

Faculty Welfare Committee

Excellence in Education



From the Faculty Welfare Committee/AAUP President:

I suspect everyone is swamped with work as we approach the end of the semester (how did it get to be late November already?). But I hope you can take a few minutes to enjoy the information and articles in the pages that follow. As usual, the FWC/AAUP has been active, with presentations on current issues including recent legal threats to academic freedom, trends in college spending and others, and also keeping up to date on key issues with chapter members attending (and presenting at) regional and national workshops on topics such as governance, leadership development, and more. This is in keeping with our chapter's and the national AAUP's commitment to protect and promote fundamental academic principles including academic freedom, freedom of expression, academic tenure and genuine shared governance. If you would like to become more involved in the FWC/AAUP, or if you have any questions about our chapter or the national organization, don't hesitate to contact me. On behalf of the FWC/AAUP Executive Committee, I wish you a good end to the semester.

Rick DeWitt
President
Fairfield University FWC/AAUP

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First Ever FWC/AAUP Contest: NAME THAT RECENT GRADUATE!

Every year, in June and in conjunction with the AAUP Annual Meeting, faculty from all over the country participate in Capitol Hill Day, visiting their legislators to discuss issues related to higher education. (See article in Vanguard, the newspaper of the CT State Conference-AAUP). Congressman Chris Murphy was in the Capitol waiting to cast a vote and so arranged for his staff members to escort the CT contingent to the Capitol. On the way, Murphy's staff member, pictured at far right, informed us that she was a recent graduate of Fairfield.

So, here's the contest: The first person to correctly identify this recent graduate (first and last name), her major, and her year of graduation will win a fabulous AAUP prize!



Send entries by email to Rick DeWitt at rdewitt@fairfield.edu First correct entry wins!

FWC AND AAUP NEWS AND UPCOMING EVENTS

RECENT FWC, AAUP AND OTHER FACULTY EVENTS:

Brown Bag Lunch Discussion I

THANK YOU! to Rick DeWitt and Steve Bayne for leading the discussion about the Supreme Court's Garcetti decision and the threat to academic freedom presented by this decision and subsequent rulings. (See related article on next page.)



Brown Bag Lunch Discussion II

THANK YOU! to Rick DeWitt and Paul Caster for leading the discussion on "Trends in College Spending 1998-2008," a report released last summer by the Delta Project on Postsecondary Education's Costs, Productivity, and Accountability, an independent, non-profit organization whose mission is to help improve college affordability through better use of data to inform strategic decision-making. This comprehensive report details how thousands of colleges are spending their money and we appreciate the help in sorting it all out. (More info in next issue.)

AAUP Shared Governance Conference and Workshops

On November 12-14, the AAUP hosted a conference in Washington, DC, with paper panels and workshops on shared governance. Irene Mulvey, a member of the National Committee on Governance that sponsored the conference, presented a workshop with Lenore Beaky (CUNY) and Dave Witt (University of Akron) on *The Relation of AAUP Chapters to Senates*.

Mid-Atlantic AAUP Conference on Leadership Development

On September 25, the state conference of Pennsylvania held a multi-state conference on leadership development in conjunction with their business meeting. Rick DeWitt and Irene Mulvey were invited to present a session on advocacy chapters, and served on a panel, with Puri Martinez (East Carolina University) and Harriet Gaddy (Centenary College, NJ) on effective chapter leadership.

Open FWC/AAUP Meeting

Thanks to all who attended our brief open FWC/AAUP meeting sandwiched between the last meeting of the General Faculty and the FWC/AAUP-sponsored gala reception. We look forward to a productive and successful year! Would you like to join the 70% of your faculty colleagues who belong to the Faculty Welfare Committee/AAUP? Contact any member of the Executive Committee (listed on back page) or membership director Cheryl Tromley at ctromley@fairfield.edu.



FWC/AAUP-Sponsored Reception

Don't miss the next FWC-sponsored gala reception which will follow immediately the General Faculty meeting on December 5. Would you like to pitch in with set-up or clean-up? Contact any member of the Executive Committee (listed on back page).

AAUP
Policy
Documents
& Reports
TENTH EDITION

Got Freedom of Expression? The Garcetti Decision and its aftermath

In October, the FWC/AAUP sponsored a successful and well-attended Brown Bag lunch discussion on the Garcetti court decision and related rulings that pose a serious threat to academic freedom and the ability of faculty to participate in governance. In order to inform our membership and the faculty more broadly, the FWC/AAUP Executive Committee decided to present an article on these matters in a newsletter. Here we report briefly on some of the relevant cases, and provide some context and perspective on the fallout from these cases. Lastly, we direct you to the national AAUP's awareness and action campaign that provides more information and suggested actions for faculty, and we encourage you to stay tuned.

Garcetti v. Ceballos **547 U.S. 410 (2006)**

Ceballos was a deputy district attorney in Los Angeles who criticized his supervisor's actions by complaining about suspected misconduct in a case. He was demoted and transferred. Asserting that he was punished for speaking out on an issue of public concern, he sued. The Supreme Court ruled that when employees speak "pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline."

The majority opinion left open the question of whether its ruling should apply to speech in public colleges and universities, noting that "expression related to academic scholarship or classroom instruction" may have additional

constitutional protection. Notably, the Court specifically set aside for another day the question of whether its "pursuant to official duties" analysis would apply to "speech related to scholarship or teaching."

Subsequent decisions **misapply Garcetti to academic speech.**

Despite the fact that the Garcetti decision deliberately set aside academic speech, subsequent rulings in lower federal courts have cited Garcetti in cases involving academic speech to deny faculty claims of retaliation. A list of legal cases affecting academic speech is online and updated continually by the national AAUP's Legal Department (18 cases and counting) at: www.aaup.org/AAUP/protectvoice/Legal/

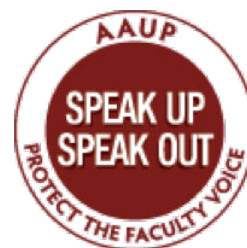
In one case, *Hong v. Grant*, involving a tenured professor, a federal trial court ruled that a public university "is entitled to unfettered discretion when it restricts statements an employee makes on the job and according to his professional responsibilities." (For an update on this case, see page 4.) In another, involving work on a committee by a librarian at a public university, the court recognized Garcetti's reservation on academic speech but held that the librarian's speech "was made pursuant to an assignment to a faculty committee... without exceptional circumstances, such activities cannot be classified as 'scholarship or teaching.'"

Faculty need to be able to **speak freely and, when** **needed, critically.**

There is essential work done by faculty that would not be classified as "scholarship or teaching."

Serving on faculty senates, serving on *Handbook* committees, serving on administrative search committees, serving as an officer of the AAUP chapter, basically any work related to governance could be classified as not scholarship and not teaching. But this kind of work, and the ability to speak freely and, when needed, critically about issues involved in governance work is essential if faculty are to exercise their responsibility for areas that fall under faculty purview. If faculty can be retaliated against or disciplined for speaking – in a faculty meeting or even as a committee member – on governance issues or matters that fall under faculty purview, then the honest and open exchange needed for the best decision-making is lost, to the detriment of American higher education.

The national AAUP's awareness and action campaign, *Speak Up, Speak Out: Protect the Faculty Voice* provides a lot more information on this issue of concern to all educators and, particularly, to faculty at institutions of higher learning. Visit www.aaup.org/AAUP/protectvoice/ and become informed. The FWC/AAUP Executive Committee continues to discuss these issues and we welcome your comments and input as we decide what actions, if any, would be appropriate at Fairfield.



Breaking News!

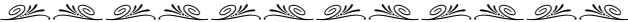

On November 12, 2010, as this issue of the newsletter was going to press, Hong v. Grant was decided by the U.S. Court of Appeals for the Ninth Circuit. AAUP had filed an amicus brief in this case in conjunction with the Thomas Jefferson Center for the Protection of Free Speech. The part of the appeals court's decision relevant to Garcetti is "We leave the question of whether faculty speech such as Hong's is protected under the First Amendment for consideration in another case." In other words, the extent to which First Amendments protection applies to faculty speech is not decided.

The trial court in that case had applied Garcetti's "pursuant to official duties" standard, ignoring the fact that the Supreme Court in Garcetti specifically set aside the application of that standard to academic speech. Rachel Levinson, senior counsel at National AAUP, called the appeals court's decision "encouraging," noting that "although it is less than ideal, it is probably the best we could have expected."



The Mission of the AAUP:

to advance academic freedom and shared governance, to define fundamental professional values and standards for higher education, and to ensure higher education's contribution to the common good.



Faculty Welfare Committee/AAUP Executive Committee: Rick DeWitt (President), Joe Dennin (Vice-President), Bill Abbott (Secretary), Rona Preli (Treasurer), at-large members Jocelyn Boryczka, Susan Rakowitz, Deb Strauss, Kate Wheeler. Newsletter Editor: Irene Mulvey. Membership Director: Cheryl Tromley.

Faculty Welfare Committee/AAUP

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