

President's Report

Trump Presidency Raises Concerns for Colleges, Students, Faculty

by Richard Hansen, FA President

Donald Trump's aggressive presidential campaign promises raised fears among the ethnic groups he targeted and the supporters of policies he vowed to eliminate. At the same time, the lack of coherent messaging during the campaign lead some to wonder, now that he has been elected, if he will follow through on everything he said during the campaign.

In post-election interviews, even his supporters were quoted claiming the extreme nature of his campaign would not translate into extreme actions once he is in office. They point out that, in his victory speech, Trump did say he would "be president for all Americans." It might be a good idea for him to make the attempt, because he lost the popular vote by what is trending toward 2.5 million votes.

Despite a great deal of evidence during his business career of his vindictive nature, let's hope as president he doesn't hold a grudge against California where he lost the popular vote two to one. But just in case he meant what he said during the campaign, and just in case he decides to punish California after he is sworn in, it would be prudent for us to anticipate what a Trump presidency might mean for California's community colleges, their students, the institutions, and the faculty who teach in them.

With respect to the colleges and their students, as this edition of the *FA News* is going to press, the recently appointed Chancellor of the California Community Colleges (CCC), Eloy Ortiz Oakley, has signed a letter, together with the President of the University of California (UC), Janet Napolitano, and the Chancellor of the California State University (CSU), Timothy P. White, responding to Trump's hard campaign line on immigrants



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and urging the president-elect to continue the Deferred Action for Childhood Arrivals (DACA) program "and allow these young people to continue to pursue a college education and contribute to their communities and the nation."

As these leaders of the three segments of higher education explain, "DACA is rooted in the fundamental premise that no one should be punished for the actions of others. In order to be eligible for DACA, an individual must have been brought to this country as a minor, stayed out of trouble, and continued to pursue an education. ... They do not represent a public safety threat. In fact, they represent some of the best our nation has to offer." These higher education leaders decided against a wait-and-see approach and, instead wrote, "... on behalf of these Dreamers, we implore you to let them know they are valued members of our communities and that they will be allowed to continue to pursue the American dream."

The letter refers to "Dreamers," but in California this term relates to AB 540 and the access it gives to lower in-state fees and financial aid options. DACA students may also be AB 540 students, and the students accessing either of these program are at risk if Trump's campaign rhetoric is to be taken seriously.

Any student (including undocumented immigrant students) subject, for any among a variety of reasons, to higher non-resident fees may be eligible for the lower in-state fees under an AB 540 exemption if they meet ALL of the following requirements: attended a California high school for three or more

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Happy Holidays!

The FA office will close at noon Friday, December 16, 2016, and reopen at 8:30 a.m. Monday, January 9, 2017.

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years, graduated or will graduate from a California high school (or equivalent), and signed the Nonresident Exemption Request, which stipulates that the student will apply for legal immigration status as soon as eligible. AB 540 students may apply for a variety of financial aid programs, including Cal Grants, UC and CSU Grants, the CCC BOG Fee Waiver, and some other university and private scholarships. California is one of only a few states that provide this level of support to students who may be undocumented immigrants.

Trump's appointments provide one place to look for an indication of what is to come. Here, the Cabinet choice of Betsy De Vos, a prominent Michigan Republican activist, for Education Secretary raises serious concerns. She comes from a wealthy family in which her own money comes from her father's auto parts company. Her brother, Erik Prince, is the founder of Blackwater, the controversial private security company that was often in the headlines during the George W. Bush administration's invasion of Iraq. Her husband, Dick, is an Amway fortune heir who ran unsuccessfully for governor in Michigan about ten years ago.

She has no professional experience in education, but she has been a champion of school vouchers under which taxpayer money is allocated to families who then must choose their own schools, including private, parochial, and the option of home schooling. In the public school arena, De Vos has been active in support of charter schools and has sought to undermine teacher unions. She is opposed to the Common Core program.

She recently turned her attention to Florida where she helped former Governor Jeb Bush push legislation for voucher scholarships to private schools. She originally supported Bush's candidacy but is a good fit to pursue Trump's campaign promise to steer \$20 billion in existing federal revenue to K-12 vouchers toward private and parochial schools. While this amount falls well short of funding a nationwide voucher system, his proposal calls for an additional \$110 billion coming from the states with no indication of a revenue source. Trump might expect states to shift current funding from public schools, but it is unlikely local school boards would cooperate.

In any case, a confrontation may be brewing as a Trump/De Vos Department of Education leans toward privatization. At the community college level, this might lead to an effort to deregulate for-profit institutions. This would amount to a complete reversal of the increased scrutiny imposed under President Barack Obama in response to the huge sums of federal financial aid dollars flowing to students enrolled in for-profit colleges that could not deliver the job training promised in their recruitment campaigns. This led to the

enrichment of the for-profit on the taxpayer's dollar while students found themselves burdened by crushing levels of debt when their education failed to produce results.

After winning the election, Trump quickly ducked out of a lawsuit filed by paying \$25 million in damages to angry students who claimed Trump University never fulfilled its promises. For her part, De Vos will have to face negative reviews of her work coming out of Michigan where the number of charter schools has expanded over the last 20 years while Michigan's rank has slipped in national math and reading tests. Most of the charter schools are performing below the state average.

For higher education, it is unclear what the Trump administration might bring in terms of accreditation where controversy centers on the extent to which federal oversight is infringing upon what had been a peer review process. As higher education institutionalized during the twentieth century, colleges and universities set up independent accrediting commissions,

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PT Faculty: Filing for Unemployment

Even if offered an assignment for Winter Quarter, part-time faculty may be eligible for unemployment benefits from the date of the last final exam through the date of the first class in the new quarter.

To file a claim for benefits, faculty can submit an application to EDD by phone, fax, on-line, or mail. Filing on-line is the quickest and most efficient way to file your claim.

http://www.edd.ca.gov/Unemployment/Ways_to_File.htm#FileorReOpenOnline

Once a claim is established, EDD mails the materials.

**Unemployment Workshop
Friday, December 9, 2016
10:00 am - 12:00 noon
Toyon Room
Foothill College**

This workshop focuses on recent procedural changes in opening a new claim and in re-opening an existing claim.

If you have never applied or if you need a refresher on how to apply, this workshop will help you navigate the EDD bureaucracy more effectively.

RSVP requested.

For more information about filing for unemployment or to RSVP for the workshop, contact Mary Ellen Goodwin at the FA Office (650.949.7746, Goodwin-MaryEllen@fhda.edu).

PT Faculty Reemployment Preference: Why It Matters and How to Earn It

by Kathy Perino, FA Chief Negotiator

When I take a mid-day walk across campus, I am greeted with comments like "Hey Kathy, good to see you!" or "How are things going?" Quite often, "How are you?" is followed by "Can I ask you a quick question about the contract?"

After three-plus years of "quick questions," I realize the answer to any given question is only sometimes quick, and that if I was able to waver which topic I'm asked about most frequently, I would bet on *Article 7: Part-Time Faculty*.

Article 7 is the longest article in the *Agreement* and contains all of the rules and requirements for part-time faculty employment, and of particular interest are those that pertain to earning Reemployment Preference (REP). REP is such an important part of *Article 7* that I often can't answer a question about part-time faculty rights until I know whether the faculty member involved has REP or not. Yet, many new, or even not so new, part-time faculty are unaware of the contractual benefits of REP or how to earn it.

Five reasons REP status matters:

1. Right to an Assignment

The primary benefit of REP is a guaranteed right to an assignment each quarter, provided one is available and the part-timer is qualified for the assignment. While many, but certainly not all, districts have reemployment rights for part-time faculty, FHDA is fairly unique in how part-time assignments are distributed to those with REP.

One key distinction is that in our district full-time faculty teaching overloads do not have seniority over part-time faculty when it comes to *Article 7* assignments. The seniority list for those with REP is determined by the date of the first part-time/overload assignment. Thus, a part-time faculty employee first hired in Fall 2010 has seniority over a full-time faculty member who started teaching overload assignments any quarter after Fall 2010.

Another difference is that in our district assignments are distributed by seniority one at a time. That means each person on the REP list gets only one assignment until everyone on the list gets one. Then any remaining assignments are given out starting again at the top of the reemployment preference list. Assignments continue in this fashion until

either all assignments are made, or until all part-time faculty are given their full assignment request. Only after part-time faculty with REP are loaded as requested are assignments given to faculty without REP.

2. Due Process Rights

Once REP is attained, part-time faculty have specific due process rights if the administration wants to remove REP and no longer offer assignments. In contrast, a faculty member without REP has no right to an assignment in a quarter, even if assignments are available. The administration has no obligation to offer an assignment to a faculty member without REP.

3. Personal Necessity Leave Rights

All part-time faculty employees are granted one day of personal necessity leave per quarter of employment, regardless of REP status. However, only part-time faculty with REP may use the day of personal necessity leave for attendance at a professional conference.

4. Funding for Professional Conferences

Part-time faculty with REP are eligible for up to \$1600 per year to defray the cost of attendance (registration, travel, meals, etc.) at professional conferences. Part-time faculty without REP are not eligible for any conference funding.

5. Eligibility for Partially Paid Health Benefits

Part-time faculty with REP who work at least 40 percent in an academic year are eligible to participate in the part-time health benefits program the following plan year. Part-time faculty who qualify can enroll in any of the CalPERS health plans and the District's contribution to the plan is a percentage of the PERS Select Plan Cost. Faculty who participate in the plan and have an annual load of 0.400 to 0.499 receive a District contribution of 40 percent of the PERS Select plan cost; those with a load of 0.500 to 0.599 receive a District contribution of 50 percent of the PERS Select plan cost; faculty with an annual load of 0.600 to 0.670 receive a District contribution of 60 percent of the PERS Select plan cost.

How REP is earned

A part-time faculty member earns reemployment preference when he/she provides five quarters of service in a division and has met the evaluation requirements. The latter include an administrative evaluation completed by either the dean or his/her designee (a full-time tenured faculty member) AND a completed student evaluation. But, *Article 7.10.3* specifies that if the dean or designee fails to complete an administrative evaluation within the first three quarters of service,

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which set standards under which institutions were to be held accountable by their peers. As the century drew to a close, and in particular under the George W. Bush administration, which came into office in 2001, the Department of Education began to intrude into accrediting commission processes, demanding greater public accountability.

This is a major factor in the current controversy over California's Accrediting Commission for Community and Junior Colleges (ACCJC) where the Commission claims that federal pressure has forced it to aggressively sanction the state's community colleges. While the Obama administration has continued to demand higher education accountability, it is difficult to explain why the ACCJC has found it necessary to be so harsh in its efforts to comply with federal regulations while other accrediting commissions in the United States have been able to maintain a more collegial peer review process.

In answer, some critics focus on the leadership and culture of the ACCJC, saying the Commission employs a punitive rather than a collaborative approach to the task of bringing colleges into compliance with accreditation standards. Others see the ACCJC as an advocate for a top-down, corporate management style that has its roots in an effort to privatize higher education in the interest of profit and efficiency. Those who have followed the developments at the City College of San Francisco are familiar with these analyses.

At present, it is difficult to determine the direction the Trump Department of Education will take on accreditation, because while it clearly has an interest in privatization, it appears that it might prefer deregulation as

a means to that end rather than increased regulation.

On a wide range of issues, the impact of Supreme Court appointments is the primary concern raised by Trump's election. Focusing here on the concerns of faculty unions like FA, the anti-collective bargaining, pro-corporate biases of a conservative court, especially when the president-elect says he will appoint judges with the temperament of the late Antonin Scalia, portends a bleak future.

It was only ten months ago that Scalia's sudden death derailed the Friedrichs case in which the organization that had filed suit against mandatory fees for union services, the Center for Individual Rights, encouraged a California court to rule in favor of the union so that the Center could fast track the lawsuit to the U.S. Supreme Court where it believed the conservative majority guaranteed a decision against the union. When the Court, absent Scalia following his death a month earlier, heard the case in March 2016, it failed to reach a decision in a four to four vote, a stalemate resulting in the failure of the Center's challenge to current California law which grants unions the right to collect an "agency fee" for services rendered to employees working under its collective bargaining agreement.

Since that time, the four to four split in the Supreme Court has persisted, because the Senate refused to consider President Obama's moderate nominee, Merrick B. Garland, preferring to wait for the victorious presidential candidate to make the nomination. At present there are numerous cases similar to Friedrichs waiting to be advanced to the Supreme Court once Trump fills the Scalia vacancy. Should the political maneuvering over this appointment be successful, the loss of agency fee rights will significantly diminish the ability of unions to support the interests of their members.

Another major legal development here in California threatens the security of public pensions, including those of community college faculty. The threat follows from a challenge to what is known as the "California Rule" found in the state constitution under which employees are guaranteed the pension terms in place at the time they are hired. The terms are considered a contract entered into between the employer and the employee when the employee takes the job. Modifications to this "pension contract" can be made, but any resulting loss of pension benefit value must be compensated with an equal positive increase in value. Community college and K-12 faculty saw this principle work in the Public Employee Pension Reform Act (PEPRA) passed in 2012 which increased employee and employer contribution rates for active employees and, in exchange for this higher cost of the pension, made the annual cost of living adjustment of the plan, which had been available only

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Part-Time REP . . .

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and the faculty member has a completed student evaluation on file, the faculty member earns REP after only three quarters.

Full-time faculty teaching overload assignments under Article 7 also earn REP for the overload assignments. Evaluations (both student and administrative) completed as part of the tenure process or as part of the regular full-time evaluative process apply toward REP. That is, a full-time faculty member does not need to complete separate evaluations for the overload assignments, provided the overload assignment is in the same division as the full-time assignment.

How REP is monitored/updated

Each division office is required to post a list of all part-time faculty, including full-time faculty teaching overload, with Reemployment Preference clearly noted. The current list shows all part-time faculty (both with and without REP), the quarters in which service was rendered (up to five quarters), the date

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as long as funding was available, a vested pension right.

The challenge to this process has come in the form of a Marin County court ruling against a local public union that brought suit against the county for changes made in pensions related to additional work performed shortly before retirement, a practice the county claimed was pension "spiking." The court's ruling stated that the "California Rule" does not guarantee the specific terms of a pension offered at the time employment is initiated; instead, the Rule guarantees a "reasonable" pension for the employee. Should a case like this be appealed to a conservative dominated Trump court, the result could result in a less secure retirement plan for California's union employees, including K-12 teachers and college professors. See the additional article, "AggroPension-omics" in this FA News for more details on the challenges facing pensions.

To conclude, mention should be made of Trump's repeated claim during the campaign that he would "... repeal and replace ObamaCare." This mantra-like refrain has been heard from Republicans since the Affordable Care Act was passed and signed in 2010. During the campaign, Trump claimed the ACA was irredeemably broken and must be discarded, but after his election, enrollment soared, and first indications coming from the president-elect make it sound like he might do more fixing than replacing ObamaCare.

Covered California, as the ACA is known here in California, is significantly more successful and better appreciated than the form it has taken in other parts of the country. In

of the administrative evaluation on file, and the date of the student evaluation.

While I haven't checked every division, I have checked a few and I have noticed that many faculty have five or more quarters of service but no student evaluation on file, and therefore are listed with "No Reemployment Preference." For this reason, FA recommends that every part-time faculty employee complete a student evaluation by the end of the first three quarters of employment. The process is outlined in Article 7.9-7.19; faculty with questions can call the FA office or speak to their division dean about the process.

Next time you see me walking across campus, please say hello. And, feel free to ask me about my day, my classes, my family, my poorly behaved dog, or even a "quick question" about the contract. But, if it's about Article 7, make sure you know whether the faculty member involved, whether you or a colleague, has REP. Otherwise, I'll have to get back to you.

California, the ACA has led to a major facilities expansion and a significant increase in medical coverage. Earlier this year, 1.4 million people were participating in Covered California, and 90 percent of those who signed up received a tax credit to help pay for their coverage. The uninsured rate among Californians decreased from 21.6 percent in 2013 to 15.3 percent in 2014. No doubt, there are many part-time faculty teaching in the CCC that are currently receiving health care through Covered California. In addition, the ACA also provided opportunities for expanded Medicaid (here MediCal) coverage. As of January 2015, 3,013,138 Californians have gained coverage since the first open enrollment period of the insurance marketplace.

It is difficult to anticipate what might be in store for the ACA, but Tom Price, Trump's choice for Secretary of Health and Human Services, is an orthopedic surgeon and six-term Republican member of the House of Representatives, who has floated many ideas during his six-year battle against ObamaCare, most of which focus on granting tax credits for people to use to pay for their medical care. He also wants to reform Medicare, and may be interested in teaming up with House Speaker Paul Ryan, who has long sought to repeal ObamaCare and has talked about privatizing Medicare in a way that would essentially turn it into an ACA-like marketplace in which participants would use their government benefits to buy coverage.

Apparently, a "bad idea" like ObamaCare becomes a "good idea" if it leads to the privatization of an already successful government program. If there is a theme to Trump's policies, it might be "privatization," so there is much reason for public education to be wary of what the next four years might bring.

AggroPension-omics

Steve Howland, FA News Editor

A little known, at the time, and little remembered fact: back in 1993, Bill Clinton came within a hair's breadth of cutting a secret deal with House speaker Newt Gingrich to privatize social security—that is, to turn over public retirement money to the wheelers and dealers on Wall Street. A large untapped fund unexploited for private profit (via millions of dollars in mutual fund administrative fees) was and remains just too tantalizing for the privateers.

Cut to the present. *The Los Angeles Times*, in conjunction with the 'non-partisan' CalMatters think tank, is running an ongoing series on allegedly unsustainable California public pensions, such as those provided by CalPERS and CalSTRS. And locally in Mountain View, a CalMatters clone which recently rebranded itself as "The United States of Common Sense" (USCS) has Cassandra-like raised the alarm about public pension shortfalls and state budget busts, all supported by reams of data and policy papers produced by a gaggle of Stanford grads who front an organization funded by such "Visionaries (\$50,000 and over)" as Charles Munger, Jr., champion of anti-labor legislation and son of the billionaire Berkshire Hathaway executive. Surveying the USCS literature on pensions and its set of supposed solutions to California's budget shortfalls, you'll spot a familiar, billionaire-class concern right away: lowering the capital gains tax.

Another 'solution' to public pension shortfalls has been to get as many people as possible on 401ks, which contrary to its anti-pension series, the LA Times last June in its own business pages called a "failure for all but the wealthiest Americans," referring to the last 40 years of transition for workers from public to private pensions. Meantime, a more recent *Times* piece smears 1999 public employee retirement legislation as "affording retirement security normally reserved for the wealthy" but which was merely a modest benefit to the vast majority of CalPERS retirees, whose pensions today average around \$30K per year. Recall also that CalSTRS pension holders who teach their entire career get no social security.

Another argument put forth against public pensions is that since many private sector employees have no retirement monies saved or coming (45 percent or so do not), why should public employees?

Feeling aggressed in this way can make you a little aggravated.

The arguments of the critics of public pensions should be carefully scrutinized. And in particular, any stated or implied efforts to privatize public pensions should and will be fiercely resisted.

It's true that CalSTRS got hit hard by the Great Recession, losing 1/4 of its assets in 2009, presumably at least some from that most weaponized of financial instruments, the Collateralized Debt Obligation (CDO), bundled subprime mortgages that led to the worldwide recession—but that were rated "Triple A" by the rating agencies, themselves highly paid rubber-stampers, and essentially regulatory captives, of the very banks they were rating. So it goes in the Casino of the American economy, with three bubbles (assuming we're in one now) and two busts in the last 17 years.

More to the point, for this discussion, is the status of California public pension funds. But the current CalSTRS unfunded actuarial obligation isn't debt, exactly; it's more like a snapshot of where the system is in time, and CalSTRS has instituted a more risk-averse investment policy to make it more bubble-resistant. In any event, much more is on the horizon: this issue isn't going away; the *San Francisco Chronicle* had no fewer than three pieces on California public pension-related topics in a recent edition (Nov. 25).

A recent Marin County court decision raises the prospect that pension benefits could be adjusted downward, contrary to legal precedent forbidding same. In response to the Marin decision, the CalSTRS Board has filed a request for "de-publication," noting that the decision "undermines the Court's prior decisions and creates considerable uncertainty for the Board, CalSTRS, and its members." And an amicus curiae brief has been filed with the California Supreme Court by FA's attorney, Bob Bezemek, protesting the same decision.

Retirement Workshop Friday, May 5, 2017

The biennial Retirement Workshop for ALL district employees is scheduled for Friday, May 5, 2017, at De Anza College. Tentatively, the workshop includes sessions on CalSTRS, CalPERS, Social Security, and Medicare. There will be a session exclusively for part-time faculty. Faculty at all stages of their career are encouraged to attend. It is never too early to plan for your retirement. See future issues of the FA News for more details.

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