Hindsight Is Always
4-4
U.S. Supreme Court says: Collective Bargaining is Constitutional!
PAnorama’s Editorial Policy

PAnorama is the voice of our local. In addition to the PA website (www.mvccpa.org), email, and bulletin boards, PAnorama is a principal vehicle for bringing you, on a regular basis, information on the views and activities of our members.

We welcome articles by, for, and about PA members on union-related issues and concerns as reflected in NYSUT and AFT activities as well as in the purpose and functions of the PA’s standing committees: Community Outreach, Education & Training, Grievance, Internal Communications, Member Services, Negotiations, Political Action, and Research and Records.

All submissions are subject to the review and acceptance of the Editor and/or Internal Communications Committee. We do not accept articles that make personal attacks and we reserve the right to edit articles for length. We look forward to hearing from you.

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PrezDesk

By Norma Chrisman

Anyone in business will tell you that name recognition is a key element in success. McDonald’s has their golden arches. Nike has their swoosh. We have our PA logo adorning on our PA Blue polo shirts and lapel pins. This logo was developed during our Local Action Project (LAP) through NYSUT in 2004. We also provide our graduates with PA key chains or pens that have our logo and name on them at commencement. Our logo is, most notably, our main form of name recognition.

Being involved in your community, as a way of getting your name out there, can also be a positive reflection on your business or group. If customers know that Holland Farms donates money or goods to the America’s Greatest Heart Run and Walk, they may have a higher opinion of the business. Other than having amazing jelly buns, the business is giving to the community and getting their name out.

During our LAP program, we learned about community outreach, coalition building, and community engagement. PA members’ involvement in activities outside of the College gets us recognized, not just for our involvement with a group or project, but as being a member of the MVCC PA and lending a hand. We are there to support the activity and people remember that.

Since becoming President of the PA, I have become more involved in activities outside of the College. One of the groups that I belong to is NYSUT’s Oneida and Herkimer County Presidents. The folks who attend these meetings are presidents of locals that NYSUT’s Utica Regional office represents in Oneida and Herkimer Counties.

While the membership of this group mainly represents K-12 locals, the Herkimer College Faculty Association President and I represent community colleges. It is important that we listen to what is going on in K-12 setting, assist in any way that we can, and simply be a friend to our brothers and sisters. By attending meetings with this group, I have forged a relationship built on mutual respect.

During a recent meeting, I was afforded the opportunity to speak to the group about the lack of funding that community colleges are receiving from the state. Knowing that the PA has always been supportive of our K-12 brothers and sisters, they in turn are doing what they can to support us. The easiest way for them to support us was to complete NYSUT’s MAC to “Help Support Community College Funding.” They were going to ask their
memberships to complete the NYSUT MAC as well.

Another group that I participate in is the Central New York Labor Council. This group is composed of other educators as well as unionists from various trades. Participating in this council along with PA Past President Bill Perrotti and PA Member Jim Roberts, has allowed us to create a relationship with the various trade unionists. The President of this council, Pat Costello, frequently tells our political representatives that MVCC is a diamond in the valley. He tells the politicians that we are one of the lowest paid groups among New York State community colleges and that they should pay us better. Without having PA representation at these meetings, our labor counterparts wouldn’t have any idea what struggles we face and vice versa.

It is important that we continue to get our name out there as I cannot do this alone. As of March 29, the Supreme Court affirmed, in an equally divided court, to uphold the Abood court decision in the Friedrichs case. This means that, for the time being, public unions are safe. But we aren’t naïve; we know that there are other forces out there trying to break unions. Forging relationships with groups such as the Oneida and Herkimer County Presidents and the Central New York Labor Council allows us to educate and assist each other.

On April 29th we will be helping the Utica Bike Rescue by collecting old bikes, bike parts, wheels, or anything that has to do with bikes. The Utica Bike Rescue refurbishes the donated items for kids in the community who can’t afford a bike. They also hold workshops for kids to learn how to fix and maintain bikes.

Benefits Fund Update

Please don’t forget about the out-of-pocket reimbursement through MVCC PA Benefits Trust Fund.

Any approved medical expenditures incurred in 2016 will be reimbursed through our “Out of Pocket Medical Expense Reimbursement.”

Members (including your spouse and dependents) can be reimbursed for any out-of-pocket medical expense/flexible spending expense incurred in 2016 for procedures performed or co-pays paid in the 2016 calendar.

This out-of-pocket reimbursement is capped at $150 per member. The eligibility information, reimbursement form, and electronic funds transfer form can be found on the PA website at http://www.mvccpa.org/main/benefits-fund-reimburse.cfm.

The deadline to submit receipts to The Preferred Group for reimbursement is January 15, 2017. Any submissions following the 15th of January will be denied.

We are also offering a will signing date on May 4th and John Calimano will be on campus to help set up or modify your will. John is also willing to answer any legal questions you might be facing.

If you want to set up an appointment with John Calimano or if you have questions regarding your Professional Association benefits, please contact Justin Wilcox, Benefits Chair.

Team Sam brought in $805 for the Heart Run and Walk. We had ten walkers: Melissa Barlett, Ellis Searles, Norma Chrisman, Allison Doughtie with husband John Bartle, Emily Hantsch, Dawson McDermott and his two lovely daughters, Bill Perrotti, and Gail Warchol. Thank you all who donated their time and money to this great cause and great team.

On April 15th we sponsored the House of Good Shep- ard Bowl-A-Thon. We have two teams. Justin Rahn, Dawson McDermott, Tim Burke, Carla Zupancic, Sean Davis, Erica Carrock, Mary Sykes, Katherine Voce, and Harron James are registered to bowl. Wish them luck!

MVCC Professional Association Newsletter ● Volume XVIII ● No. 9 ● April 2016
Supreme Court Has Spoken: 4-4 for the Unions
By Norma Chrisman

A portion of this article originally appeared in October 2015 issue.

In March of 2015, Wisconsin Governor Scott Walker made a name for himself. Despite protests and marches on the Wisconsin Capital building by teachers, teamsters, firefighters, and other union affiliates, he signed legislation making Wisconsin the 25th Right To Work state.

While the three words “right,” “to,” and “work” grouped together seem non-threatening and a good thing, this could not be farther from the truth. A Right To Work law is a state law that stops employers and employees from negotiating an agreement. Right To Work laws state that unions must represent all eligible employees, whether or not they pay dues. This law allows those who do not pay dues to still be eligible for all of the benefits of union membership such as pay increases, health insurance, retirement benefits, and vacation and sick time. This free ride hamstrings the power of collective bargaining.

Research has shown that the quality of life for residents of states that have enacted Right to Work laws is less than in states without these laws. On average, workers earn nearly $6,000 a year less; states spend $2,671 less per pupil on elementary and secondary education; and there is a 52.9% increase in workplace fatalities. Studies also show that union members receive 28% more in wages and benefits than nonunion workers while 78% of union members have access to medical insurance versus 51% for nonunion members. It only makes sense that states with right to work laws have weaker economies due to workers having less to spend. The small business owners, mom and pop stores, are seeing the biggest impact of this weakened economy.

Since August 2013 Friedrichs vs California Teachers Association has been dominating the headlines around our country. This case concerns employees that pay union dues whether or not they complete their membership form. Employees that do not wish to complete a membership form still have dues deducted but do not have all of the rights afforded to someone who has completed the membership form. These employees are known as agency fee payers.

Agency fee payers, per a 1988 Supreme Court decision (Communications Workers of America v. Beck), are entitled to be compensated for their portion of union dues moneys spent on their union’s political operations. This decision allowed for agency fee payers to still pay their share of union representation but not have to contribute to political activities they oppose. Agency fee payers still receive the same benefits as union members, including representation in the event of disciplinary charges being brought forth against the agency fee payer, but they cannot participate in elections or meetings.

The plaintiff in the Friedrichs case felt that the decision of Abood v Detroit Board of Education should be overruled. The Abood case affirms that unions can continue to permit “agency shop” arrangement that require employees to pay dues even if they do not want to be a union member. The plaintiff felt that they should not have to pay dues but still be afforded all of the benefits of a dues paying member.

This March, the Supreme Court deadlocked 4-4 in Friedrichs case, allowing the teacher’s unions to continue to collect dues to fund collective bargaining and other activities. This was a major victory for the unions. Had the California Teachers Association lost their case, it would have had a huge impact on unions as we know them. Without this, we would have had employees, who do not see the benefit in having a union, opt out but still reap the benefits that dues-paying union members have negotiated with their employer. Regardless of whether it is Right to Work laws or the Friedrichs case, the fundamental purpose behind each action is to deny union funding. The funding helps to effectively bargain and participate in political activities that impact the union’s voice and power that labor activists in our history have fought so hard for.
Congratulations! You have been promoted! Any guesses what you received in 1968 when you were promoted? Nada, nothing, zilch. Pardon me, I take that back; you received a handshake and a congratulations.

Please indulge me as I take you back in PA history to explain the evolution of the promotion language in the PA’s Collective Bargaining Agreement (CBA).

In 1968, the contract language regarding promotion stated the following: “The Committee on Promotion” shall consist of five faculty members appointed by the President serving at the pleasure of the President. The Chairman shall be elected by the committee.” The President, referenced in this contract language, refers to the College President. The five faculty members were randomly selected and prior promotion rankings were not considered when selecting the individuals. It wasn’t until the 1992 contract that the College Senate Promotions Committee was included in the PA contract language: “The President, together with his/her recommendation, will also recommend to the Board of Trustees promotion to the rank applied for for those candidates whose point total from the Promotions Committee meets or exceeds the established minimum total for that rank.”

The College Senate Promotions Committee is currently composed of seven elected peers who have been granted the highest level of promotion (Professor for academic rank employees and Level IV for non-academic rank employees).

In the 1978 contract, the following language referred to who would be considered for promotion, “Consideration of a faculty member for promotion may be initiated by the administration or by written request of the faculty member to the Vice President of Instruction.” The 1995 contract went on to define promotions for employees with academic rank and employees without academic rank. This contract defined Levels I, II and III for employees without academic rank, and the 2005 contract established Level IV for employees without academic rank. Level IV for employees without academic rank evened the promotion levels with employees with academic rank, allowing for all bargaining unit members to apply for three levels of promotions after their initial three years in their title or rank.

The 1981 contract mandated that “The Employer will provide unsuccessful candidates for promotion a written summary of relevant deficiencies.”

While it seems obvious that the employee would be told if they have been granted their promotion or not, it wasn’t until two contracts later, in 1989, that language was negotiated to require that a member would receive notification concerning their application for promotion. “Notification of the granting or denial of promotion shall be given within five (5) working days following the regular May meeting of the Board of Trustees.”

Bargaining unit members have not always received money for being granted a promotion. It wasn’t until the 1996 contract that “employees with academic rank and employees without academic rank will receive upon promotion to each rank or level a $500 increase in base salary.”

Since the 1996 contract, the rate increased and the 2010 contract established a three-tier approach to payments based upon the rank or level the member was promoted to. Ironically, one of the people behind the 1996 contract language establishing payment for promotion had already been promoted to Professor before this language had been negotiated. That person, Sam Drogo, was the chair of the Negotiating Committee that established the three-tier payment structure. Sam and his team, along with all negotiating teams since then, negotiated for items that will benefit the membership as a whole even if they themselves may not benefit.
The Promotion language, article 4.6 in our CBA, along with all other language in our contract is a “work in progress.” The Promotion language, introduced in 1968, began as one short paragraph explaining who reviews a promotion. As of 2013, it has evolved into nearly two pages addressing who is eligible, when they are eligible, who is considered, who is recommended, and what happens after your promotion application has been reviewed.
Your Union: What’s It to You?

By PA retiree Marie Czarnecki

PA President Norma Chrisman asked some of us retirees to reflect on the role the union plays in our lives. Here are some thoughts.

What’s your union to you? Well, for one thing, over the years the PA has achieved many contractual gains that affect PA members today. Members have enjoyed these gains for a long time, so it’s easy to take them for granted. But they haven’t always been there. PA members worked long and hard with the support of NYSUT to make them reality. Let’s look at just a few items in your contract.

Did you know that your excellent negotiated health insurance was once threatened when the county unilaterally changed to a self-insured plan? Did you know that the contract language in article 10 upheld a PA grievance against this action and continues to safeguard your coverage?

Your PA contract saved the day.

Did you know that there wasn’t always the possibility for sick leave donation?

Contract negotiations changed that.

Did you know that at one time if you taught an overload at night, you’d be paid less than an overload during the day?

Solidarity fought for that.

And did you know that…

At one time, 12-month professionals did not have the same opportunity for overload as faculty?

Or that 12-month professionals did not always have opportunity to apply for promotion?

Solidarity again.

Did you know that promotion was essentially a pat on the back with virtually no financial recognition? (See President Chrisman’s article on “xxxx” p. x to appreciate the history of hard-won contractual gains in promotion.)

And did you know that there was no free vision plan, free legal plan, free $50,000 Life and AD&D plans, among other benefits, before the PA Benefits Fund was negotiated? Did you know that in subsequent negotiations, the College tried more than once to eliminate the PA Fund, but that PA solidarity saved it?

Are you aware that the PA Benefits Fund offered benefits to domestic partners from its inception? That the PA fought a long battle to achieve equity for domestic partners in the contract, making incremental gains over several bargaining cycles?

Did you know that administrators wanted priority for overload, but that the PA contract guarantees priority to PA members?

Did you know that the contract provides a retirement benefit to qualified PA members (currently at $46,000) applied to health insurance premiums?

The list goes on.

Such gains and protections that members enjoy today were hard won by the PA membership — in long hours of negotiations at the table and in the planning stages, on picket lines, in shows of solidarity in PA blue, in community service, in political outreach activities to educate county legislators and endorse supportive candidates, in involvement with our brothers and sisters in the CNY Labor Council, in PA committee work, in attendance at PA meetings, and in overwhelming PA presence at critical board meetings and demonstrations, and in pride in the excellence we strive for while carrying out our jobs day in and day out at MVCC as PA members.

And now it’s your turn. How can you continue that legacy of solidarity today?
If you are not already a member, sign up today. Contact PA President Norma Chrisman.

Encourage new colleagues to sign up.

Become involved: If you’re on a PA committee, be an active member.

If you’re a PA Committee Chair, involve your committee members.

Answer requests from your PA president to volunteer for small but crucial jobs that need doing. It might be as simple as a half hour putting stamps on post cards.

Step up. Nominate yourself and colleagues for PA committees and leadership roles. Learn about the organization by checking out the PA Constitution on the website.

Vote in PA elections.

Be informed: Read and share the PA newsletter. Read the email messages from the PA President. Attend membership meetings.

Tell students about the PA scholarship.

Join in PA social events.

Know your contract rights and responsibilities.

Check out the PA Benefits Fund on the PA website. Use and encourage other members to use their benefits Contact your grievance chair, Dawson McDermott, if you have a question about a contract violation.

Support your negotiating team: Alison Doughtie, Aaron Fried, Dawson McDermott, Justin Rahn, Kevin Siembab, and Alex Haines-Stephan. They are engaged in a long, frustrating, and complicated process. They need to know you’ve got their backs. Stay tuned to your PA president for specific ways you can show your support in the future if it should become necessary.

Realize that as members of the Professional Association, you are all in it together: You’re a union. You are part of a larger force that gains its strength from individuals standing together for the common good.

Be proud to be a PA member!

Marie Czarnecki served as PA Secretary, Secretary of the Benefits Fund, member of several Negotiating Teams, and as a PA Rep.

NEW MEMBER PROFILE: CARLOS PULQUERIO
By George J. Searles

We are pleased to welcome new member Carlos Pulquerio, who is completing his first year as a CSTEP Project Assistant. Carlos was originally from Brazil, but is no newcomer to MVCC. He was a biology major here, earning President’s List recognition followed by a Chancellor’s Award for Excellence upon graduation in 2013. In addition, he compiled an impressive record of extracurricular activities as president of Student Congress, Phi Theta Kappa, and the Math Club, and vice-president of the Latino Student Union.

Carlos also completed two summer internships as a McNair Scholar at Clarkson University, a credential which, along with his outstanding performance at MVCC, enabled him to make the big leap to the Ivy League—Cornell University!

In Ithaca he majored in Interdisciplinary Studies, with an emphasis on biology and business management. He told Panorama that he is an achiever by nature and continuously sets increasingly challenging goals.

A film buff, Carlos also enjoys skiing and ice skating. He lives in Boonville with his wife and daughter.
Many clients will ask us if it is ok to hire an “off-the-books” caregiver for their family member in need of home care. Our answer: A resounding “NO”.

We get it – at first glance it seems very expensive to use an Agency. But when you factor in all of the hidden costs involved that you are now uncovering, you will understand why the Agencies must charge as they do. Here is a short list of some pitfalls that have befallen those who didn’t realize the issue until it was too late.

**Payroll Taxes**

Household employers will have to make payments for payroll taxes for their employees, including FICA, Medicare and federal unemployment taxes. Remember “Nannygate” a few years back? Maybe you are not hoping to be next Attorney General of the United States, but you do not want problems with the IRS for failure to pay your taxes.

But what if I just say she is an Independent Contractor? Can’t I just give her a 1099 and not worry about payroll taxes?

No. The IRS is very clear that household workers are employees and not independent contractors. Do you control who is hired, what time they come and go, and what they do when they get there? If yes, then you are an employer.

**Overtime**

If an aide works more than 40 hours, her wages are subject to overtime rates. “Caregiver” is not a salary position; it is hourly, and it is subject to state overtime rules.

**Workers Compensation and Insurance Issues**

Employers must provide worker’s compensation coverage for employees. Who pays if your caregiver gets hurt helping you in the house? Your homeowner’s coverage may not cover this situation.

What happens if someone accused you or a family member of an improper advance? Do you have harassment insurance coverage against this risk?
Lost Medical Expense Deductions

You cannot write off a medical expense for expenses for a caregiver who is not on the books.

Had you used a licensed Agency, you may be able to take a medical expense deduction, subject to itemized deduction and AGI limitations. This can be especially helpful if you are using pre-tax accounts such as IRAs to help pay for the care expenses.

Unexplained Cash Withdrawals and the Unintended Medicaid Nightmare

This could be a very, very expensive trap for the unwary.

Example: Mary pays an off-the-books worker to care for her Mom. Four years later, Mom now needs a nursing home, and applies for Medicaid coverage in New York. The application is denied due to unexplained cash withdrawals of $96,000 over the past 60 months from the time she applied for benefits. The Department of Social Services deemed Mom to have “gifted” $96,000 to daughter Mary, making her ineligible for Medicaid coverage for the first 8 months that Mom was in the nursing home on Long Island. Mary now faces a bill at the nursing home for $15,000 per month times the 8 months for which Medicaid will not cover. Mary must now figure out how to come up with $120,000 to pay the nursing home.

Long Term Care Insurance

When making a claim, your carrier may not pay for “off the books” care. Check with your insurance advisor as to what caregiver costs are covered, and whether the aide must be employed by a licensed agency.

Who Helps Mom When the Aide is Sick?

A snowstorm, a bus strike, a train stoppage, or even the flu can prevent your household employee from getting to work. By using an agency, you may have more success when plans go awry. If you need a “backup plan” your agency may be able to find coverage for that day. If you are the employer, you may find yourself being the backup plan.

How do I prevent these problems from happening? A licensed Home Health Care Agency can provide the help that you need, relieve you of the administrative burdens, and help justify for tax and Medicaid purposes that these expenses are legitimate.

If you have any questions or concerns, please contact your Legal Service Plan’s National Legal Office.
Why didn’t anyone discover what Bernard Madoff was up to? Why didn’t the Securities and Exchange Commission or another regulatory group stop the former wealth manager, now imprisoned for life, from defrauding investors of an estimated $50 billion? The federal government will spend years looking for answers, while many investors wonder whether their advisor, too, may be taking advantage of their trust. But recently strengthened regulatory standards for financial advisors who hold the Certified Financial Planner (CFP®) designation could ease those concerns for investors working with CFP® licensees.

The Certified Financial Planning Board of Standards requires all CFP licensees to place clients’ interests above their own. And advisors who don’t practice by the rules will lose the right to use the CFP® designation.

The professionals who conduct financial consultations through the Mohawk Valley Community College Professional Association Financial Counseling Program are CFP’s or Registered Investment Advisors, both designations require the individual to place your interests above their own!

In a recent CFP Board web seminar, officials outlined two required standards of care. The baseline standard governs a CFP® whose dealings with a client are limited to a single aspect of financial planning, such as college planning, estate planning, or taxation. In those cases, a CFP® must place the client’s interest first in every way.

But a second, even higher standard of care applies when a CFP® has an ongoing relationship with a client and makes recommendations across a range of planning issues. CFP® licensees in those cases must adhere to a fiduciary standard, which involves acting as a trustee, always in utmost good faith. It applies to a CFP® who writes a comprehensive financial plan, requiring the advisor to analyze the client’s situation objectively and to recommend products with the best price and execution for the client. But the fiduciary standard also requires a CFP® to look at the client’s individual situation and offer a customized plan. It rejects boilerplate language as not being “in the client’s best interest,” because it tells every client to do the same thing, regardless of financial circumstances. Nor is it acceptable to offer the same investment portfolio to every client.

You can use the MVCC Professional Association FCP to review: Retirement Planning, Refinancing, Mortgages, Debt Management, Budgeting, Divorce, Investments (403B, Pension Advice), Mutual Fund Questions, Asset Allocation, Establishing Risk Tolerance, Taxes, Inheritance Issues, Gifting, Estate Planning, Savings, Cash Flow, General Education, Elder Care, Social Security, Education Funding (i.e. 529 plans), Second Opinions & Life, Disability and Long-Term Care Insurance

The professionals who conduct Financial Consultations through the MVCC Professional Association Financial Counseling Program ARE PROHIBITED from selling members insurance products or receiving commissions from selling investment products!

Investment Advisor Representatives face regulation by the SEC or the states and receive fees for their advice, while brokers are regulated by the Financial Industry Regulatory Authority and can get commissions for sales of financial products. Because commissions may lead to at least a perceived conflict of interest, some members of Congress vehemently disagreed with allowing brokers to advise individuals on 401(k)s and argued that advice should come only from advisors who adhered to a strict fiduciary standard, such as the one the CFP Board enforces.

The Department of Labor is expected to release new rules and standards on this issue this month. Although rules seem to come and go, get tightened and loosened, you however, can rest assured because the professionals who conduct financial consultations through the MVCC Professional Association Financial Counseling Program consistently meet or exceed the highest levels of fiduciary responsibility!

To use the MVCC Professional Association FCP contact Stacey Braun Associates, Inc. at 888-949-1925. Remember the program is paid for by the MVCC Professional Association, so you can get quality advice for no out of pocket cost!!
Through the **Bikes For Goodwill Organizations** program, **Utica Bike Rescue** provides refurbished bikes to clients identified by our partner organizations. Bikes for Goodwill Organizations provides increased mobility and access to transportation. This provides far-reaching benefit to recipients by providing the means to travel independently and inexpensively to employment, medical appointments, meetings with case workers, school and other necessary travel. The Utica Bike Rescue also helps children refurbish old bikes to make one that is functional. **MVCC PA Outreach** is sponsoring a **raffle** and used or new bike **donation** the last week of April. **Bring Bikes, bike parts, seats, wheels, baskets** on **April 28th from 8:30 AM to 12:30 PM outside the Academic Building off Sherman Drive**

**Raffle:** April 25th to April 27th from 11:00 am - 1:00 PM AB Lobby Utica Campus and on April 28th from 8:30 – 12:00 outside the Utica Academic Building off Sherman Drive

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**MVCCPA and Social Media**

The Professional Association is proud to announce a newly invigorated online social media presence. The PA uses Facebook and Twitter as a hub for union communications, both locally and nationally. We are connected with other NYSUT locals and various community organizations including the NY-SUT Action Center, CNY Labor Council, and other local businesses. Be sure to follow the PA for immediate updates on political action and fundraising campaigns, union meetings, and social events. We also function as a resource for all union members by providing a series on national labor history and information on how to get involved.

Invite your friends and other local organizations to follow the sites. You can find us on Facebook at MVCC Professional Association, and on Twitter, at MVCC PA.
Vote, Vote, Vote!

PA Elections

May 2nd - May 6th

Get involved!

Nominate yourself or a colleague

Available positions:

- 1st VP
- 2nd VP
- Secretary
- Delegate alternates
- Audit Committee
- Community Outreach Committee
- Education and Training Committee
- Grievance Committee
- Internal Communications Committee
- Member Services Committee
- Political Outreach Committee
- New Member Committee

For more information on the specific position duties, check out PA by-laws at http://mvccpa.org/main/ldrship-committees.cfm