

CUNY steps on free speech

By PETER HOGNESS

LaGuardia Community College President Gail Mellow has announced a ban on use of the college's e-mail system for communicating about "union business." No other topics of discussion were prohibited in her October 30 letter to PSC chapter chair Lorraine Cohen.

"According to this policy, you can post a notice that there's a kitten up for adoption, or an apartment for rent in Bayside – but not that there's a union meeting," said Danny Lynch, professor of English and vice chair of the LaGuardia PSC chapter.

The announcement provoked a strong response from LaGuardia faculty and staff. "People are deeply disturbed," said PSC Chapter Chair Lorraine Cohen. "They see this as arbitrary, discriminatory and contrary to the values of our institution."

CHALLENGE

To challenge the ban, the PSC has filed a grievance, a complaint with the Public Employment Relations Board (PERB), and a lawsuit in federal court. "CUNY's ban on union speech is a violation of the contract, New York State's Taylor Law and the First Amendment," said PSC First Vice President Steve London, chair of the PSC Contract Enforcement Committee. "The PSC will pursue all legal options available to protect the rights of union members at LaGuardia Community College."

The newly announced policy marks a sharp break from LaGuardia's past practice. The campus e-mail system had been regularly used for union communications for many years.

In her October 30 e-mail to Cohen, LaGuardia President Gail Mellow noted that Cohen had sent "notices relating to PSC meetings" over campus e-mail. According to Vice Chancellor Frederick Schaffer, Mellow wrote, this was a violation of CUNY's policy on computer use, because it allows CUNY's computer systems to be used only for "activities relating to the performance by CUNY employees of their duties and responsibilities."

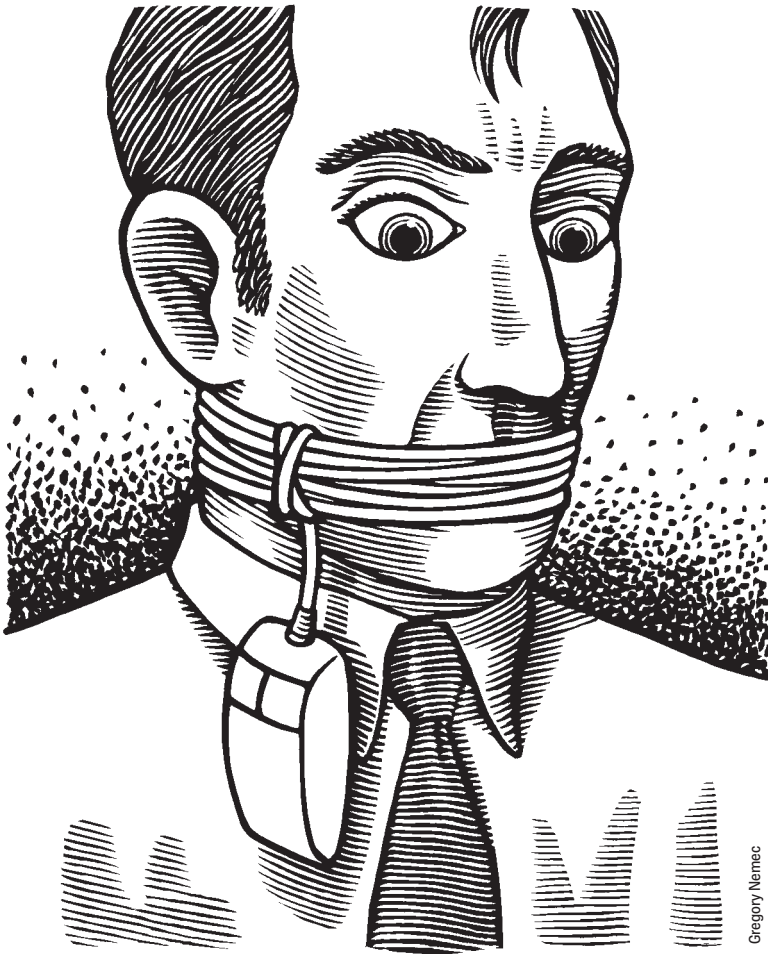
Mellow's letter asserted, without elaboration, that "union business is not part of the performance of an employee's duties and responsibilities" – and she ordered an end to discussion of "union business" on LaGuardia e-mail.

The issue became a very public controversy the next day, when George Sussman, professor of history, posted Mellow's letter without comment on a college-wide e-mail list.

TORRENT

"There was a torrent of e-mails in response," Sussman told *Clarion*. "People were outraged, including a number of senior faculty members who work closely with the administration on pedagogical innovation and other projects." He

LaGuardia move sparks protest



Gregory Nemec

added that people were unimpressed with Mellow's stated reason for the ban. "Performance of 'our duties and responsibilities' is intimately related to our terms and conditions of employment," Sussman noted, "and that's exactly what the union works on."

SPIRITED DISCUSSION

A few days later, a posting from LaGuardia's vice president of external and community affairs, Cindy Freidmutter, took note of the "spirited discussion" about the new policy and tried to clarify it. Freidmutter stated that Vice Chancellor Schaffer "is CUNY's lead person in the contract negotiations," and as such "he has asked that LaGuardia not allow the use of the college's e-mail for conducting union business" until the PSC agreed to bargain over the issue in contract talks.

"At the request of Vice Chancellor Schaffer," Freidmutter wrote, President Mellow had written to the campus PSC chapter to inform them of this new prohibition.

In a short reply, Gail Green-Anderson, a professor who has taught at LaGuardia for 21 years, wrote that she was "very disheartened by President Mellow's decision to act in line with Vice Chancellor Schaffer's directive. That directive sets limits on our ability to speak openly and honestly with each other."

This view was shared by many, as the next wave of responses soon made clear. Sally Mettler, chair of LaGuardia's Faculty Council, wrote that

Green-Anderson's note "got to the heart of the matter that is in the heart of the college." Why, she asked, hadn't Mellow instead "stood up for the principles of intellectual and communicative freedom?"

"Today's clarification," wrote J. Elizabeth Clark, professor of English, "means that CUNY management wants to decide when and where we can use e-mail. It's...an arbitrary invocation of power." What sense did it make, she asked, to rule that "you can use college e-mail to invite me to your baby shower, but the union can't invite me to a meeting about child care policies at the University?"

INTERVENTION

Three days later Vice Chancellor Schaffer, who is also CUNY's General Counsel, intervened in the discussion. In a note posted to the college-wide list, Schaffer wrote that CUNY's computer policy "permits incidental personal use of the University's computer resources.... Union business, however, does not constitute an incidental personal use."

"Why not?" inquired Sussman in his own post a couple of days later, noting that Schaffer had asserted this distinction but made no attempt to explain it. What it came down to, Sussman argued, was discrimination based on the content of speech – in other words, "censorship."

Schaffer's real motive, Sussman suggested, was an attempted power play in contract negotiations:

management was threatening union members' right to free communication in order to win a bargaining chip.

The PSC's Steve London agreed. "These are union rights, rights which we and our members have had for a long time," he told *Clarion*. "Now CUNY management is trying to take away our right to open communication via e-mail and force us to bargain to get it back. That appears to be why they've picked this fight."

"What CUNY has done here is outrageous," London continued. "It's disruptive to the college. Open communication by e-mail has been an important source of the college's sense of community, and there were no problems with it until CUNY's edict. Now CUNY has embroiled LaGuardia in a needless controversy by discriminating against the union."

NEEDLESS

In 2006 the PSC defeated a similar attempt to restrict union speech on the e-mail system at Kingsborough Community College. Patrick Lloyd, assistant professor of chemistry, was banned from a college e-mail list for discussing candidates in the Spring 2006 PSC union election. After the union filed an improper practice charge with PERB, management backed down and agreed to a settlement that restored Lloyd to the list and guaranteed all KCC employees' right to comment on union politics in the future.

Two years ago, Mellow tried to impose a different restriction on free speech at LaGuardia; in November 2005, she issued a memo insisting that all faculty and staff consult with her office whenever they spoke to the press. But after a strong challenge from the PSC, management announced that this memo would not be enforced.

As the current controversy at LaGuardia developed, Lorraine Cohen and other local union officers continued to discuss union issues by campus e-mail. In response, Schaffer e-mailed Cohen on December 4 to threaten that "if you continue to use CUNY's e-mail system to conduct union business...your e-mail privileges will be suspended."

When Cohen posted Schaffer's note to the college-wide list, the response was immediate: about 25 people volunteered to re-post notices of union meetings if Cohen was kicked off the system.

READY TO SPEAK OUT

"The most important thing has been this extraordinary outpouring of support," said Cohen, "and the willingness to take action by the faculty and staff." The ban seems to have had the opposite of its intended effect, she said. "Instead of people being intimidated, they're increasingly ready to speak out." Close to 200 faculty

LABOR IN BRIEF

UFT says affordable housing must be union

In October, the United Federation of Teachers (UFT) allocated \$28 million in bonds from the teachers' pension system to back the construction of 234 units for housing educators in the Bronx. It was a small but important investment. But on November 28 the UFT discovered the builder was using non-union labor and withdrew its support. UFT President Randi Weingarten and the UFT are asking the Teachers' Retirement System (TRS) to sell the bonds and withdraw from the deal.

Since then, efforts to negotiate with Atlantic Development Corp. for union wages have been unsuccessful and, on Dec. 4, UFT members and Weingarten protested outside the Bronx construction site to demand that the builder pay prevailing wages.

From the 1930s through the 1970s, unions sponsored the construction of many affordable housing units across New York City.

Korean gov't targets migrant union

On the morning of November 27, the Korean government arrested three senior officials of the Migrant Workers' Trade Union (MTU), which was founded in 2005 to organize Korea's 400,000 migrant workers and defend them against government repression.

MTU President Kajiman and General Secretary Masum were arrested en route to a protest at the Seoul Immigration Office. Vice President Raju was arrested in front of his workplace.

The Korean Confederation of Trade Unions (KCTU) said that more than 20 MTU members and officers have been arrested since August and that "the simultaneous arrest of three MTU leaders is a clearly targeted attack, planned in timing with an intensification of the crackdown against undocumented migrants in South Korea." Amnesty International is also following the situation closely.

In the wake of these arrests, the KCTU has called for international solidarity. For more information, visit http://nodong.org/bbs/zboard.php?id=eng_action.

and staff have signed an online petition against the ban.

"To be unable to use college e-mail would interfere with the union's ability to represent our members," Cohen said. "It would be harmful to them, and to the college."

Unless management reverses its position, she said, "people will be left with a sense that the CUNY administration is very hostile to the rights of faculty and staff – the right to have the information we need to make our own decisions about issues before the college and the University."