

---

January 2010

---

*"Academic freedom for a free society"*

## Read About

**Halting New Threats  
to Academic Freedom**

p. 1

**Come to the Forum  
on Academic Freedom**

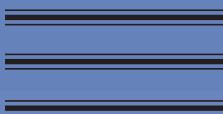
p. 2

**Results of the  
Pre-Bargaining Survey**

p.2

**AAUP Membership**

p. 3



### HALTING NEW THREATS TO ACADEMIC FREEDOM

The right of faculty at public institutions to speak and participate freely in academic governance is seriously undermined by a recent Supreme Court decision, *Garcetti v. Ceballos* (2006) and several lower-court rulings that followed it. In *Garcetti*, the Court ruled that when public 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's discipline." In several recent cases, lower courts have applied the restriction on speech to faculty at public institutions. In *Hong v. Grant* (2007), a federal district judge cited *Garcetti* and ruled that the University of California "is entitled to unfettered discretion when it restricts statements that an employee makes on the job according to his professional responsibilities." In a case involving a faculty member at Delaware State University, *Gorum v. Sessions* (2009), the Court of Appeals for the third circuit also applied *Garcetti* to allow dismissal of a faculty member for criticizing the president of the university where he was employed. (For a full analysis of these issues, see the recent special report, *Protecting an Independent Faculty Voice: Academic Freedom After Garcetti v. Ceballos* on the national AAUP web site at [www.aaup.org](http://www.aaup.org)).

The AAUP has long fought for the right of faculty members to speak out about topics important to the academic community as a key aspect of academic freedom. Indeed, how is shared governance possible if faculty members are restricted from criticizing their institutions and their leaders? John Dewey, the first president of the AAUP, appointed a committee to formulate principles of academic freedom. The committee, composed of Arthur Lovejoy, Roscoe Pound, and economist Edwin Seligman, issued *Declaration of Principles on Academic Freedom and Tenure* on behalf of the AAUP in 1915. The Declaration stated that faculty members are "appointees" of governing boards of universities but "not in any proper sense their employees." Indeed, one of the first investigations conducted by the AAUP focused on Professor A. A. Knowlton who was dismissed from the University of Utah in 1915 for uttering private remarks that were "disrespectful" of the university's governing board. While the dismissal was lawful, the AAUP maintained that it violated the right of professors to speak critically about the governance of their institutions.

It is incumbent on the AAUP to provide the maximum protection available to preclude the possibility of threats to academic freedom on our campus. In its action plan for protecting academic freedom and speech rights of faculty, national AAUP advises “faculty represented by a collective bargaining agent incorporate language protecting academic freedom in the next negotiated agreement between faculty and governing boards.” Our chapter’s Executive Council and Bargaining Team are currently reviewing model provisions suggested by national AAUP to be brought to the Steering Committee for inclusion in bargaining proposals for the contract negotiations that about to begin with the University. Nothing is more fundamental to academic freedom and our right to shared governance than securing the right to speak freely about matters of institutional policies and actions.

## COME TO THE FORUM ON ACADEMIC FREEDOM

*Garcetti* and other recent court decisions affecting academic freedom will be the subject of a University Forum sponsored by the AAUP and Provost Tom Apple. The forum is open to all faculty and staff. It will begin at noon on Monday, February 15 in Trabant University Center Multipurpose Rooms A and B. Lunch will be served. Given the importance of these issues for faculty, we encourage all faculty members to attend this important event. Contact the Provost’s Office at [provost-office@udel.edu](mailto:provost-office@udel.edu) to inform them of your plans to attend.

The forum will feature two prominent speakers, Robert O’Neil and Lawrence White. Nationally renowned legal scholar Robert M. O’Neil is former president of the University of Virginia and founding director of the Thomas Jefferson Center for the Protection of Free Expression. O’Neil chaired the national AAUP Subcommittee that issued the report on *Garcetti*. Lawrence White, University of Delaware Vice President and General Counsel, will join Robert O’Neil in leading the forum. Lawrence White served as chief counsel for the Pennsylvania Department of Education and was associate secretary and assistant counsel of the national AAUP.

## RESULTS OF THE PRE-BARGAINING SURVEY

The AAUP bargaining team relies on numerous sources for developing contract proposals for consideration, modification and, ultimately, approval by the Steering Committee. In addition to discussions with the AAUP Executive Committee, talking with faculty members across the University, deliberation with steering

## AAUP Voice

**Gerry Turkel, Editor**

**The AAUP Voice is the official newsletter of the University of Delaware Chapter of the American Association of University Professors.**

**The Voice appears four times a year, twice in the fall semester and twice in the spring semester.**

**The Executive Council acts as editorial board. During contract negotiations or when otherwise warranted, Bargaining Team members also participate on the board.**

---

### **AAUP Executive Council:**

**Joan DelFattore, President  
Danilo Yanich, Vice President  
Patricia Barber, Secretary  
Sheldon D. Pollack, Treasurer  
Calvin Keeler, At-Large  
Prasad Dhurjati, At-Large  
Linda Bucher, Past President**

---

**Leon Campbell  
Contract Officer  
831-6767**

**David Smith  
Grievance Officer  
831-2275**

**Rita Girardi  
AAUP Office Manager  
301 McDowell  
Phone: 831-2292  
Fax: 831-4119  
Website:  
<http://www.udel.edu/aaup/>  
Hours: M-TH (9 a.m.-2 p.m.)**

Continued on page 3

---

committee members, and information about conditions at institutions around the country, the bargaining team gains important insights about faculty views by reviewing the Pre-Bargaining Survey that was conducted in fall semester 2009. 390 faculty members responded to the questionnaire. A summary of the results is posted on the UD/AAUP web site (<http://www.udel.edu/aaup>).

**Salary and benefits.** With regard to economic issues, just over half of the respondents to the questionnaire ranked salary as the most important issue for contract negotiations. Slightly more than half ranked health benefits as second in importance, and retirement benefits ranked third. Slightly more than sixty percent of respondents considered a salary increase in the range of 3.5 percent to 4 percent to be most appropriate. When asked to rank the importance of improving benefits, close to seventy percent of respondents ranked improvements in health care benefits first and about fifty-four percent ranked improving the dental plan second relative to other benefits such as the Vision Plan or the Disability Plan.

**Allocation of salary increases.** Almost forty percent of respondents indicated that they would prefer to have merit and across-the-board salary increases allocated equally. About twenty six percent favored merit over across-the-board, and about thirty-three percent favored across the board over merit.

**Merit pay policy.** Almost eighty-five percent of respondents indicated that they are familiar with the merit pay policy in their unit, and about sixty percent indicated that their units have clear policies for awarding merit pay. About thirty-two percent indicated that merit pay policies in their units are not clear. About forty-six percent of respondents indicated that they are either very satisfied or satisfied with their unit's merit pay policy. About twenty-five percent indicated that they are neither satisfied nor dissatisfied, and about twenty-one percent indicated some degree of dissatisfaction with their unit's merit pay policy.

**Workload policy.** Ninety three percent of respondents indicated they were familiar with their unit's workload policy. Almost sixty-four percent indicated they were either very satisfied or satisfied with the policy. About twenty percent indicated that they were neither satisfied nor dissatisfied, and about sixteen percent indicated that they were dissatisfied with their unit's workload policy.

**Stopping the tenure clock.** More than eighty-six percent of respondents indicated that they would support extending the policy of stopping the tenure clock for tenure-track assistant professors beyond caring for the birth or adoption of a child to allow for medical or family leave to care for an ill parent or partner.

In addition to answering the specific questionnaire items, there were numerous written comments that respondents provided. The Executive Committee and the Bargaining Team are grateful to those faculty members who took the time to provide these additional comments. They enable us to get a fuller sense of faculty views on core issues that will be the subject of contract negotiations.

## AAUP MEMBERSHIP

Approximately twenty percent of respondents to the pre-bargaining survey indicated that they are not AAUP members. Of those nonmembers, about sixteen percent indicated that they are planning on joining the AAUP this year and about thirty-one percent indicated they are not sure. If you are one of these nonmembers, we urge you to join. Your membership will give you voting rights on the new contract, and will build the bargaining power of the AAUP in representing you and your colleagues. Remember, your first year of membership is free. Please use the attached dues deduction form and participate in making the future of you and other faculty members at the University of Delaware better.

---

**AAUP**  
UNIVERSITY OF  
DELAWARE

---

Rm. 301 McDowell  
Newark DE 19716  
Voice 831-2292  
Fax 831-4119  
[aaup-mail@UDel.Edu](mailto:aaup-mail@UDel.Edu)

⑧ 10