

MSCA PRESIDENT'S MESSAGE

MSCA Members' Work in Legislative Campaigns Pays Off

Patricia V. Markunas, MSCA President

Mitt Romney's plans to buy a veto-override-proof state senate and increase the number of Republicans in the house failed miserably in the midst of a presidential election where over 85 percent of registered Massachusetts voters went to the polls in November. State Republicans endured a net loss of one senate seat and two house seats, despite the largest number of contested legislative seats in years.

Fully 92 percent of MTA-recommended candidates were elected the state legislature, often by wide margins. This record was no doubt enhanced by the participation of MTA members in legislative campaigns across the state.

As MSCA President, I am grateful to every single one of the hundreds of MSCA members who answered our call to join a campaign to elect our friends and supporters to the legislature and to push back the governor's efforts to harm our institutions and our working lives.

I also want to thank those members who worked on John Kerry's presidential campaign, many of whom gave up personal time on weekends to travel to neighboring states to campaign on Kerry's behalf. Though Kerry, who was endorsed by MTA early in the primary season, did not succeed nationally, his determination in seeking the nomination and his campaign benefited Democrats here and in neighboring states, especially New Hampshire.

The MSCA's priorities for the upcoming legislative session are still being formulated. Personally, I have three priorities. The first one, endorsed by the MSCA Board of Directors, is to amend Chapter 150E (the collective bargaining law) to eliminate the governor's



MSCA members are joined by APA and AFSCME members in picketing the entrance to Massachusetts Maritime Academy, site of the October 19th meeting of the Board of Higher Education.

power to subvert the bargaining process and to introduce binding arbitration to resolve negotiations that are deadlocked.

The second one is to restore the 85/15 percentage split in the payment of health insurance premiums between the state and state employees. The current split of 80/20 is scheduled to "sunset" on June 30, 2005, and we want to make sure that this happens.

The third priority is to obtain a long overdue and much deserved benefit for part-time faculty: life and health insurance coverage through the Commonwealth's Group Insurance Commission. I would appreciate hearing from part-time faculty members who are willing to work with the MSCA Legislation Committee this year to achieve this goal.

MSCA members should also know that a special Senate Task Force on Funding Higher Education has been holding hearings this semester and will make long-term and

far-reaching proposals concerning stabilization and increased support for public higher education. The change in the house speakership from Thomas Finneran to Salvatore DiMasi may signal greater support for public higher education and other social issues as well. A proposed reorganization of public higher education's governance structure does not seem unlikely, either.

As we go to press, I have received reports that the Board of Higher Education is considering a bypass of the parameters received by Administration & Finance for the FY 2006 budget for higher education, and will instead propose a budget that includes a 9 percent increase overall for FY 2006. The formula for funding institutions may be amended to include sufficient monies to raise state college faculty salaries to that of the average salary earned by faculty at BHE-defined institutions (as of September 1, 2003, that figure would be 7 percent, without benefits or adjustment for the cost of living). The BHE appears committed to closing the \$112,000,000 funding gap that exists for the state colleges vis-a-vis peer institutions, over the next five to ten years.

If these reports prove true, then this shift of priorities for the BHE, now required by statute to "advocate" for public higher education in the state, would be remarkable at the least and historic at the best.

In closing, please allow me to wish you and your families a happy holiday season. Thanks again for all of your support.



Faculty members at Mass Maritime who marched in protest at the Board of Higher Education meeting on October 19th include (from left to right), Thomas Stanton (Engineering), Henry Lamb (Engineering), Joseph Murphy (Marine Transportation) and William Hansen (Engineering).

Mediation Step Added to Contract's Grievance Process

Patricia V. Markunas

On November 12th, representatives of the Board of Higher Education and the MSCA executed a memorandum of agreement to add a new step — mediation — to the grievance process as it currently exists in the 2001-2003 collective bargaining agreement. This memorandum is now in effect. Copies will be distributed to the membership and posted on the MSCA website <www.mscaunion.org> for review by the members.

Mediation will be the new Step III, a process to be considered prior to a grievance going to arbitration, which will now be Step IV. Mediation is a process by which a neutral third party works with both the union and management to negotiate a settlement for grievances at that step. The parties agreed to hold at least one all-day mediation session a month and to name four mediators to hear these cases.

According to the terms of the new memorandum, the MSCA will decide which cases will be sent to mediation and how long those cases will remain in mediation. If the mediator cannot resolve the issues, then the grievance might well proceed to Step IV, arbitration, a decision also made by the MSCA.

A backlog of nearly 100 grievances awaits scheduling for arbitration (see page four). It is hoped that this new process of mediation — to undergo a trial period over the next six months — will reduce that backlog at a lower cost and less acrimony than traditional arbitrations would.

I commend those members of the MSCA Bargaining Committee, along with MTA Consultant **Donna Sirutis**, who attended the September 29th negotiations session which finalized the tentative agreement for this important contractual benefit: **Brad Art** (Chairperson/Westfield), **Alan Feldman** (Framingham) and **Frank Minasian** (Worcester).



J.D. Scrimgeour

Jim Glynn

What Makes a College "Good"?

A creative writing professor challenges typical notions

J.D. Scrimgeour

When my car's battery died one afternoon last summer, a middle-aged couple noted my distress and offered me a ride. As they drove me home, they learned that I taught at the local college, Salem State.

"Our niece goes there," the man said. "She loves it." I wasn't surprised. Most people I meet appreciate the college. This couple's niece had initially attended some well-known school and disliked it. At Salem State she had small classes. Her professors knew her name. "It's a good school," the woman said.

"A good school." I first heard the phrase in high school, when I was deciding where to apply to college. Thanks to good SAT scores, I received letters from many schools, most of which I had never heard of: Haverford, Bates, DePaul. These, I was told—by my mother, by savvy classmates—were "good schools."

If I wondered how someone who had never visited these schools could declare them "good," my doubts were erased by examining a guide to colleges, which labeled these schools "highly" or "extremely" competitive.

But what was a "good school"? I'm not sure it was clear to me, or to the people writing the guides. Only one impression was definite: a good school was someplace where many people wanted to go, and not so many were accepted. To get accepted meant that you were among the chosen. The Ivies seemed the most prestigious, and so I went to Columbia.

At Columbia, as at these other good schools, it was presumed one would get a "good education," another mushy phrase. According to the college guidebooks, a good education could be quantified: number of publications by faculty, number of books in the library. Just a smidgen of thought reveals how superficial and insignificant these numbers are. In my undergraduate education, only a handful of professors inspired me. The most influential one replaced a more famous professor mid-semester. Did I count any of my professors' publications? Did those publications make a whit of difference to my classroom experience? As an English major, I was in classes with 50 to 100 students. No one knew whether I showed up.

At some schools, one rarely takes classes with the prestigious faculty anyway, but with graduate students or adjuncts, part-timers who often shuttle from three or more campuses, collecting a pittance. Last year I met a waitress at a local diner who was thinking of returning to school and was considering Salem State. She was in her mid-twenties, had gone to Boston University, and had hated it. After traveling and

working in South America, she had returned and had been taking courses at a local community college.

"And you know what?" she said, "I took two classes with the same teachers I had at B.U. And I was paying how much at B.U.?"

What's the difference between Salem State and Columbia? At Salem State accessible professors teach most of your courses, your classes are smaller, and you aren't conferred a sense of entitlement upon graduation. Of course, there are also the students. No doubt at a school like Columbia, devoted to accepting high achievers, one's classmates can be inspiring.

It's not so easy to develop lifelong bonds at Salem State, when students rush to their cars after class to get to work or pick up their kids. How I would like to be able to grant them the leisure to live the contemplative life that Columbia offers. Yet being among Salem State students can be illuminating, too. When the war in Iraq began, I asked a class—"How many of you have a friend or relative over there?" Eighteen of twenty students raised their hands. I wonder what the numbers would be in a Columbia classroom.

I met Tony, a maintenance worker in his mid-30s, on the back elevator in the library. We exchanged "Hi's."

"You teach here, right?" he asked.

"Yeah, English."

"I took all my English classes," he said. "I'm a history major. I want to teach high school, go back and work with all those teachers I gave a hard time." He smiled.

"Good luck," I said.

When I got off the elevator, I kept thinking about Tony. It wasn't that he was so unusual—a maintenance worker who was also a student; it was that he was so wonderfully typical. The same person who is keeping the buildings up is taking classes in them. The gap between the blue-collar employees and students is so much smaller at Salem State than at all those schools I desired to attend. In this case, the employee and student were one and the same. And, better yet, he wanted to return to his community, to become a teacher.

What is there to say? I work at a good school.

—J.D. Scrimgeour is Coordinator of the Creative Writing Program at Salem State College.

This essay appeared on Dec. 28, 2003, in the Boston Globe Magazine with the title "A Good School." Reprinted with permission.

MSCA Perspective

A publication of the Massachusetts State College Association, the faculty and librarian union for the nine state colleges in Massachusetts.

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Worried About Academic Freedom? Keep Your Contract Close By NEA Attorney Says Collective Bargaining is “Solution”

Ben Jacques

The trend in legal decisions on academic freedom is clearly towards limiting your rights. Many rights you assume, like freedom of speech and choosing course content, may not be upheld in courts, especially if you are considered a public employee.

That was one theme of a keynote address delivered Oct. 22 by **Michael D. Simpson**, Esquire, the assistant general counsel of the National Education Association (NEA).

The other theme, however, was that union contracts can protect academic rights.

Speaking at the MSCA Conference on Academic Freedom in Natick, Simpson pointed to Article V of the MSCA contract as “model language” in the protection of academic freedom. That’s why collective bargaining is so important in the battle to uphold First Amendment rights, Simpson told faculty and librarians from the nine state colleges.

Simpson advised MSCA members to “arbitrate, not litigate.” He said the best way to stem the erosion of academic freedoms, as indicated in recent legal cases, is collective bargaining.

Before Simpson’s address, faculty and librarians attended workshops on a range of academic-freedom issues: communication and privacy, civil liability, teaching controversial topics, and Weingarten Rights. Presentations were also prepared on environmental health, safety and liability, and on higher education and criminal law. Detailed outlines of each presentation, as well as Simpson’s keynote address, are available to members upon request to the MSCA President’s Office <Pmarkunas@aol.com>. Additionally, *Perspective* will highlight individual workshops in upcoming issues.

Judicial Cases Reviewed

In his address to members, Simpson referred to several issues brought up in the workshops as he summarized relevant cases decided by federal courts and the U.S. Supreme Court. He noted that two-thirds of all sitting federal judges were appointed by “Nixon, Reagan, Bush and Bush.”

Simpson listed several “core principles” that define and limit academic freedoms, as articulated in judicial cases:

- As a general rule, public employers, including colleges and universities, cannot punish their employees for engaging in constitutionally-protected free speech activities (*Pickering* 1968).
- But the government has far greater authority to restrict the free speech rights of its employees than to restrict the free speech rights of (non-employee) citizens (*Pickering* 1968).
- For public employees, including college professors, their speech is constitutionally-protected only if they are speaking as *citizens* on matters of *public concern* (*Connick* 1983).
- If they are speaking as employees on matters of merely *personal concern*, then their speech is not constitutionally-protected and can be the basis for permissible employer retaliation (*Connick* 1983). For this reason, much of a professor’s in-class speech is not constitutionally-protected (*Edwards* 1998, *Clark* 1972, and *Keen* 1992).
- In addition, if college or university officials reasonably believe that the professor’s speech could disrupt the workplace or otherwise interfere with the functioning of the school, then it is not constitutionally-protected, even if it touches on a matter of public concern (*Waters v. Churchill* 1994 and *Jefferies* 1995).



Michael D. Simpson

NEA photo

- When the government itself is the “speaker,” it can dictate the contents of its spokesperson’s speech, at least where such restrictions are reasonably related to a legitimate state interest (*Rust* 1991, *Hazelwood* 1988, and *Edwards* 1998).
- Where the facts show that a professor has been punished just because he/she has voiced controversial or unpopular ideas, some courts have found a way to rule in his/her favor.
- In some circumstances, the college or university must put the professor on clear notice that certain in-class speech is prohibited (*Cohen* 1996 and *Ward* 1993).
- Where the college or university has previously approved of the employee’s in-class speech, it may not subsequently punish such speech because of public outcry (*Stachura* 1985 and *Cockrel* 2001).
- Public school/college libraries enjoy a substantial amount of autonomy and freedom from control by school and elected officials (*Pico* 1982).

In other remarks, Simpson urged educators to be wary of Students for Academic Freedom (SAF), which has opened chapters on 135 campuses. Under the guise of fairness, SAF has challenged professors’ classroom speech, course content, textbook choices and campus activities. SAF encourages students to file complaints, signed or anonymous, against professors, take action, and to report complaints to its national office.



Other Conference Workshops

Faculty and librarians attended their choice of four workshops led by attorneys with expertise in relevant areas and three MSCA members presenting from their teaching experience. A summary of the workshop on Weingarten rights follows on this page. The other three workshops were:

“Communications & Privacy Issues in an Electronic Age,” was led by MTA attorneys **Ira Fader** and **Sandra Quinn**.

“Civil Liability Issues in Higher Education,” was led by **Lee Weissinger**, also on the MTA legal staff.

“Using Controversial Topics and Non-Traditional Teaching Methods” was presented by Professors **Lori Dawson** and **Steven Oliver** from Worcester State and **Peter Hogan** from Fitchburg State.

Weingarten Rights: Use Them or Lose Them

Maynard Seider

One of the workshops at the MSCA Conference dealt with Weingarten Rights. It was led by MTA legal consultants **Robert Whalen** and **Donna Sirutis** and subtitled: “What to do When Members Get Called on the Carpet.”

In 1975, the U.S. Supreme Court decided in *NLRB v. Weingarten, Inc.*, that private and public sector collective bargaining laws guarantee an employee’s right to representation in any meeting with management which *might* result in discipline. Two years later *Weingarten* became law in Massachusetts.

So, what does it mean for faculty and librarians to have Weingarten rights? It means that if any administrator calls you into a meeting seeking information; asking for facts about your conduct; or for statements or answers about an incident where your conduct may be in issue; and you reasonably believe that what transpires in that meeting might lead to disciplinary action, you have the right to have a union representative with you at that meeting.

Unlike the *Miranda* decision, management is not obligated to inform you of your Weingarten rights. It is up to us to be aware of them, and to use them. If you think a meeting you have been asked to attend warrants such a right, simply tell the manager that you wish to have a union representative present. If you are at a meeting where you did not think you would need Weingarten protection, but it becomes clear in the meeting that discipline is a possibility, you have the right to ask management to suspend the meeting until a union representative can join you.

When any of us enter a situation where we might be disciplined or where our conduct might be criticized, our emotions may keep us from acting in the best way to protect ourselves. It’s always good to have a knowledgeable colleague there, not only as a witness and advisor, but also as a friend.

On our campuses, the president, vice presidents and the deans clearly are management personnel. But departmental chairs, when they are addressing us and meeting with us in their capacity as chairs, are acting as management.

Anonymous Complaints

We need to be aware that “Anonymous Complaints” may not be used in any way as part of any evaluation of our performance. The specific contractual language reads: “The administration of each College shall not take adverse action against any unit member on the basis of anonymous complaints, including complaints where the complaining individual is known but does not want his or her identity disclosed, whether such complaints are made orally or in writing...” If a student brings a complaint against a faculty member to the department chair or the dean, but the student refuses to sign her/his name to the complaint, that complaint cannot be placed in the faculty member’s file, nor can the chair or dean use the complaint in any evaluation procedure.

Management may make the anonymous complaint known to the faculty member, and it may well be useful to hear it, but no negative evaluative consequences may follow.

Know the Contract; Know your Rights

On our campus we hold at least one workshop each year for new faculty and those being evaluated. In many cases, including Weingarten and the time period for filing a grievance, it is up to us to assert our rights. If in doubt about any contractual procedure, disciplinary possibility, and the process of evaluation, check the contract and discuss it with a member of your chapter’s executive committee. If they don’t know the answer, they can check with the MSCA and MTA consultants and legal experts.

—*Maynard Seider is the MCLA chapter president and a contributing editor.*

IN THE ASSOCIATION

Coppola Joins Board of Directors

Robert Coppola, a Massachusetts College of Art professor, is the newest member of the MSCA Board of Directors.

Joining the board in the midst of the union's battle for a fair contract, Coppola commented: "I think we're at a time when union and members need to strengthen their position. It was always tough. But it seems to be getting tougher. I think it calls for a stronger commitment from us."

Coppola, who teaches in the Environmental Design Department, previously served as chapter grievance officer and as treasurer.

On the Mass Art faculty since 1976, he has taught at Cornell University, Rhode Island School of Design, and California Polytechnic University at San Luis Obispo, and has worked as a professional architect.

Coppola said he enjoys and appreciates the "amazing mix of students and backgrounds at Mass Art. At other places, especially private colleges, students tend to be stratified, from similar backgrounds. Here it's a very dynamic mix, inner city, urban, rural, all ages from high school grads to people in their 60s, 70s, and even 80s. Here the students learn from each other."

A veteran educator, Coppola would like to see more faculty mentoring programs in the state colleges.

"I'm a big proponent of mentoring," he said. Tenured faculty would work with new faculty to help them become better teachers. A new professor may have excellent content, but not know how to deliver it, how to keep students engaged."

Coppola holds a bachelor's degree in architecture from Catholic University and a master's degree in environmental design from Cornell University.



Robert Coppola

Vaughan to Oversee Grievance Process

Margaret (Maggie) Vaughan, professor of psychology at Salem State College, is the new chair of the MSCA Grievance Committee. She believes that psychology "dovetails nicely with the legal profession" in resolving grievances.

"I see my background in behavioral psychology as a plus, because of its emphasis on observation and description," she said.

Vaughan also brings her experience as the campus grievance officer at Salem State since 2001. In her new position, however, she works on cases from all nine campuses, primarily those at Step 3. Steps 1 and 2 occur at the campus level.

Once a grievance goes to Step 3, the MSCA grievance committee meets to determine which cases should proceed to arbitration. Vaughan's role is to guide the arbitration process, which includes scheduling, arranging MTA counsel, and finding arbitrators and stenographers.

She enjoys working with the attorneys and trying to resolve disputes, and she credits the MTA higher education consultants, Donna Sirutis and Bob Whalen, and the secretary for Salem/MSCA, Mary Buckley, who is dividing her time between the local chapter and the state grievance office.

"At this point it's been fun. I feel fortunate to work with good people."

The immediate challenge is the number of cases already in process. "We have about 100 grievances at Step 3," she states. "We'd like to clear the backlog."

Occasionally the grievance cases can be resolved without going through the formal arbitration process.

"If we can find there is a breakthrough," she adds, "this benefits everyone. Sometimes as we get closer to the hearing date, and lawyers on both sides are preparing their arguments, we find a way to settle the case."

Vaughan, who has taught at Salem State since 1984, said recent cases where the arbitration ruling upheld employee rights signal how important the grievance process is to faculty and librarians.



Margaret Vaughan

Kim Munnagh

Schedule for MSCA Board Meetings - 2004-2005
(Approved 6/4/04)

Regular meetings of the MSCA Board of Directors begin at 10:00 am and usually adjourn around 3:00 pm. Meetings are open to all MSCA members in good standing — full-time, part-time and DGCE. Some time is set aside on the agenda each month for visiting speakers. If you are an MSCA member and wish to address the Board on an issue of concern, please contact the MSCA President's Office <Pmarkunas@aol.com> to request a place on the agenda or with any other question about Board meetings.

January 14 (tentative)	Worcester State College Student Center
February 4	MTA – Auburn Large Conference Room
March 4	MTA – Auburn Large Conference Room
April 1	MTA – Auburn Large Conference Room
April 29	Framingham State College McCarthy Center/Fireplace Lounge
April 30	Framingham State College Delegate Assembly Forum
[May 13 -14]	MTA Annual Meeting Hynes Auditorium/Boston]
June 3	Westfield State College Private Dining Room/ Dining Commons

**If the facilities at Framingham are not available for 4/29 and 4/30, these meetings will be held at Worcester State.



Carol Concannon, AFSCME steward at Mass Maritime and wife of MSCA Director Gerald Concannon, joins the MSCA's picket line at the October 19th meeting of the Board of Higher Education.

Meg Scatone (MTA)

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