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Editorial:

The Empire State Strikes Back

New York City faces brutal budget cuts this Spring, cuts which will accelerate illness, death, and homelessness in many of our communities. As usual, CUNY also faces cuts that are, again, devastating though the difference with past cuts is that instead of questioning whether they rival the cuts of the mid-70's, these cuts are arguably even worse.

Unfortunately we are fighting a fight on multiple fronts. We face not only cuts, and tuition hikes, but from the central CUNY administration, we also face anti-democratic changes to our disciplinary code, anti-student restrictions on our access to activity fee monies (rather than conventional audits and spending regulations), and a College Preparedness Initiative that was ill-conceived and demonstrably reduces minority participation in public higher education.

In addition CUNY is being politically attacked in editorials and in Albany. Since the CCNY tragedy the editorial boards of all of the New York dailies have conflated four separate CUNY issues: the strikes, Jeffries, the USS spending scandal, and the CCNY tragedy, into one huge racist caricature of this largely minority university which rivals the depiction of Reconstruction governments in *Birth of a Nation*. Now, however, even the New York State Senate has indulged in the anti-public institution, racist frenzy, by baiting our university with a round of HUAC-type hearings. The Empire State strikes back against CUNY and CUNY students, who have and will continue to speak for themselves, to press a democratic agenda, and defend public institutions such as this university.

Times Up for The Times

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CUNY Under Siege

The Impact of the Governor's Proposed Budget Cuts on the Graduate Center:

- \$500/year tuition hike (on top of a \$704/year Level I increase since 1990), representing altogether a 127% tuition increase since 1990.
- 34 full time faculty and staff lines would be cut (in addition to 55 full-time positions lost since 1989).
- Vast numbers of adjunct/part-time positions CUNY-wide would be eliminated, affecting the main source of income for most CUNY Graduate Center students
- 21 part-time staff positions would be cut.
- 36 courses/dissertation supervisions would be eliminated.
- 25 adjunct Graduate School positions cut (visiting professors, English language instruction for foreign students).
- Financial aid cuts are possible, and TAP awards for current students would stay the same, even though tuition would rise.
- Library, Computer Center, Student Support Offices, Business & Administrative Offices might have to be CLOSED ONE (EXTRA) DAY PER WEEK.
- 960,000 cut in Other Than Personnel Services (OTPS) funds for vital educational supplies to science department, for the purchase of library books & journals, for computer equipment, for general supplies, security services and cleaning and maintenance services. TOTAL POSSIBLE CUTS TO THE GRADUATE CENTER: \$3.17 MILLION

Impact on CUNY:

- \$500/year tuition increase (in addition to \$600/year Senior College increase since 1990, totalling an 88% increase since 1990). Tuition hikes are on top of \$41.3 million total

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Commentary:

New York State Committee on Higher Education Holds HUAC-type Hearings on CUNY

... Andrew Long ...

Senator LaValle: "About how many students were involved in the campus takeovers?"

Chairman James Murphy: "... about 1000, the same number it took to effect the October Revolution."

On January 28th of this year the New York State Senate Committee on Higher Education, chaired by Senator Kenneth LaValle (R-C Suffolk), held hearings as part of an "inquiry and evaluation of academic procedures and academic decision making processes in higher education in New York State." The hearing was held in Albany and will be followed by similar hearings on March 11th and 17th. In attendance were: LaValle, Sen. Leonard Stavisky (D-L Queens), Sen. Donald Halperin (D Kings), Sen. Franz Leichter (D-L New York), Sen. Michael Tully (R-C Nassau), Sen. Kemp Hannon (R Nassau), and Sen. Anthony Massiello (D-L Erie). Witnesses who were invited to attend included CUNY Board Chairman James Murphy, Chancellor W. Ann Reynolds, Presidents Harleston, LeClerc, Kenny, and Meredith, as well as faculty and student representatives. USS Chair Jean LaMarre was invited but did not attend.



Have you no sense of decency, sir?: Kenneth LaValle

In his announcement for the hearings LaValle dispenses with bureaucratic politesse and states that these "public hearings" are part of a process with which he and his fellow senators will "make certain that agencies and programs serve the purpose we intended." The reference to "the purpose" echoes the now conservative (and decidedly paternalist) position that the Supreme Court must limit its activities and rulings to the spirit of the "founding fathers". The crucial distinction here is that LaValle's "we" refers specifically to the State legislature, and his own committee who repeatedly claim power on behalf of the notably absent "taxpayer", the (amorphous) entity whom they represent.

LaValle's rhetoric takes a chilling turn, however, when he finally reveals the purported cause for these hearings: "As my staff and I have prepared for these hearings,

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Board Approves Disciplinary Code Changes

The Board of Trustees voted at their February 24th meeting to enact the changes to the CUNY disciplinary code recommended by the Committee on Student Affairs and endorsed by the full Council of Presidents. These changes erased what many in the CUNY community have characterized a 20 years of successful self government and were decried by student activists and the University Faculty Senate as tipping the balance of power in disciplinary hearings unduly to the side of the central administration. The original proposal was finally amended such that the disciplinary committee chairperson will be selected by the appropriate campus governance body from a field of three members of the instructional staff who have been specially trained by the central administration. If none of these three

members are able serve, the president is now authorized to request a chairperson from amongst the entire CUNY field. This person will be selected by lottery. Despite the appearance that campus autonomy is hereby preserved, a situation which might please some faculty members, even with these amendments many students feel that the power of the chair to limit the evidence and hence argument which a student defence can present has dealt a decisive blow to a student's right to due process and a defense of his or her choice. In the past these same committees have often sided with students and their faculty expert witnesses when they argued that their protest actions were taken out of necessity to defend the university system from devastating cuts. This argument was not only a political embarrassment to the central administration, but also revealed the political compromise of the latter.

The only dissenting vote was from Student Trustee, Jean LaMarre.

Students and faculty organized to speak out against the changes at the February 18th public hearings. But this effort was disrupted by unknown parties who heckled both speakers and the Board, and then threw a smoke bomb, thereby preventing the majority of the over 200 speakers who were scheduled to speak from doing so.

These changes to the disciplinary code known as the Henderson Rules, will be put in place immediately.

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CUNY NEWS

Hearing on Changes in Disciplinary Code

• • • Pamela Donovan • • •

The CUNY Board of Trustees held a public hearing on Tuesday, February 17 to address *item 6b* the Board's proposed changes to the student disciplinary code. The CUNY administration proposes these changes, according to the written explanation, "to clarify the disciplinary and hearing procedures, strengthen due process, and make the hearing procedure more effective and organized." Both the composition of the campus disciplinary committees, their decision-making powers, and their latitude in enforcing the disciplinary code would be affected by the proposed changes.

The current code, known as the Henderson rules, has been in effect with minor revisions since 1969. The adoption of the Henderson rules followed the Open Admissions strike of that year at City College, led by Black and Puerto Rican students. The Henderson rules apply to all of the colleges, but allowed for campus control, as it called for the disciplinary committees to be made up of students and faculty from the same campus as the students charged, and allowed them latitude in determining procedure. The proposed changes would make the disciplinary process more centralized and uniform across campuses, and would take power out of the hands of campus administrations and concentrate it with the office of the Chancellor.

Currently, each campus committee is composed of three faculty and three students drawn from an elected body of twelve people, half students and half faculty. The six that are chosen for a particular set of hearings choose a chair from among the six remaining. A quorum consists of at least two students and two faculty.

If the proposed changes are accepted by the Board of Trustees, the total hearing committee would be cut from seven to five. It would be made up of two faculty and two students, who would still be elected. However, the college president would now appoint the chair, who would no longer be required to be associated with that particu-

lar CUNY campus. The proposal suggests that a group of staff and faculty could be trained for such procedures and rotated among campuses. Any three committee members, including the chair, could serve as a quorum, which would not necessitate a student member to be present.

Under the current code, the committee as a whole decides on questions of procedure, evidence, sentencing, and the impartiality of committee members. The new code gives this responsibility entirely to the unelected chairperson. The remaining members of the committee would act as a jury, albeit with the power to ask questions of witnesses and make recommendations.

The new disciplinary code would also direct the committees to determine guilt by "a preponderance of the evidence." Previously, the committees determined for themselves in advance what standard would be used in evaluating evidence. Attorney Ron McGuire, who defended students last spring, describes the preponderance standard, as the standard most favorable to the prosecution, and calculated to increase guilty verdicts, because "the tribunal could decide that, although there remained substantial doubt about the prosecutor's version of the facts, the prosecution was, on the whole, more believable than the defense." (See Ron McGuire, "New Anti-Protest By-Laws," *Graduate Student Advocate* December-January 1991-92). In addition, specific types of evidence would be explicitly removed from consideration until after a verdict has been reached. Character testimony, according to proposed Section 15.3(f)(8) is the sort of evidence that would be delayed; this stipulation takes aim at the heart of a necessity defense. A necessity defense, which claims that the person acted in such a way, because no other options for redress of an inequitable situation existed, was successfully used by many student protesters last year.

At the same time, the student's right to counsel would be diminished. The new code requires the student to pay for his or

her own counsel, and those that cannot afford it have no recourse. In the past, some student governance organizations have appointed and paid for counsel.

The new code also gives the Chancellor, along with any college Dean, the right to suspend students or campus organizations temporarily during "emergency" conditions. Right now only the college president or a full Dean can take such an action.

At the hearing, students and faculty generally spoke against the proposed changes, while several college presidents spoke in favor. Both supporters and detractors of the new code tied the impetus for a new code to the lack of suspensions connected with the strikes last spring. While over 200 students strikers were brought up on disciplinary changes, only one was suspended. Students successfully argued their cases as justifiable civil disobedience (the "necessity" defense) before some of the college-based disciplinary committees.

Attorney McGuire told the Board of Trustees at the public hearing that the proposals represented the Chancellor's attempt to win by fiat what she lost by due process last semester. Robert Nisonoff, of the Hunter College Evening Student Government, commented that the Chancellor and the Board of Trustees are simply "sore losers" whose move to usurp student and faculty power is "unprecedented nationwide." Professor James Young (English, City College), who is serving on the Faculty Senate, said that the current system, unlike the proposed new code, "takes its moral authority [from] a college-based system." The proposed changes to the disciplinary code were condemned by the Uni-

versity Faculty Senate unanimously on January 29th.

A number of CUNY college presidents spoke in favor of the changes, nearly all of them citing difficulties with the current standards for quorum, which became apparent to them during last spring's student strikes. Charles Meredith, President of City Tech, told the Board he supported the changes because he was concerned about the "timeliness" of the hearings and that disciplinary committees were delayed because they found it difficult to arrange the required quorum. Similarly, William Hamilton, LaGuardia Community College President, said that his support for the changes stemmed from a dual problem on that campus: a lack of interest in serving on the disciplinary committee and scheduling problems. Roscoe Brown, President of Bronx Community College, and Paul LeClerc, President of Hunter College, said there was a need for chairpeople who are trained in legal procedures and in hearing procedures, adding that the procedures of last spring exposed the problems with the current system.

Negative reaction to the proposed changes to the CUNY disciplinary code came from public officials as well. City Council member Tom Duane wrote in a letter to the Secretary to the Board, Genevieve Mullen, that he regards the proposals as an affront to "a basic tenet of democracy, self-government, which is central to the enlightened principles of institutions of higher learning and the Constitution of the United States."

Pamela Donovan is a PhD student in Sociology

Board Hearing Goes Up in Smoke

• • • Ian McGowan and Pam Donovan • • •

234 students, faculty, administrators, and members of the public preregistered to speak at the CUNY Board of Trustees public hearing on February 18th, to speak on the proposed changes to the disciplinary code. This marked the largest speaker list known in the history of Trustee hearings. The hearing ended unexpectedly when a thick cloud of smoke cascaded into the chambers.

Procedural regulations were juggled so that three college presidents could speak out of order of registration, interspersed among the first dozen student speakers. These presidents were Roscoe Brown, BCC; Paul Le Clerc, Hunter; and Charles Meredith, NY Tech. Despite Faculty Senate opposition on record, all three presidents supported the disciplinary changes. This presidential trio also represented the Chancellor's point-of-view at the LaValle hearings (see related story in this issue).

The proceedings were disrupted several times by a small group who attempted to drown-out speakers and heckled the moderator. Other students in the hearing room, most of whom had prepared statements against the proposed disciplinary changes, were unable to quiet the disruptive people for more than a few minutes at a time.

The five Board members in attendance abruptly left the chambers at 6:10 pm when a non-explosive smoke bomb was set-off in the adjacent stairwell, after 29 people had spoken. City police arrived at the CUNY headquarters, but no arrests were made. The disturbance was apparently created by a political group having no association with any CUNY student organization. Most people waited, expecting the hearing to continue after the chambers were cleared of smoke, but the Trustees did not return. The hearing was never rescheduled.

Your Representatives React

Resolution of the Doctoral Student Council of the City University of New York regarding proposed changes in student disciplinary procedures

Passed February 10, 1992

Whereas: The proposed changes to the CUNY disciplinary procedures would remove basic rights that are currently accorded to students.

Whereas: The proposed changes to the CUNY disciplinary procedures would erode the autonomy of individual campuses, infringe upon the democratic structure of the disciplinary committees on individual campuses and establish centralized, autocratic control.

Whereas: The Chancellor and Board of Trustees should be engaged in working with students to stop the cuts in CUNY's budget proposed by the Governor rather than restructuring the disciplinary code.

Resolved: The Doctoral Student Council is adamantly opposed to the proposed changes in the CUNY disciplinary procedures.

The University Faculty Senate of the City University of New York at its 197th plenary session passed, without dissent, the following resolution:

Resolution of the University Faculty Senate of the City University of New York regarding the proposed changes in student disciplinary procedures

January 29, 1992

Whereas: the proposed changes to the CUNY disciplinary procedures would infringe on the rights of the individual college; and

Whereas: the current disciplinary procedures when appropriately implemented have more than adequately served the University for almost twenty years; and

Whereas: students and faculty will be adversely affected by the proposed changes; therefore be it

Resolved: that the University Faculty Senate is adamantly opposed to the proposed changes in the CUNY student disciplinary procedures.

This resolution speaks to proposed action by the Board of Trustees to amend its Bylaws with regard to student disciplinary procedures.