



Union, NJ, n.d.

NEW CONTRACT LANGUAGE ON DISCIPLINE

The 2003-2007 agreement contains new language regarding your rights with respect to discipline. The key paragraph on discipline states:

The College/University representative shall inform the employee at the beginning of an investigatory interview of the subject of the interview. If during the course of the interview conducted by the employer or its agent an employee reasonably believes that he/she may be disciplined as a result of information obtained from the interview, the employee may request a union representative. If so requested, the Union representative shall be permitted to be present. The Union representative shall be permitted to attend as a witness. The Union representative may advise and counsel the employee by clarifying confusing and misleading questions.

What this means is that when an employee is questioned by management about alleged misconduct and has a "reasonable fear" that his/her answers may subject him/her to disciplinary action, the employee, upon request, must be provided with a union representative.

What constitutes discipline?

Disciplinary action may include placing a letter in the employee's personnel file, suspension for a certain number of days (with or without pay) and termination.

Those faculty who are tenured and professional staff on multiyear contracts cannot be suspended or terminated without the college/university's first bringing charges to the Board of Trustees pursuant to law. In the event that you are threatened with such action, you should consult a Council staff representative immediately for assistance.

Employees on annual contracts cannot be suspended or terminated by a supervisor. Such action must take place at the Presidential level.

Typical offenses for which discipline is often imposed are:

Excessive absenteeism/ tardiness, falsification of records, theft, sexual harassment, using college stationery for personal business, improper behavior toward students, drinking with students, etc.

What you should do

Here's how to proceed. If your supervisor or Dean or (chairperson acting in a managerial capacity) calls you into question you about a problem, immediately ask the subject. If you think the subject indicates that you may be disciplined, ask immediately for a union rep.

After you make your request, the management representative must choose among three options:

1. Grant the request and delay the questioning until the union representative arrives;

2. Deny the request and end the interview immediately; or
3. Give the employee a choice of
 - a) Having the interview with no representative present (the wrong choice in the Union's view) or
 - b) Ending the interview (best choice if no union representative is available).

If the employer denies the request for union representation and questions the employee anyway, the Union has the right to file an unfair practice charge with Public Employee Relations Commission.

What your union representative can do

1. He or she can, if time permits, confer with you about the meeting before it starts or continues.
2. He or she can insist that management inform you of the subject of the interrogation before proceeding with the interview; for example, missed classes or alleged sexual harassment.
3. He or she can object to questions that are abusive, misleading, badgering, confusing or harassing. He or she can also suggest additional witnesses.

Warning!

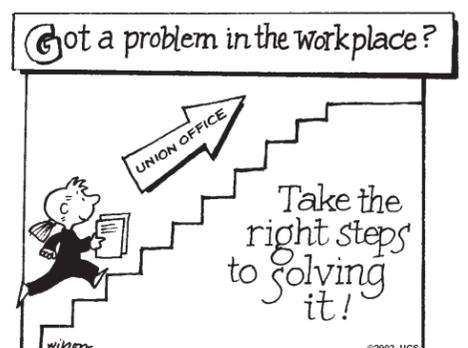
Management representatives need not tell you that you have the right to ask for a union representative prior to beginning an investigatory interview. Therefore, you have to take the initiative and ask for representation.

What to say:

"If this discussion could in any way lead to my being disciplined or terminated, I respectfully request that my union representative be present at the meeting. Without representation, I choose not to participate in this discussion."

You cannot be punished for asking for representation and your union representative cannot be punished for seeking to provide it.

This article will also be available on the Council's web site.



Richard Katz Honored as Union Leader



Richard Katz and his wife Olivia Spence enjoying the festivities

In appreciation of a job well done

On Saturday, November 22nd, the KFT hosted a dinner at the Galloping Hill Inn (Union, NJ) in appreciation of Richard Katz, former president of Local 2187. Katz stepped down from the president's post this past July after serving three consecutive terms since 1996.

Dinner guests honored Katz with remarks about his outstanding leadership, his strong voice on campus in support of members and his dedication to union principles. Family, friends and colleagues commented on his dedication and commitment to making the KFT a model of democratic unionism.

Under Katz's leadership, the KFT increased its membership and worked hard to bring women and minorities into positions of leadership within the union and on university committees.



CNJSCL Vice President Ivan Steinberg praises Richard Katz for his dedication to unionism



David Treadwell, Richard Katz and Tony Velez

SCHOLARSHIPS AND GRANTS FOR YOU AND YOUR FAMILY

Here are two scholarship/grant programs you should know about. Both are for dependents of union members or members themselves.

AFT Robert G. Porter Scholarships and Grants

The program consists of one-time \$1,000 grants and four-year \$8,000 post-secondary scholarships. The grants are for members pursuing courses in labor relations or in their discipline. The scholarship are for graduating high-school seniors who are interested in pursuing career in labor, education, health care or government service. Details may be found at www.aft.org/scholarships/index/html. Deadline: March 31, 2004

Union Plus Scholarships

Scholarships are presented annually to union members or their family members who want to begin or continue post-secondary education. The children of 14 AFT families and one AFT member were selected to receive 2003 scholarships ranging from \$500 to \$3,000. The deadline for applications for 2004 awards is January 31, 2004. For more information and to download an application, go to www.unionplus.org/benefits/education/scholarships/up.cfm. Deadline: January 31, 2004.

Privatization of New Jersey Pension Funds Looms

The McGreevey Administration and specifically, State Treasurer John McCormac, are pushing ahead with the external management of the state's plans for pension funds. External management costs money and that money comes out of your contributions, or alternatively, there is less money available for investment.

New Jersey has several pension funds under management by the Division of Investment, Department of the Treasury. A few of our full-time unit members participate in the Teachers Pension and Annuity Fund (TPAF) and all adjunct faculty who are in at least their 3rd consecutive semester of employment are enrolled in the Public Employees Retirement System (PERS).

The Division of Investment, which manages more than \$70 billion in these funds and over 170 other funds, including the Deferred Compensation Plan, is among the largest public money managers in the U.S.

When the stock market went south, the Division's funds, like those of other states lost money. These losses, in the neighborhood of \$22 billion (2000-2002) led the McGreevey Administration to considering using private brokerage firms to handle state employee monies which had been successfully handled by the Division for over 50 years.

The first step in seeking outside management was the hiring of a consulting firm to review the present system. In September, that firm, Independent Fiduciary Services, Inc. (IFS) issued a report which recommended many changes to the way in which the

Division operated. Most of the recommendations concern the need for improved staffing, methodology and equipment, improvements that could be made without going outside and paying extra fees. However, IFSI also suggested that the "the Division can . . . employ external manager(s) to pursue active or passive management strategies for all or a portion of the assets."

Will private management do better? Everyone's investment experience of the last few years demonstrates that private management is not necessarily the answer. What is more, private management introduces, as Roland Machold, former state treasurer said, ". . . a whole new element of—well—frankly—a lot of politics. . . The issue is, who's going to choose the managers." (*The Star-Ledger*, July 18, 2002) Indeed, in the same article, *The Star-Ledger* pointed out that the State of Pennsylvania, managers handling only portions of the state's investment funds were collecting a \$285 million dollar fee on \$60 billion in funds.

Are pension funds going to be subject to "pay to play" in New Jersey? Stay tuned. In the meantime, write to your Assemblypersons and Senators to ask that they make sure that only the Legislature determines whether outside managers are hired. Ask them to support legislation containing strict bans on conflict of interest and campaign contributions and full disclosure by pension fund participants, including members of the State Investment Council.