

# MCCC News



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## Arbitrator Overturns Tenure Denial

**M**CCC Day Grievance Coordinator Dennis Fitzgerald reported at the August MCCC Board of Directors' meeting on a positive arbitrator's decision of a troubling case that saw unit members pitted against other unit members.

The case stemmed from the actions of the Roxbury Community College Unit Personnel Practices Committee (UPPC) when a faculty member was not recommended for tenure. MTA attorney Will Evans represented the Union at the arbitration.

Every MCCC chapter is supposed to establish a UPPC by Nov. 21 of each year and elected by the unit members (Collective Bargaining Agreement Section 11.03 C.1). The composition of the committee should reflect the ratio of faculty to professional staff in the unit.

One of the first steps in the tenure process is for this committee to review the personnel files of tenure candidates and recommend either tenure or a one-year terminal appointment.

In this case the Roxbury UPPC was made up of three faculty members (one of whom was a former administrator) and three professional staff members.

The Union maintained that there was a complete breakdown in the process because UPPC did not follow the criteria

set forth in the collective bargaining agreement for evaluating a candidate for tenure. Fitzgerald said that the committee used "subjective, personal, hearsay information as well as mistaken judgment."

The College compounded the committee's errors at the subsequent stages in the tenure granting process, maintaining that a variety of criteria may be used in the tenure process and not limited to the contractually delineated "relevant material within the personnel file."

Arbitrator Marcia Greenbaum's opinion was very critical of the College's tenure procedure. She prefaced her findings by establishing that the granting or denial of tenure is a career defining decision. It has great significance for both the tenure candidate and the College, and it is essential that the process "is fair, reasonable, consistent, and uniformly applied."

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MCCC Day Grievance Coordinator Dennis Fitzgerald presents the arbitrator's decision on a case from Roxbury Community College. (Photo by Don Williams)

## MTA Summer Conference Focuses On Member Organizing

The annual MTA Summer Conference Aug. 2-6, 2009 at Williams College saw dozens of MCCC members attending.

The specific agenda for Higher Education ran on Wednesday, but there were sessions every day that had applicability to Higher Ed. Members. For the second year the conference has had a focus on member organizing. Camp Wellstone was a multi-day program designed to train members in organizing techniques.

Higher Ed. Day began with an open meeting of the Higher Education Leader-

ship Council (HELCC). Normally HELCC members are the presidents of the MTA Higher Ed. Locals and their MTA board members, but this meeting was open to all members. A highlight of the day was lunch with the Dr. Charles Desmond, Chairman of the Board of Higher Education.

Arthur Pippo, MTA Director of Higher Education, opened the meeting with an overview of where various contracts stand. He noted that some settled K-12 were being reviewed for take-backs. The contracts for most MTA Higher Ed.

Units had been settled. UMass contracts were at Ways and Means Committee, The governor's office was costing out the state college faculty (MSCA) contract, and the state college staff union (APA) was signing their contract on Aug. 14. [The MCCC contract had not been completed at that point.]

It was unclear whether the legislature would take up the funding of the contracts individually or as a group.

MTA lobbyist Julie Johnson reviewed the actions of the legislature regarding Higher Ed. over the past year. The increase in health insurance contribution may not have been welcome, but overall it was not as bad as it could have been. An incentive for retiring was passed which would freeze the retiree contribution at 15 percent for those who announce retirement by Oct. 1, 2009. Retiree COLA had gone up slightly.

A pension reform committee had been formed in the legislature as a response to news reports about abuses in the past few years. The committee's report has been delayed until Nov. This is being carefully watched by MTA because the effects could be detrimental to members.

The meeting then shifted to the topic of organizing members lead by MTA President Ann Wass, Vice President Paul Toner, and Executive Director/Treasurer David Borer.

From an MTA Executive Committee retreat, two initiatives for Higher Ed. were developed:

- 1) To get members active and em-

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The Day contract was signed on Sept. 18 at Quinsigamond Community College. Seated from left are Commissioner Richard Freeland and MCCC President Joe LeBlanc. Standing are MCCC Team Chairperson Rick Doud, Bristol Community College President John Sbrega, MTA Consultant Katie D'Urso, Mt. Wachusett Community College President Daniel Asquino, and Deputy Commissioner for Employee Relations, Peter Tsaffaras. (Photo by Sarah Nathan)



# The ORP Campaign: The Time for Action Is Now



Donnie McGee,  
SAC Chair &  
MCCC Vice President

A campaign to make retirement security a real option for faculty enrolled in the state's Optional Retirement Plan (ORP) is off to a great start. On September 21, the Massachusetts Community College Council hosted a Lobby Day at the State House in support of SB 1173. The bill would allow ORP-enrolled employees a one-time opportunity to transfer to, and buyback creditable service in, the State Employees Retirement System (SERS). Forty faculty from public higher education institutions across the state rallied in support of this proposed legislation.

The ORP Lobby Day began with a formal hearing on the bill before the Joint Committee on Public Service. A panel of four MCCC faculty provided compelling testimony in a hearing room packed with colleagues from across the state. The hearing was followed by a speaking program and State House visits to legislators. Faculty shared their own ORP stories and urged Representatives and Senators to join them in this fight for retirement security and fairness. Faculty from the State Colleges and UMass Amherst system also testified at this hearing and lobbied legislators to join the ORP campaign.

Senator Marc Pacheco, chief sponsor of the ORP bill, addressed the group and pledged to support SB 1173 right up through enactment. Faculty had the opportunity to thank him both personally and collectively for his willingness to

sponsor a bill to address their ORP concerns and for his pledged commitment to this legislation.

The ORP is offered only to faculty and administrators employed at Massachusetts State Colleges and Universities. It is an alternative to the traditional state retirement plan (SERS) and operates similarly to a 401(k) plan. Its key benefit is its portability - as many of our faculty were told. The problem is that too often they knew little else about their state retirement options when they were asked to make this irrevocable retirement decision.

A major concern is that the ORP will provide faculty with no retirement security. The traditional state pension plan offers a guaranteed and adequate retirement income overall to those who are vested in it and of retirement age. Most ORP-enrolled faculty, however, indicate that the limited income from their ORP accounts will leave them impoverished in their old age. Few can envision a day when they can ever retire. Many will have little choice but to work as long as possible, many years beyond retirement age.

Additionally, many ORP faculty were not provided with a comprehensive, balanced, or accurate orientation to the state's retirement options. Side-by-side comparisons of the two plans were not provided. Faculty orientations had glaring omissions in terms of SERS benefits. Opportunities related to creditable service buyback options or early retirement incentives were not discussed. Second-career faculty were incorrectly told that their Social Security earnings would be affected only if they chose the SERS, but not if they selected the ORP. Information on both plans came largely from the ORP providers, agents of Lincoln Life, TIAA-CREF, and VALIC.

Too often, Human Resources person-

nel were not retirement plan neutral. Older faculty, second-career hires, and those in same-sex domestic partnerships were told the ORP was the "better plan" for them. On some campuses, new hires were told that they had no guarantee of tenure, could be let go for any reason prior to that time, and therefore should take advantage of the portability feature of the ORP.

The 90 day irrevocable ORP enroll-

Fortunately, faculty orientation with regard to retirement options has greatly improved, but for those who were not provided with all the facts, it is imperative that they have the opportunity for an informed retirement choice. Every employee deserves the right to retirement security - and the right to accurate, balanced, and complete information with regard to their retirement



Cape Cod Community College faculty member Mary Canaves spoke passionately at the ORP hearing. Sen. Marc Pacheco behind her waits to speak about the ORP bill he sponsored. (Photo by Sarah Nathan)

ment policy is problematic as well. New faculty are typically hired at the beginning of a semester and must immediately focus on preparing courses while in the midst of learning important details about their teaching responsibilities, employee obligations, and campus protocol. It is difficult for employees to make thoughtful decisions under these circumstances. Many faculty were encouraged to sign up for the ORP immediately. Some states with similar plans have sign-up periods of two years or more; some extend the deadline until the faculty tenure process is completed.

options. Because of flawed enrollment procedures and an inadequate retirement plan, many ORP faculty are facing a bleak future. SB 1173 would remedy this injustice.

The time to act is now if you want this bill to move forward in the legislative process. The Legislature needs to hear your ORP stories and know your retirement concerns. Ask your legislators to contact Public Service Committee Chairs to request that this bill be reported out with a favorable recommendation. Your actions today could make a big difference in your retirement security tomorrow. ■

## Arbitrator Overturns Tenure Denial...

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Members of a UPPC need to be notified of the criteria for making their decision. In this case they were not provided with necessary guidance, and three of the members had never served on a UPPC before. One area where this was evident was in the interpretation of student evalu-

ations. One committee member testified that she did not agree that a 3.4 was between "good" and "very good". [According to the evaluation form 3.0 is good and 4.0 is very good.] Some members had said that they didn't think a 4.0 was "that great."

The arbitrator's central concern was

the committee's use of criteria that were not part of the contractual requirements. Citing general rules of contract interpretation she said that when there is a list of items to be "uniformly applied" there is an express exclusion of items not on the list.

In this case the UPPC discussed issues that were not part of the process such as enrollment and withdrawal rates in the affected faculty member's classes. There was also discussion about missing documents in the grievant's personnel file and speculation about what that indicated. What it did indicate was an error by management.

Furthermore the process was tainted by a 2005-2006 summary evaluation done by a member of the UPPC who was the grievant's former supervisor. That evaluation was the subject of a previous grievance and was supposed to be removed from the file before the UPPC began its deliberations.

The faculty member who originally chaired the committee came to the conclusion that the other members had made up their minds before the committee had even met. He resigned from the committee in protest, yet his signature appeared on a document that he did not sign or approve. The final document that recommended denial of tenure was sent technically unsigned because the committee cut and pasted the

signatures from the first recommendation onto the final recommendation.

In conclusion Arbitrator Greenbaum found that the tenure process in this case was unreasonable, arbitrary and capricious, and violated the contract. The UPPC members were not properly educated about the process and were not told to keep hearsay, "chatter," and innuendo out of their discussions. They made negative assumptions about missing documents without giving the affected member the opportunity to cure the defects (when another tenure candidate was allowed to do so). And they were allowed to see material that was supposed to be expunged from the file.

The committee's defective process negatively affected the decisions of the vice president, the college president, and the board of trustees.

The arbitrator's award was to reinstate the faculty member to his position as Associate Professor of Social Sciences from the time of his termination of May, 31, 2008 and made whole with back pay, benefits, and seniority.

The tenure process was remanded to the parties to agree when it will begin and how it will be done to comply with the contractual provisions. The five members of the previous UPPC will be prohibited from serving. And clear instructions will be given to the new UPPC members. ■



Parliamentarian Patricia Legault-Frank explains items that need improvement in the MCCC Bylaws to the Executive Committee, as Bylaws Committee chairperson Bob Gilles looks on. (Photo by Don Williams)



# State Employees Deserve Dignified Retirement Funded by Solvent System



Joe LeBlanc,  
MCCC President

Earlier this year, Governor Patrick signed a pension reform bill into law. The bipartisan bill closed loopholes and eliminated abuses like the one day – one year provision that allowed

elected officials to earn an extra year of credible service for working a single day.

“Today, we make good on a promise to the public to restore trust in government,” Gov. Patrick said, calling the law “a critical step to eliminate the abuses and gamesmanship that for too long have threatened the system’s credibility and ultimate sustainability for all public workers.”

It’s hard to argue with his logic. It’s difficult to defend the practice of allowing benefits like housing, lodging, travel, and auto allowances to be included in calculating retirement benefits. It’s tougher still to justify why a few former legislators were able to boost their pensions by serving in voluntary positions for little time and compensation. It’s impossible to argue against closing the loophole that allowed former state employees to retire and then return to work as consultants for additional money and in some cases for a full salary.

The Governor said this is just the beginning of pension reform, calling it a cornerstone of his change agenda. In early September, the Pension Reform Commission released its proposed list of 32 ideas for further legislative study. While the proposals would apply only to new hires, this erosion in public worker rights should concern us all. The much-divided Commission’s recommendations include the following:

- “Increasing the period for averaging earnings for benefits from three to five years.
- “Pro-rating benefits depending on the number of years a retiree spends in a particular pension group category.
- “Capping the amount of public employees’ earnings that can be used to calculate their pensions. The limit would be equal to 75 percent of the federal \$245,000 limit and would be indexed to inflation.
- “Introducing an ‘anti-spiking’ rule that limits an annual increase in ‘pensionable’ earnings to 7 percent plus inflation of the average earnings over the previous two years.
- “Permitting public employees to choose a lower pension payout in exchange for a more generous cost-of-living adjustment.” Source: State House News Service

The Commission has been operating under cost neutral assumptions, and some of the funds saved could be used for increasing the COLA cap and making it automatic. COLA increases are now capped at the first \$12,000 of one’s pension and are subject to annual legislative funding. A cost analysis will follow later this month.

The Governor would like to fast track this second round of pension reform this fall. He rebuffed the legislature’s efforts to extend the Commission’s deadline to Nov. 1. Election year politics notwithstanding, there’s no point in pushing the Commission to produce a half-baked plan with less than unanimous support from Commission members.

State employees deserve better. Our faculty and professional staff deserve a dignified retirement funded by a financially solvent system. We will fight any efforts to provide our faculty and professional staff with anything less. ■

## Roxbury Faculty, Staff and Students Protest

On May 19th, a contingent of twenty-two RCC faculty, students, and staff, joined a noisy and spirited rally at the State House of 300 Boston teachers, parents, and students to oppose budget cuts to public education from kindergarten through college.

Chanting “They say cut-back, We say fight-back”, speakers at the rally condemned program cuts in physical education, art, music and other specialties that help keep many students in school. Speakers exposed how the cuts will disproportionately impact black, Latino, and immigrant communities.

The rally opposed wage cuts and layoffs of teachers and other school workers. The contracts of all provisional teachers are not being renewed and they aren’t even counted as layoffs by the City of Boston. Other speakers opposed the injustice of budget cuts to public education when trillions of our tax dollars are being used to bail out the banks and fund wars of occupation.

A faculty member from RCC spoke

about how working class students, who need a second chance at higher education, are once again being sacrificed because of the priorities of the state and federal governments.

After being approached by rank and file members of the Boston Teachers’ Union, the RCC MCCC chapter voted to

endorse the rally which was initially called by the Boston Teacher’s Union. We chartered a bus to take us down to the State House and received an enthusiastic response on campus as our Budget Cuts Committee organized campus participation in the rally.

Even though the BTU executive board

decided at the last minute to back out, enough rank and file teachers (as well as the RCC contingent) were committed to hold a public protest in defense of public education. ■

Ruth Kiefson

Roxbury Community College



Protestors against education cuts march outside the State House.

(Photo by Ruth Kiefson)

## MTA Summer Conference . . .

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powered—we have a lot of members, but they are not active.

- 2) For MTA to become “The Voice of Public Education”—K through Graduate School.

To achieve these Wass said the question we have to ask ourselves is, “Does a union tell the members what to do, or does it help the members do what they want to do?” Toner added, “We need to get all 107,000 MTA members to flex their muscle. Many members say, ‘we pay you [MTA staff] a lot, so you go lobby for us.’”

Borer said, “We want to be about what you want to be about.” But most of what members want requires funding. He pointed out that the political right has been very effective at pushing its anti-tax agenda. It has caused us as a nation to make some very bad choices. The anti-

tax movement is like a drug addict who sells his car to buy drugs.

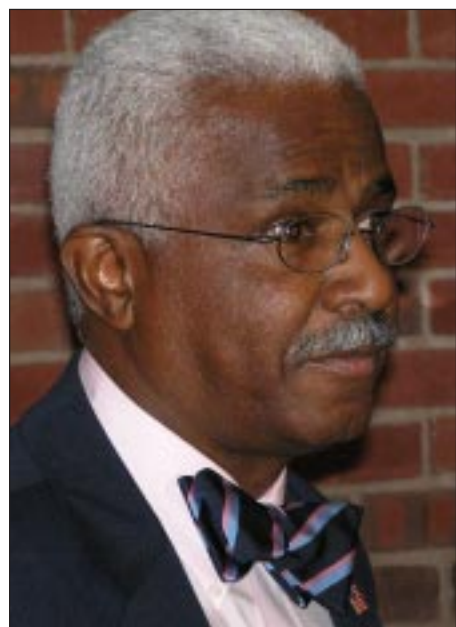
In working with the public and political entities Borer said, “You can’t sell people on taxes, but you can sell them on the things they want.” The public wants effective schools and accessible, affordable, quality higher education. They have to be told to find a way to pay for it. He referred the group to an NEA tax initiative started by the Michigan affiliate, which can be seen at [www.mea.org/tef](http://www.mea.org/tef).

The HELC meeting adjourned to have lunch with the new Chairman of The Board of Higher Education, Dr. Charles “Charlie” Desmond. He shared his personal history from being a college dropout to service in Vietnam where he earned Silver and Bronze Stars and where he vowed to do something important with his life. He committed himself to education.

Replacing Fred Clark as chair, he fully supports and intends to continue his predecessor’s agenda as an advocate for public higher education. “We make big differences in people’s lives every day,” he said. But public higher ed. does not get the respect or resources it deserves.

Responding to questions from the attendees about criticism over low graduation rates he said that given our student populations it is an absurd concern. And when asked about the high use of adjuncts, he said this can’t lead to higher quality education.

He went on to say that the community college funding formula is upside down, and given the incredible demands put upon the colleges they need more funding. Bemoaning the corporatization of higher ed. he said that elevation of the human spirit—not profit—should be our goal. ■



Dr. Charles Desmond, Chairman of the Board of Higher Education, met with Higher Education members at the MTA Summer Conference.

(Photo by Don Williams)



## Know Your Day Contract

### October 2009

- Oct. 6** Supervisor shall return Course Materials to faculty members by end of fifth week of semester. Members have 14 calendar days to respond to supervisors' concerns (p. 49).
- Oct. 13** Columbus Day holiday observed.
- Oct. 15** Professional Staff in 5<sup>th</sup> year receive notice of reappointment p. 37.
- Oct. 23** Accrued professional staff vacation time in excess of 64 days (480 hours) converts to sick time. This now occurs twice per year, falling on the end of the last pay period of April and October p. 22.
- Oct. 30** Last day to opt out of sick bank p. 20.  
(Note: membership in sick leave bank is automatic upon first October of a member's employment.)

### November 2009

- Nov. 11** Veterans Day holiday.
- Nov. 21** Unit Personnel Practices Committee established (p. 38).
- Nov. 26-27** Thanksgiving Holiday.
- Nov. 27** Professional Staff must use one of the three off campus days (p. 46).
- N.B. Dates may vary depending on the first day of classes. Most of these dates are "last date" standards. In many instances the action can be accomplished before the date indicated. All cited page numbers are from the 2006-2009 Agreement. ■*



## In Memoriam



On Aug. 27, 2009 Nahum "Abe" Sherf, Professor of History at North Shore Community College, passed away after a protracted illness.

He was one of the original faculty hired when NSCC opened in 1965 and served as Department Chair for over 30 years until his retirement in the fall of 2008.

From the start he was recognized as a force for academic excellence. As a student at NSCC in the late 1960s, MCCC Communications Coordinator Don Williams remembers the student scuttlebutt was that Sherf was the toughest professor at the college. As a colleague years later Williams encounters former students of Sherf's who always name him as one of their most memorable instructors. They say, "He was tough, but I really learned a lot."

Sherf became active in the MCCC at its very formation in 1975. And his contributions to the MCCC were legendary. He was the Director from North Shore from the beginning until just before his retirement and was on the Executive Committee for many years. He was on the negotiating team for the MCCC's first major contract (1977-1980). And he chaired two subsequent teams 1980-1983 and 1999-2002.

MTA was also an area where Sherf made his mark. At the Board of Directors, Executive Committee, MTA Benefits Board, Finance Committee, and MTA Health and Welfare Trust he was a force to be reckoned with, and he ensured that the MCCC and higher education, as a minority within MTA, had their voices heard.

MCCC President Joe LeBlanc said, "His tenacity, fighting spirit and intelligence served our union well. He will be missed." In 1998 the MCCC recognized Sherf's contribution with the Raymond C Lemieux Award for outstanding service.

In presenting the Lemieux Award to Sherf, Dennis Fitzgerald shared a story that demonstrated his spirit and his legacy. "Abe was appointed to the 1977-1980 Workload Panel and during Abe's tenure on the panel, the union lost every grievance but 1 on a 2-1 vote, 2 votes by the presidents for management and one vote -Abe's vote- for our membership and that was after several hours of debate. The one grievance we did win was after a 3-hour debate with Abe finally convincing two presidents to vote his way. His endurance on workload issues paved the way for the removal of the Workload Panel and the addition of workload being arbitrable as it is today."

Former MTA President Cathy Boudreau recalled, "Abe was always prepared, and he never hesitated to probe when he felt that additional information was required or when his colleagues could benefit from a lengthier explanation. Most importantly, however, Abe's financial acumen was his strongest attribute, and it is where his impact was most recognized. His commitment to the MCCC and MTA throughout his professional career will be long remembered."

Sherf came by his tenacity through personal history. Born in Austria in 1932, his family left for Israel just before the Nazi takeover. As a youth he became active in the Haganah. At a memorial service, Aharon Scherf, recounted how his brother lied about his age in order to join the Israel Defense Forces in the war for independence.

He leaves his wife, Zahava Sherf, sons Mark Sherf and his wife Nicole, David Sherf and his wife Lori, five grand children along with his brother Aharon and sister Mira Laron both of Israel.

Expressions of sympathy in his memory may be donated to the Abe Sherf Scholarship, c/o North Shore Community College, 1 Ferncroft Rd., Danvers, MA 01923. ■



NSCC Chapter President Tiffany Magnolia gave a presentation on Wellstone organizing techniques for general attendees at the MTA Summer Conference at Williamstown. (Photo by Don Williams)



### MCCC News

<http://mccc-union.org>

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The MCCC News is a publication of the Massachusetts Community College Council. The Newsletter is intended to be an information source for the members of the MCCC and for other interested parties. Members' letters up to 200 words and guest columns up to 400 words will be accepted and published on a space-available basis. The material in this publication may be reprinted with the acknowledgment of its source. For further information on issues discussed in this publication, contact Donald Williams, North Shore Community College, One Ferncroft Road, Danvers, MA 01923. e-mail: [Communications@mccc-union.org](mailto:Communications@mccc-union.org)

## Free Life Insurance For Union Members

Members of the MCCC are also members of the National Education Association, and as an NEA member you are automatically covered by the NEA Complimentary Life Insurance (formerly known as NEA DUES-TAB) term life insurance. It is a guaranteed benefit for Active and Life members. All you need to do is register your beneficiary.

The free program offers \$1,000 of term life insurance, up to \$5,000 (depending on years of membership) of accidental death and dismemberment coverage, and up to \$50,000 of AD&D insurance for any covered accident that occurs while on the job or serving as an association leader.

To register your beneficiary or to obtain more information call 1-800-637-4636, or go to [www.neamb.com/xchg/neamb/xsl/hs.xsl/-/home/1199\\_881.htm](http://www.neamb.com/xchg/neamb/xsl/hs.xsl/-/home/1199_881.htm) ■

## MOVING?

Please make sure the MCCC has your correct mailing address. This affects receiving the newsletter, elections, important mailings and notices.

Call the office at  
**1-877-442-MCCC toll free**  
or go online at  
<http://mccc-union.org/ChangeMyAddress/>



## DIRECTORS NOTES

**At the August 21 meeting of the MCCC Board of Directors the following actions were taken:**

- The Board voted to recommend an action plan to support the resolution of the DCE contract.
- The Board voted to recommended that the Adjunct Committee adjust its action plan to include the Reversing Course Campaign.
- The Board voted to appoint the following members to serve on the Officers Ad Hoc Committee to look into the roles and responsibilities of the union officers: Gail Guarino (Personnel Committee), Lois Martin (Finance Committee), Sara Satham (Director), and Candace Shivers (Director). ■