

MANHATTAN COLLEGE

To: All Adjuncts

From: Provost William Clyde and Vice President Barbara Fabé

Re: QUESTIONS ABOUT ADJUNCT ELECTION ON UNIONIZATION

Date: February 8, 2011

We have received many questions about NYSUT, the election, the effect unionization could have on Manhattan College and what the process could be if NYSUT were to become the representative of the adjunct employees. As everyone knows, the College has asked the NLRB in Washington to review the decision regarding jurisdiction over the College and we await their response. However, we thought it would be helpful if, putting aside the NLRB review process, we responded to the questions as if the question of our Catholic identity and mission were not before the government and, ultimately perhaps the courts. Therefore, below we have tried to answer some of the more common questions. You can also find information about NLRB rights, elections and bargaining on the NLRB site and in other sources.

Q. What is the College's position regarding NYSUT?

A. Manhattan College has always been receptive to a diversity of views and a robust dialogue. However, the College's position is that NYSUT's attempts to unionize adjunct faculty are unnecessary and are not in the best interest of either Manhattan College or its employees. As an employer, Manhattan College strives to promote mutual trust and respect and a direct relationship between academic departments and adjunct faculty. We believe that the College is more effective when our deans, chairs and faculty interact directly with our adjunct faculty to address concerns in a collaborative and cooperative manner without the presence of a third party union. We do not believe that the unionized model would be effective for the College's adjunct faculty.

Q. NYSUT is saying it will give adjunct faculty more of a "voice" . . . will it?

A. If NYSUT is elected it becomes the "exclusive" representative of the employees with respect to wages, benefits, and other terms and conditions of employment. The insertion of an outside union between the College's academic leaders and adjunct faculty is more likely to limit direct exchanges concerning issues of importance to faculty. For instance, if the College wished to structure a non-traditional relationship with an adjunct faculty member it would have to seek the concurrence of the union to any unique arrangement.

Having a voice is important to all of us – adjunct faculty and chairs or deans alike. Manhattan College is not perfect but we continuously strive to improve communications and keep decision-making collaborative and transparent. If an

adjunct faculty member disagrees with an action taken by his or her chair, the adjunct has a number of internal sources of assistance and recourse, including the Human Resources department, the school's senior leadership or the Provost.

Q. If adjuncts are unionized by NYSUT, would all adjuncts have to join the union?

A. NYSUT would be the exclusive representative of all employees in the bargaining unit, including those who voted against the union or simply decided not to vote in the election. In addition, most union contracts require that employees must either join the union and pay dues, or if the employee chooses not to join the union, to pay an "agency fee" which is generally equivalent to dues. This payment provision is called a "union security" clause. Under a NYSUT contract with a union security clause, payment of dues or payment of the agency fee is a requirement, which means that if the adjunct fails to pay union dues, he or she will be terminated from employment. NYSUT's has adjunct agreements at other colleges in the city which require adjuncts to pay dues or an agency fees that are equivalent to dues as a condition of working as an adjunct at the college.

Q. Does it cost money to belong to NYSUT?

A. Yes. Unions charge dues and sometimes charge fees, and assessments. Dues for adjuncts reportedly range from 1.15% to 2.5% of total compensation. You can ask a NYSUT representative what you can expect the dues to be if NYSUT has not already made that information public to Manhattan College adjuncts. Therefore any change in pay would have to exceed the amount owed as dues or agency shop fees for an adjunct to achieve any gain in compensation. In addition, only part of the dues paid to a union such as NYSUT generally stays with the local union. The rest is distributed to the national parent union, in this case the American Federation of Teachers (AFT). NYSUT's website may have additional information on the amount of dues owed and how dues are used by the union.

Q. How would NYSUT change the working environment at Manhattan College?

A. Presently, department chairs or full time faculty can work directly with adjuncts to structure teaching duties. This direct working relationship allows for flexibility and allows chairs and adjunct faculty to make individual decisions and accommodations to meet individual circumstances. If NYSUT were elected, by law it would be the exclusive representative of the adjunct faculty in the bargaining unit. This could likely create a more rigid environment, hamper flexibility, and make individualized decisions difficult or impossible. For example, a chair and an adjunct may no longer be able to reach an agreement on a flexible arrangement for the adjunct without first discussing the matter with the union and could be bound by the rules of the collective bargaining agreement. If the union did not support an alternative arrangement for one adjunct faculty member, it could oppose it and take steps to prevent it.

Q. What is collective bargaining?

A. Collective bargaining is the process by which an employer and union negotiate the wages, hours, and other terms and conditions of employment for the group of employees who are represented by the union. The process involves representatives of a union and an employer sitting down to negotiate various rules, conditions, benefits, and wage rates. Under the law, an employer is not obliged to agree to any changes or improvements. However, the employer must negotiate in good faith. In collective bargaining, employers sometimes ask for concessions in some areas to balance union demands in other areas. Similarly, unions may offer concessions to gain an objective in a different area. Almost all terms and conditions can be negotiable and employees could get more, the same, or less in collective bargaining compared with existing terms of employment.

Q. Can NYSUT guarantee more job security to adjuncts?

A. There are no “guarantees” in collective bargaining. Recent economic turmoil has made that abundantly clear, even for unionized employees. Virtually all collective bargaining agreements grant to the employer the right to lay off and terminate employees. In fact, most collective bargaining agreements require that employees be laid off according to seniority. Adjunct collective bargaining agreements cannot eliminate the reality that adjuncts are hired for specific available courses offered for a semester. Collective bargaining agreements do recognize a college’s rights to decide its academic program and fundamental staffing.

Q. Can adjunct faculty vote the union out if they decide they no longer want NYSUT?

A. The process of voting a union out is called decertification. It can be very difficult to decertify a union once it is in place. For instance, there cannot be a decertification vote for at least a year after NYSUT wins an election. In addition, there cannot be a decertification vote while a NYSUT contract is in place. Thus, for example, if it takes a year to finish negotiating a contract and the contract is for three years, it would be four years before adjuncts could try and remove NYSUT. To do so adjuncts would have to petition the NLRB to have an election on removing NYSUT. The reality is that the vast majority of unions remain in place indefinitely because removing a union is difficult and time consuming. If you are not sure that you want NYSUT at this time you have the option to VOTE NO. You can ask the NLRB more about decertification if you have questions.

Q. How would NYSUT affect the relationship between adjuncts, their chairs and the College?

A. The union is the “exclusive” representative of the adjuncts. So, chairs may not be able to deal directly and individually with adjuncts on matters related to wages or schedules, but will be bound by the collective bargaining agreement.

Q. During the time I am on campus to teach do I have an obligation to speak or meet with someone who says they are affiliated with NYSUT?

A. NYSUT is not permitted to interfere with an adjunct's right and responsibility to fulfill their obligation to teach students and conduct their class, and we believe they understand that limitation. Of course, during times when an adjunct is not teaching or not working for the college, you have the choice whether you want to or do not want to meet with or to speak with a representative of NYSUT; the choice is entirely up to you.

Q. I prefer speaking for myself, working directly with my chair and colleagues on the full time faculty, and don't want NYSUT to speak for me. If a union comes in, will the union represent me, too and want to speak for me?

A. If NYSUT comes in, all adjunct faculty employees in the bargaining unit will be represented by – and can expect to pay dues and assessment to – the union regardless of your personal preferences. In some circumstances, the College could be barred from working directly with an individual adjunct to set the details of the individual's assignment and the College would have to act consistent with the union's position and any collective bargaining agreement.

Q. What does collective bargaining require of NYSUT and the College?

A. The College and the Union are obligated to bargain in good-faith. The Union cannot force the College to agree to anything. The College will only agree to do what we believe we can afford and is in the best interest of our students, faculty, and the College. Employees should remember that anything can happen in bargaining. What you have now can improve, decrease or stay the same.

Q. What is a collective bargaining agreement?

A. A collective bargaining agreement, also called a labor contract, is the agreement between an employer and a union covering terms and conditions of employment.

Q. What happens if NYSUT and the College cannot agree on wages, hours, and other terms or conditions of employment?

A. Several things can happen. First, negotiations might go on for a long time – years – if the parties can't agree. During this time the College cannot make changes to things like wages, schedules or benefits without bargaining about it with NYSUT. Finally, if the parties cannot agree, the union might call on adjuncts to strike to try and get concessions from Manhattan College. Employers do not pay employees' wages while they are on strike. Under some circumstances, striking employees have to be replaced during a strike.

Q. How long does it take to negotiate a labor contract?

A. The average negotiation for a first contract takes a year or more. There are cases of first contract negotiations continuing for three or four years. As we previously said, while negotiations are on-going, the College cannot make changes on its own to things like wages. At Pace adjunct negotiations took more than four years for a first contract and at Marymount more than three years.

Q. What if I don't agree with what NYSUT thinks is important during negotiations?

A. Often things that are important to individual adjuncts are not NYSUT's goals during bargaining. Negotiations will be handled by NYSUT employees, usually with a few College unit employees participating with NYSUT representatives. Before a contract that is negotiated becomes effective, the employees generally have an opportunity to vote on whether or not they accept the negotiated terms. Nonetheless, all employees in a bargaining unit would be governed by the collectively-bargaining contract once it is put in place.

Q. If there was an election, how would NYSUT get elected?

A. In an election to decide whether employees want NYSUT to represent them, NYSUT would win if a simple majority fifty-percent (50% plus one vote) of the adjunct votes cast were votes for the union. If the bargaining unit is determined to include two-hundred (200) adjuncts, but only eighty-three (83) cast their votes and forty five (45) of the 83 voters vote for the union, the union would come in to represent all two-hundred (200) bargaining unit adjuncts. Employees that choose to ignore anything to do with union representation by not voting, will still be bound by the outcome of the election.

Q. What can someone who is against having NYSUT do?

A. Employees who do not believe a union is the right thing for them, their families, and the College have the same legally-protected right to express themselves about their views on unions as those employees who are in favor of the union. Subject to the limitations outlined on solicitation and distribution of material, an employee may discuss experiences and opinions with co-workers; point out the reasons why they feel bringing in NYSUT would be a mistake; remind co-workers that the individual terms and flexibility they currently have as part of the Manhattan College community would be subject to negotiation, etc., or simply decide to vote no at this time and see what this new administration will do.

Q. If NYSUT wins the election, will there automatically be changes to wages and other working conditions?

A. The law does not require any changes in your employment terms or wages just because NYSUT wins an election. Your terms and conditions of employment, such as rates of pay and working conditions will become the issues discussed at the negotiating table. Manhattan College and NYSUT must bargain in "good

faith” over all of these items and some or all of them could remain the same, change, be increased, be reduced or be eliminated.

Q. If NYSUT is elected, could adjuncts’ lose some of our current entitlements?

A. Nothing is guaranteed in negotiations except the obligation to engage in good faith bargaining. The College and union will make proposals on what each seeks to gain and will bargain on what each is willing to give up for a different goal.

Q. What does “bargaining in good faith” really mean?

A. It means that Manhattan College and the union must meet at reasonable times and places, and each is to enter negotiations with an open and flexible mind. Further, what ends up being negotiated by the parties may not be the same as what the union has negotiated with other schools. Manhattan College has no legal obligation to agree to anything that it determines is not in the best interest of our students, employees, the College and its future.

Q. Would voting for NYSUT mean employees would get more money, benefits, a pension plan, or anything that we don’t already have?

A. Not necessarily. The College and NYSUT would negotiate on wages, hours, and working conditions for adjuncts represented by NYSUT. The union might decide to “trade off” certain benefits or working conditions that employees seek in order to get something else or something that is important to NYSUT. In fact, NYSUT cannot “guarantee you” what the results of the negotiations will be – more, the same, or less. The College can’t guarantee what the results of negotiations will be. The truth of the matter is that NYSUT cannot “legally guarantee” you that they will be able to increase or even maintain current wages, especially since adjuncts will be subject to union dues and fees.

Q. Who decides and determines adjunct employment terms?

A. The College decides what it will agree to in bargaining about the terms, policies, rules, pay, benefits and other adjunct job conditions based on what the College believes it can provide realistically. NYSUT is free to make any and all “promises” it wants during the campaign to get you to vote for it, but the union must ultimately bargain with the College about those promises. What results from the bargaining is what realistically the College is confident it can commit to for the adjuncts. The union doesn’t provide adjuncts with teaching opportunities, and it does not write your paychecks, Manhattan College does. The College does not make empty promises to any of its employees but works extraordinarily hard to provide for all of them.

Q. If NYSUT is not voted in, what then happens?

- A. If NYSUT loses the election and the National Labor Relations Board certifies the results, the College is legally able to deal directly with adjuncts concerning all aspects of your employment with Manhattan College. We believe that adjuncts and the College would be much better off working to resolve their own issues without the interference of NYSUT. Manhattan College has new deans, a new Provost and a new President. Perhaps we should give this new team a chance.
- Q. If NYSUT loses the election, will there be any retaliation against those who may have supported the union at one time?*
- A. NO. Such conduct by the College would be in violation of the National Labor Relations Act. We can assure adjuncts that it is not our practice, our culture or our record to retaliate against employees for exercising their legal rights. As a College, we continue to be committed to respect the legal rights of each and every one of our employees.
- Q. Will anyone be able to tell how I voted in a NYSUT election?*
- A. This election is scheduled to be held by a secret mail ballot. No one will be able to tell whether an adjunct who voted specifically voted for or against NYSUT.
- Q. I have been contacted by union representatives at my home, does the College provide home address information?*
- A. The NLRB requires that an employer provide names and home addresses of employees who are part of the unit identified for an election and the NLRB then gives that information to the union so the union can contact employees at their home. Manhattan College was required to turn the information over promptly to the NLRB and the NLRB turned it over to NYSUT.
- Q. Do I have to tell anyone how I intend to vote or how I ultimately vote?*
- A. No. How you vote and what you think about the vote is your personal business. You are free to discuss it or decline to discuss it.
- Q. Should I vote?*
- A. YES. Every adjunct eligible to vote should vote. This is a decision about your future and the future of the College. No one else at the College can vote so you have to do so. Vote thoughtfully and wisely but make your own decision and VOTE. If you have questions about voting there are posters on campus from the NLRB about the election and who you can contact.