

**Report and
Recommendations of
the NYSUT Community College
Distance Education Committee**



Negotiating the Distance and Beyond

**Bargaining Contract and Policy
Language for Distance Education
and Intellectual Property**

Fall 2013

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Introduction

The NYSUT Community College Distance Education Committee (CCDEC), comprised of representatives from State University of New York (SUNY) community colleges across the state, explores issues and concerns related to distance education. Our members range from novices to veterans, from cyberprofessors to skeptics. We teach fully asynchronous, blended/hybrid, and web-enhanced courses and work at institutions that offer just a few online courses as well as at institutions that offer entire degrees online.

We are educators who care deeply about how distance education affects teaching, learning, and research and who seek collegial methods to ensure that—above all else—a concern for high standards and quality education, not financial profit, drives distance education policies and practices in our locals.

The NYSUT Community Colleges play a significant role in distance education in New York State. Community colleges, by their nature, are integral to the communities they serve and indispensable in providing access to higher education for a student population of great diversity. This especially holds true in the context of decades of national and state economic policies that have resulted in substantial budget cuts to education.

Distance education in New York is unique due to the presence of the SUNY Learning Network (SLN), an asynchronous learning network that connects online courses from among the 64 SUNY campuses. SLN has grown from 119 student enrollments in 1995-96 to over 200,000 enrollments today. Nearly all of the thirty SUNY community college campuses directly participate in SLN.

While not all online courses in New York are offered through SLN, it is a major means of delivering online courses. Distance education at the SUNY community colleges, whether via SLN or individual campus online programs, seems poised to continue growing.

We have looked to the guidelines identified in the AFT Higher Education Department publication *Distance Education: Guidelines for Good Practice* (2000) to help guide our bargaining of distance education issues in our locals. The fourteen AFT guidelines of good practice—which hold as true today as they did 13 years ago—are as follows:

Distance Education: Guidelines for Good Practice

- 1) Faculty must retain academic control.
- 2) Faculty must be prepared to meet the special requirements of teaching at a distance.
- 3) Course design should be shaped to the potentials of the medium.
- 4) Students must fully understand course requirements and be prepared to succeed.
- 5) Close personal interaction must be maintained.
- 6) Class size should be set through normal faculty channels.
- 7) Courses should cover all material.
- 8) Experimentation with a broad variety of subjects should be encouraged.
- 9) Equivalent research opportunities must be provided.
- 10) Student assessment should be comparable.
- 11) Equivalent advisement opportunities must be offered.
- 12) Faculty should retain creative control over use and re-use of materials.
- 13) Full undergraduate degree programs should include same-time, same-place coursework.
- 14) Evaluation of distance coursework should be undertaken at all levels.

AFT Guideline #1

Throughout this document, we highlight the many ways in which our NYSUT Community College bargaining units have implemented these AFT guidelines of good practice and hope that it also serves to generate innovative ways to make these guidelines applicable to our institutions. Places at which these guidelines are reflected in discussion are noted with an AFT icon.

We have subdivided this document into twelve major bargaining issues. For each of these issues, we offer some statements of principle and rationale as well as contract language from NYSUT Community College locals. We recognize that, while achieving strong language in our collective bargaining agreements affords the most protection, doing so may take time. If some of the language discussed below cannot be achieved in the next round of contract negotiations, we strongly recommend that the language be pursued as college-wide policy, which is the next best protection. In fact—in order to ensure high quality distance education programs—we feel that knowledgeable bargaining unit members, especially distance education practitioners, should be integrally involved in as many aspects of college-wide governance, policy, and union decision-making bodies as possible.

The statements of principle discussed are meant to serve as guidelines or recommendations, and the sample contract language illustrates various ways that locals have negotiated language to keep control in the hands of the faculty. We must remind readers, however, that this reflects *negotiated* rather than ideal language. Also, while some contracts have expired, the Taylor Law in New York State allows contractual provisions to continue until the next contract is settled so we have included them here. Finally, as appropriate, we have annotated the sample language with commentary on issues that require extra attention.

Finally, please note that there are 30 community colleges within the State University of New York system as listed below, with an asterisk denoting the four community colleges *not* currently affiliated with NYSUT and AFT/NEA.

- | | |
|--|---|
| 1. Adirondack Community College
Queensbury | 16. Jefferson Community College
Watertown |
| 2. Broome Community College
Binghamton | 17. Mohawk Valley Community College
Utica, Rome |
| 3. Cayuga Community College
Auburn and Fulton | 18. Monroe Community College
Rochester (two campuses) |
| 4. Clinton Community College*
Plattsburgh | 19. Nassau Community College
Garden City |
| 5. Columbia-Greene Community College
Hudson | 20. Niagara Community College
Sanborn |
| 6. Corning Community College
Corning | 21. North Country Community College*
Saranac Lake |
| 7. Dutchess Community College*
Poughkeepsie | 22. Onondaga Community College
Syracuse |
| 8. Erie Community College
Buffalo, Orchard Park, Williamsville | 23. Orange Community College
Middletown |
| 9. Fashion Institute of Technology
New York City | 24. Rockland Community College
Suffern |
| 10. Finger Lakes Community College
Canandaigua | 25. Schenectady Community College
Schenectady |
| 11. Fulton-Montgomery Community College
Johnstown | 26. Suffolk County Community College
Brentwood, Selden, Riverhead |
| 12. Genesee Community College
Batavia | 27. Sullivan Community College
Loch Sheldrake |
| 13. Herkimer County Community College
Herkimer | 28. Tompkins Cortland Community College
Dryden |
| 14. Hudson Valley Community College
Troy | 29. Ulster County Community College*
Stone Ridge |
| 15. Jamestown Community College
Jamestown, Cattaraugus, North County | 30. Westchester Community College
Valhalla |

1) Methods of Delivery

The term “distance education” can encompass a wide range of types of courses offered in several ways. Courses labeled as distance education, or DE, courses can be fully asynchronous online courses, most often using a course management system (CMS) such as Blackboard, Desire2Learn, or an institution-specific system. DE courses also may be blended/hybrid web-based courses or a commercial or open-source CMS option, or DE courses may include interactive television and video-based telecourses.

The most common methods of delivery are fully online via the Internet, followed by blended/hybrid courses. But because other forms of instructional- and educational-technology courses exist, definitions of what specifically is meant by DE and its various methods of delivery at each institution should be determined jointly by faculty and administration and clearly identified in writing.

For example, blended/hybrid courses are taught partially on campus and partially at a distance, either online or via videoconferencing. While many contracts define blended/hybrid courses as requiring a certain ratio of work to be done on campus and online (such as 50% online and 50% on campus), Suffolk changed their 50/50 ratio to indicate that faculty can propose some portion of the course to be online versus on campus. This enables blended/hybrid science and nursing classes in which students complete the majority of course activities online but meet on campus for the lab components (as with the model of “flipped classrooms”).

AFT
Guideline
#10, #13

The structures of blended/hybrid courses are aligned with AFT’s *Distance Education: Guidelines for Good Practice* Guidelines #10 and #13, which encourage as much same-time/same-place interaction and assessment as possible. While not opposed to DE in principle, many faculty have resisted developing and teaching fully asynchronous online courses due to legitimate concerns about academic integrity, accountability, assessment, and plagiarism, among other issues. Since blended/hybrid courses help resolve these concerns and better acknowledge the social nature of learning, faculty who have resisted web-based teaching and learning now are embracing it in the form of blended/hybrid courses. This trend is reflected in an expansion of contract and policy language in our locals to address blended/hybrid courses.

Finally, we recommend that modality definitions remain as inclusive as possible, to broaden the scope of a given DE program and to extend protections to as many current and future methods of delivery as possible.

* * * * *

The language below for Hudson Valley and Suffolk seem to offer the most flexibility with regard to how faculty can structure blended/hybrid courses, while Jamestown and Orange specify a 50/50 ratio of on campus and online work.

- **Contract Language from Hudson Valley Community College (expires August 31, 2011)**

Distance learning is an instructional process that through the primary use of one or more of several modalities overcomes time and place boundaries that separate student and faculty

member such modalities may include but are not limited to the following: web-based, interaction television/audio, telecourse, hybrid course. A hybrid course has a combined structure of required class meetings in a face-to-face format and required instruction delivered via a distance learning modality. All such courses shall be identified in the instructional master schedule through the specific label of distance learning.

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

The term "Distance Education" (hereafter referred to as DE) refers to instruction which links any SCCC campus or other SCCC instructional sites to one another and/or to remote facilities located at off-campus locations. It shall include but not be limited to interactive video transmission, online courses, and/or any combination of these multimedia delivery systems. These systems may be synchronous or asynchronous.

Synchronous distance education courses are generally live interactive video transmissions to one or more instructional sites.

Asynchronous distance education courses are those that are not conducted in real time. The course content, assignments and all student/student or student/faculty interaction is conducted online via computer over the Internet.

Blended/hybrid courses are scheduled so that part of the semester the faculty member conducts his/her course in a classroom for face-to-face work with his/her students and conducts the other part of his/her course over the internet within a secure website.

- **Contract Language from Jamestown Community College (expires August 31, 2011)**

The term "Distance Education," hereafter referred to as DE, refers to instruction which links any Jamestown Community College (JCC) campus or other JCC instructional sites to one another and/or to 7 remote facilities located at off-campus locations. It shall include but not be limited to interactive video transmission, online courses, blended/hybrid courses, and/or any combination of these multimedia delivery systems. These systems may be synchronous or asynchronous.

Synchronous DE courses are generally live interactive video transmissions to one or more instructional sites.

Asynchronous DE courses are those that are not conducted in real time. The course content, assignments, and all student/student or student/faculty interaction is conducted online via computer over the internet.

A blended/hybrid course is one that is scheduled to have its faculty member meet with his or her students 50% of the time in a classroom to do face-to-face work with the other 50% of the time devoted to students working on class materials as well as participating in discussion within a secure website over the internet.

- **Contract Language from Orange County Community College (expires August 31, 2012)**

The term "distance education" can encompass a wide range of courses offered in several ways. For the purposes of this contract, distance education courses are defined as (1) a 100% on-line course via distance learning or (2) a hybrid course with a minimum of 50% of course material via on-line delivery plus some combination of traditional face-to-face or video/teleconferencing utilizing the College's designated course management system.

Erie has the most specific definitions in its contract, which is notable because of their 2008 increase in the percentage of seated time in hybrid courses; the college and union did this in recognition of the value of in-person interaction between faculty and students and among students.

■ **Contract Language from Erie Community College (expires August 31, 2009)**

Distance Learning is the delivery of instructional opportunities to any location other than where the instructor is physically present and such delivery occurs through any video, audio, computer, multi-media or any combination of these in other than a traditional delivery method where the instructor is in direct physical proximity to the student. The parties recognize that distance learning is a vital component of the college curriculum and necessary for continued leadership in higher education. Therefore, the parties encourage endeavors in creating, developing, and delivering distance learning courses.

Definitions - Modes of Teaching

Seated Courses: In a seated course, regular on-campus class attendance is required for the full 50-minutes per contact hour, per week, for the entire semester and is not a distance learning course.

Online Course: In an online course, students access the majority of the course material, participate in course activities, and interact with other students and the instructor over the Internet. Faculty determines the online course material, create and administer assessments and activities, define the schedule for those activities, and assist students in their work with the course content. On-campus meetings other than the student orientation meeting at the beginning of the semester may be scheduled at the discretion of the instructor. This is the only mode of instruction eligible for the compensation provided in Article 68(10).

Hybrid Course: Effective up to Spring 2008, the definition for Hybrid Course is: In a hybrid course, a portion of the course is conducted as an online course and a portion is conducted as a regular seated class. Because some of the course is occurring online, the class meets for less than the usual 50 minutes per contact hour per week, depending on the proportion of the course allocated to online and seated components. This proportion is determined by the instructor. The proportion should be defined when the course is submitted to the department scheduling committee for room scheduling purposes as well as student schedules.

Hybrid Course: Effective Spring 2008, the definition for Hybrid Course shall be: In a hybrid course, a portion of the course is conducted as an online course and a portion is conducted as a regular seated class. The class meets on campus for at least 40 percent of the usual 50 minutes per contact hour per week. On-campus meetings will be defined when the course is submitted to the department scheduling committee for room scheduling purposes as well as student schedules. Hybrid courses are considered seated courses.

Web-Assisted Course: A web-assisted course is a regularly scheduled seated course, meeting the full 50 minutes per contact hour per week, but using online materials and activities to supplement the classroom work. The extent and type of online content is determined by the instructor.

Telecourse: In a telecourse, students use a set of video media as a substitute for the traditional class lecture. Faculty determines course material (in addition to the videotapes), create and administer assessments and activities, define the schedule for those activities, and assist

students in their work with the course content. On-campus meetings other than the student orientation.

The following language from Onondaga is notable in that it identifies the mission of the DE program in contract language.

▪ **Contract Language from Onondaga Community College (expires August 31, 2014)**

Mission. The parties to this Agreement are committed and resolved to making courses and programs accessible to those who cannot or choose not to access them through traditional forms of classroom instruction. The parties will embrace methods, modalities and technology that will enhance accessibility to the College's curriculum in order to:

1. reach a wider student audience;
2. meet the needs of businesses and individuals in the region served by the College;
3. meet the needs of students with logistical or physical restrictions to more easily access learning resources and academic programs that were formerly inaccessible to them; and
4. diversify instructional methodology with the hope of improving instructional quality.

The term distance learning refers to instruction of any course offered and taught for credit or equivalent credit, excluding independent study and experiential credit, via electronic media in which the instructor is physically separated from his/her students in time and/or space. It shall include but not be limited to interactive video transmission, online courses, telecourses, and/or any combination of these multimedia delivery systems.

The following Mohawk Valley language is useful because it enables faculty members to propose both fully online courses and blended/hybrid courses for acceptance as a "web-based course," which would then qualify for the same compensation, benefits, and protections as fully online courses.

▪ **Contract Language from Mohawk Valley Community College (expires August 31, 2013)**

A web-based course is a course approved by the College for online instruction. A hybrid course eligible for compensation (Section 5.14.C.5) is a course approved by the College for online instruction of which at least twenty percent (20%) is delivered online. If a web-based course consists of an off-the-shelf, pre-authored, or an uploadable cassette/CD/DVD from a book publisher or any other multi-media vendor, it is defined as a prefabricated web-based course. Such a prefabricated course may be used as a web-based course by a bargaining unit member but it is neither subject to ownership nor compensation as described herein.

Other clear definitions of modalities include the following.

▪ **Contract Language from Finger Lakes Community College (expires August 31, 2011)**

For purposes of this agreement distance learning shall be defined as the offering of any credit course through the SUNY Learning Network (SLN) in which the instructor is physically separated in time or space from some or all of his/her students.

- **Contract Language from Nassau Community College (expires August 31, 2013)**

An off-campus course or a course taught via radio, television, or distance learning, shall be defined as any credit course normally offered as part of the college curriculum but which is taught at a location other than the College campus or by radio, television, or distance learning. An off-campus course or a radio, television, or distance learning course may be considered as part of the regular course load of the faculty member.

- **Contract Language from Tompkins Cortland Community College (expires August 31, 2009)**

Asynchronous web-based distance learning course: Any course taught via the Internet or e-mail that is available continuously to enrolled students during the semester the course is offered. Lectures, reading, assignments and student work are exchanged electronically.

Distance learning course: Any course offered and taught for credit via electronic media in which the instructor is physically separated from his/her students in time and/or space.

Synchronous classroom-based distance learning course: Any course taught using interactive media such as television and video camera to link separated classrooms. Electronic transmissions link classrooms during specific time periods throughout a semester.

2) Compensation

a) Compensation for Development and Instruction

Faculty should be compensated for the development of DE courses, for the implementation of distance education courses, and for the revision/updating of distance education courses caused by significant changes in technology. Faculty should have the option of taking compensation as a monetary stipend, release time, or other form of compensation such as equipment.

Many colleges have argued that since they do not provide extra compensation for faculty development of educational materials in on-campus courses, they should not be expected to provide extra compensation for DE courses. Further, they argue that the teaching of all courses, DE or otherwise, is built into our salaries.

We strongly encourage bargaining units to resist these arguments. Both the development and teaching of DE courses require a great deal of training, skill, pedagogical and technical innovation, and extra time and energy that deserve to be compensated above and beyond a faculty member's regular compensation. It is important that bargaining units not deny DE innovators the right for their creative work to be properly acknowledged through compensation, release time, or other benefits. Of course, on-campus teaching requires certain training, skills, innovation, and time and energy as well, but the special pedagogy and technical nature of DE teaching alters the terms and conditions of the practitioners' workloads in such a way that deserves fair compensation.

Achieving such compensation will help faculty meet the AFT Guideline #3, which asserts that course design should be shaped to the potentials of the medium and so “faculty members developing distance education courses should approach course design—curriculum planning, class projects, visual aids, library materials and student interaction—not in terms of replicating the traditional classroom, but in terms of maximizing the potential of the medium that will be employed” (9). Making the most of the particular DE method of delivery requires a great deal from the faculty member. For example, in terms of teaching online courses, consider the amount of time required simply by the nature of electronic communications: The average human speaks at least twice as fast as he or she can type, so since a key to successful online teaching is regular and frequent communication with students, you can imagine the time commitment.

The NYSUT Community Colleges practice a range of methods for providing compensation to faculty members for their participation in DE courses—from providing no extra compensation at all to providing significant extra compensation that genuinely acknowledges the time, effort, and innovation required of those faculty members to develop and teach and revise these courses in ways that maintain high academic quality. No matter what the compensation structure and amounts, if a bargaining unit achieves additional compensation for the development, teaching, and revising of DE courses, it’s imperative that the intellectual property/ownership language clarify that this compensation is not to be construed as work for hire.

* * * * *

Mohawk Valley has achieved contract language that is effective in recognizing the various ways in which a faculty member’s workload is increased by developing and teaching web-based courses. Mohawk Valley’s language allows for separate development and teaching monies, which acknowledges the significant amount of time and learning that goes into each process. Faculty members receive the highest amount of both development and teaching stipends for the first course they develop and teach, plus they receive additional, lesser development and teaching stipends for any second and subsequent courses.

This language not only encourages the development of web-based courses but also the *continued* teaching of these courses. Because the learning curve is steepest with the first course developed and taught, the stipends are higher then and lower for future courses. But the second and subsequent classes still require significant additional time and effort from the faculty members when compared with traditional on-campus classes, and the MVCC contract language recognizes as much.

One caution: The separation of the development and teaching stipends for DE classes is not to be construed as encouragement for faculty members to develop and then sell their courses for others to teach. (See Thomas J. Kriger’s “Virtual Revolution” for an analysis of the ineffectiveness of such a model of disaggregation, which practices an “unbundling” of the development, teaching, and assessment functions of online courses.)

- **Contract Language from Mohawk Valley Community College (expires August 31, 2005)**

Once the terms of the contract between the unit member and the College are fulfilled, the College shall compensate each bargaining unit member who develops an approved web-based course as follows for original course development:

First three credit-hour course developed \$1,100
Second or subsequent three credit-hour course developed \$850

Compensation for developing courses with fewer or more than three credit-hours will be prorated proportionately based upon credit hours. Development monies will be paid in two equal installments, the first half-way through development and the second when the terms of the contract are met.

A bargaining unit member who is approved to modify a course developed by someone else will be compensated \$250 per three credit hour course with proration as above. This amount may be increased at the discretion of the College.

The College shall provide additional compensation to each bargaining unit member who teaches a web-based course as follows:

First three credit-hour course taught

First semester \$1,000
Second semester \$400

Second or subsequent three credit-hour course taught

First semester \$850

Compensation for teaching courses with fewer or more than three credit hours will be prorated proportionately based upon credit hours.

Compensation for developing or teaching part of a course (e.g. the lecture part of a lecture and lab course) will be based on the number of credit hours assigned by the College to the part of the course developed or taught.

Cayuga's contract language similarly encourages faculty to teach their courses at least two semesters. And contract language from other colleges, including Fashion Institute of Technology, Fulton-Montgomery, Herkimer, Hudson Valley, and Tompkins Cortland also acknowledge the time and resources required of faculty members to develop and teach DE courses by providing some form of compensation for each course developed and/or taught.

■ **Contract Language from Cayuga Community College
(expires August 31, 2011)**

A. Online Courses.

1. Faculty members who are assigned and agree to teach credit courses for online teaching will receive a one time stipend for course development and delivery according to the schedule presented in this section. The amounts differ according to the number of credits in the course. Two thirds of the total amount of the stipend will be paid during the semester in which the course is developed. If the faculty member teaches the course a second (2nd) time, the remaining one third (1/3rd) of the stipend will be paid in that semester. No stipend will be paid for the development of a non-credit course.

2. In addition to a faculty member's regular pay or overload pay for an online course, faculty teaching a credit course online will receive a pay increment of 7% of the applicable overload rate for that faculty member. This increment will be paid each time the course is run. No additional increment will be paid for non-credit offerings.

B. Interactive Video System Courses.

1. Faculty members who agree to teach a credit IVS course will receive a stipend according to the schedule in this section paid during the semester during which the course is developed. No stipend will be paid for the development of a non-credit course.
2. In addition to a faculty member's regular pay or overload pay for an online course, faculty teaching a credit course online will receive a pay increment of 7% of the applicable overload rate for that faculty member. This increment will be paid each time the course is run. No additional increment will be paid for non-credit offerings.

<u>Distance Learning Stipends</u>	<u>2010-11</u>
IVS stipend	\$886.36
Online – Total Stipend Less than 3 Cr.	\$1,772.72
Online – 1 st Time – Less than 3 Cr.	\$886.36
Online – 2 nd Time – Less than 3 Cr.	\$886.36
Online – Total Stipend 3 Cr.	\$2,954.53
Online – 1 st Time – 3 Cr.	\$2,068.17
Online – 2 nd Time – 3 Cr.	\$886.36
Online – Total Stipend More than 3 Cr.	\$3,545.43
Online – 1 st Time – More than 3 Cr.	\$2,363.62
Online – 2 nd Time – More than 3 Cr.	\$1,181.81

■ **Contract Language from Fashion Institute of Technology (expires May 31, 2010)**

Faculty being trained and developing an online course for the first time shall receive a \$2,000 stipend.

Faculty members shall receive a \$500 stipend for developing a second course and any additional course after the second course.

Faculty members being trained to teach an additional section of an existing course shall receive a \$500 stipend.

Faculty seeking training in order to assert their AOP ranking to select a course already online will receive training but will not be compensated for the training.

■ **Contract Language from Fulton-Montgomery Community College (expires August 31, 2010)**

FACE members developing distance learning courses will be compensated at the continuing education rate for that course. FACE members teaching a distance learning course for the first time will be compensated at the continuing education rate for that course, plus one additional hour.

■ **Contract Language from Herkimer County Community College (expires August 31, 2014)**

The College will provide faculty members who participate:

1. Training and technical support;
2. Software needed to teach the course;
3. A development stipend of \$335 per contact hour for the first time a course is taught;
4. An incentive payment of \$600 per semester (fall and spring only) for any faculty member who teaches three or more credit hours entirely online in a given semester.

■ **Contract Language from Hudson Valley Community College
(expires August 31, 2011)**

Every faculty member who is teaching a distance learning course identified as distance learning shall receive a stipend of \$300 for each semester that the faculty member teaches that course. The purpose of the stipend is to defray the cost to that faculty member of obtaining Internet access. The stipend shall not be increased if the faculty member teaches more than one distance learning course in any semester.

In the event that a faculty member has not taught a course in a modality in which said faculty member is scheduled to teach a distance learning course, said faculty member shall be given release time in the semester immediately preceding the semester in which said faculty member is scheduled to teach said course equivalent to the credit hours of said distance learning course.

During that semester the faculty member shall participate in training with respect to the new modality and shall develop said course for teaching in that modality.

Training and course development must be completed by the end of that semester and must be approved by the faculty member's department chair before the faculty member may commence teaching said course. The first time the faculty member teaches in a modality said faculty member shall be given release time equivalent to the credit hours of the distance learning course. Additional release time for any faculty member may be given in the discretion of the Vice President for Academic Affairs upon recommendation by the faculty member's department chairperson and dean.

■ **Contract Language from Tompkins Cortland Community College
(expires August 31, 2009)**

Faculty teaching Distance Learning courses who work on their Distance Learning courses outside of normal working hours at home will be compensated up to \$50 per month for their link to an internet service provider.

Several locals below have achieved language by which faculty receive compensation for each *new* course that they develop and teach. Note that Orange gives compensation after upgrades in CMS and that Westchester provides compensation only for faculty who have received DE fellowships (other faculty may develop and teach online courses without compensation).

■ **Contract Language from Clinton Community College
(expires August 31, 2008)**

15. (c). A Faculty Member will be compensated in the following ways for development and teaching of online or hybrid courses:

- i. The Faculty Member will receive a course load reduction or overload pay equal to the number of credits of the new course being developed. No additional compensation will be paid for revising a course or offering the course in subsequent semesters.
- ii. The Faculty Member will be supplied with an appropriate computer to be used at home for the development phase and for as long as he/she teaches using the distance learning format. The computer must be returned to the College if the instructor is not scheduled to teach a distance learning course for the upcoming semester.
- iii. The Faculty Member will be compensated for internet service costs from home during the development phase and for as long as he/she teaches the online or hybrid course (not to exceed \$20 per month). In lieu of payment for internet costs, a Faculty Member may opt to have a second phone line installed with a one-time compensation for the cost of installation.

(d) Compensation for teaching of the online or hybrid course will be equal to the Faculty Member's regular teaching salary and will be calculated as part of the faculty member's load or overload.

(e) If a newly-developed course is cancelled by the College before it is taught, the Faculty Member will still be compensated for developing the course. When the Faculty Member offers the course in a subsequent semester, it is understood that no further compensation for development will be paid.

■ **Contract Language from Orange County Community College
(expires August 31, 2012)**

During the semester in which a distance learning or hybrid course is being developed, faculty will receive a redefined load or compensation. The redefined load or compensation will be equal to the credit hours of the course under development, as set forth in Appendix C-2. Compensation will be paid at the end of the semester, provided that the work is complete as determined by the Associate Vice President of the division. Should a faculty member electing a redefined load fail to complete the work and be unable to teach the course, he/she will need to teach an additional course, equal in credits to the redefined load, during one of the following two semesters. Said course shall not be counted toward the applicable faculty loading maximums in effect in the semester in which the course is taught.

During the semester in which a distance learning or hybrid course is to be taught, faculty may teach the course as part of their load, or for extra compensation as delineated in Appendix C-2. The choice, though, will be subject to approval by the Department Chair and Associate Vice President of the division. If a distance education course is cancelled the first time it is offered, the faculty member who was compensated for the development of the course will make a reasonable effort to teach the course within the following three semesters, provided that the course has sufficient student enrollment.

If the College changes to a different distance learning platform, faculty who are required to convert their courses to the new platform will be compensated \$500 upon completion of the conversation. If major upgrades to the current distance learning platform result in a significant reworking of courses on the part of faculty members, faculty members who are teaching a distance learning course in the semester that the upgrade is installed shall be compensated \$250 upon completion of the work.

■ **Contract Language from Schenectady County Community College
(expires August 31, 2009)**

A faculty member approved by the Dean of Academic Affairs to develop a new distance learning course will be offered a \$2,000 stipend. This stipend may be adjusted for situations involving the use of commercially produced materials or the equivalent.

The approval will address the expectations of the materials to be developed and shared with the College upon completion and final payment. The expectations will include the following: (A) a delivery-ready course [contract identifies basic expectations for course syllabus, class community, learning modules, and evaluation tools, and] (B) Faculty must document the completion of the delivery-ready course to the College's Instructional Technology Center.

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

The first time a faculty member is selected to teach a synchronous or asynchronous DE course, he/she shall receive three (3) contact hours of either reassigned time or overload compensation the semester prior to the DE assignment for the purposes of training and/or course modification. Such training may also include proficiency training for the DE format of the course.

Under Article V, D, 5 (up to \$10,000 per year of the total amount allotted to Faculty Development and Retraining Leaves shall be set aside for faculty members to take courses pursuant to each applicant's plan to enable said applicant to teach or develop DE courses. Tuition for courses taken for this approved purpose shall be reimbursed at the 100% level.

A faculty member who develops a blended/hybrid course shall be eligible to receive three (3) credits of reassigned time or overload/adjunct pay for course development if this is the first time he/she has developed any asynchronous course.

- **Contract Language from Tompkins Cortland Community College (expires August 31, 2009)**

The compensation for developing on-line course methodology for a course never before offered on-line will be \$2560.72 for a three-credit course the first time a faculty member does so and \$1920.54 every time thereafter, effective September 1, 2008. These figures will be prorated for courses that are other than three credits. These figures will increase in subsequent years by the same percentage as the range movement of faculty salaries.

Instructors of synchronous classroom-based sections shall receive an additional one-time payment of a \$200 production fee (pro-rated for course of other than three (3) hours of credit) for the instructor's time to meet with the media staff and for the added complexity of television teaching.

On a cycle to be determined by the College, master course templates for each on-line course will be revised, with the faculty member compensated at a rate of \$692.36 per three-credit course (prorated for courses other than three credits), effective September 1, 2003. This figure will increase in subsequent years by the same percentage as the range movement of faculty salaries.

- **Contract Language from Westchester Community College (expires August 31, 2008)**

Distance learning fellows [recipients of a special college fellowship that provides faculty with funding for the creation and delivery of online courses] shall receive a stipend of \$3000. One-half of the stipend shall be paid after (i) successful completion of mandatory online and/or 1:1 training which shall be on the faculty member's own time, unless the training is waived by the DL Coordinator and (ii) development of the course and review by DL office. The review should take place at least 4 weeks before the semester starts. It will address the overall design and structure

of the course and will incorporate the guidelines listed in the most current DL Course Checklist. Course content will not be reviewed. All corrections, if any are needed, should be made within the next 2 weeks when the course is reviewed again. Failure to comply will result in cancellation of the course.

One-half of the stipend shall be paid when the course is taught for the first time.

[Note that faculty may also develop online or hybrid courses without DL fellowship support/compensation from the college.]

See
Issue
#2

Finally, a number of locals have ensured that faculty are compensated at least for the first online course that they develop, while others (Finger Lakes and Jamestown) offer additional compensation for revisions of a course developed by other faculty. Note that Monroe and Onondaga do not include compensation for DE courses and that Sullivan's language makes its "work for hire" provision explicit for faculty developing courses not "readily available in the catalog" at the college's request.

▪ **Contract Language from Broome Community College
(expires August 31, 2012)**

The College will pay a single stipend to support faculty development for Internet based instruction. The stipend will be paid as follows: \$2,294 for 2008-09, \$2,363 for 2009-10, \$2,434 for 2010-11, and \$2,507 for 2010-11. This stipend shall be paid once per faculty member regardless of the number of Internet based courses s/he develops. The stipend shall be paid during the first semester an Internet based course developed by the faculty member is offered online. All instructors of Internet based courses shall have use of computers equipped to support their course along with technical support from the College.

▪ **Contract Language from Finger Lakes Community College
(expires August 31, 2011)**

During the semester in which a distance learning course is developed, employees will be compensated in the form of a cash payment at the overload rate. Cash stipends for course development will be paid over the pay periods during the semester in which the course is developed.

- a. Compensation for the development of SLN courses will be equal to the number of contact hours of the course being developed.
- b. Such compensation shall apply only when the member is developing a course which will be carried on the SUNY Learning Network (SLN) for the first time or when the member is substantially revising a course which has already been presented on the SLN by another member. The determination as to whether an existing SLN course is in need of substantial revision shall be made by the Vice President in consultation with the appropriate department chair prior to the assignment of the course to an employee.
- c. In recognition of the difficulty involved in mastering the technology required for teaching an SLN course, the first time that a member teaches an existing SLN course which is not in need of substantial revision and which was previously taught by a different member, he or she shall be compensated for preparation of said course by a cash payment equivalent to one third of the contact hours of the course taught.

▪ **Contract Language from Jamestown Community College**

(expires August 31, 2011)

In addition to normal payment for teaching a course, a faculty member will receive one (1) credit hour of pay for the initial development of a three (3) credit hour course. Any additional offering of that course will be compensated at the normal rate. Compensation for developing courses with fewer or more than three (3) credit hours will be prorated based upon credit hours.

A faculty member who is approved to modify a course developed by a different instructor will be compensated a half (1/2) credit hour per three (3) credit hour course with proration as noted in the above paragraph.

■ **Contract Language from Monroe Community College
(expires August 31, 2012)**

Since developing educational media for all courses, including distance education, is the responsibility of Faculty, the College is not required to compensate the Faculty for the development of a distance learning course nor is the College required to provide a workload reduction for the course development.

■ **Contract Language from Onondaga Community College
(expires August 31, 2014)**

Nothing in this contract shall require the College to pay any additional compensation for the development, origination and use, per (1) above, of a distance learning course.

■ **Contract Language from Sullivan County Community College
(expires August 31, 2009)**

Instructors will be paid:

- \$500 for developing his/her first online course.
- \$2,000 for development of an online course provided this request is made by the College and the course becomes the property of the College. A request of this nature will come from the Division Chairperson with approval of the Vice President for Academic & Student Affairs and does not apply to courses readily available in the catalog.
- Compensation for teaching all SLN courses is the same as for on-site courses.
- Retroactive compensation shall be paid for the development of all online courses that have been made part of the curriculum and taught at the College since Fall 2002.

b) Compensation for Related Activities

Included in compensation is reimbursement for travel to off-campus sites for DE courses, especially telecourses or video courses. Most contracts address general reimbursement for travel/mileage in some area of the contract, but we recommend that it also be explicitly stated in the DE provisions, as with the Onondaga language below.

■ **Contract Language from Onondaga Community College
(expires August 31, 2014)**

Off-Campus Travel. A faculty member who is required to visit off-campus sites will be reimbursed for expenses as per 7.6a of the contract.

3) Course Development

a) Definition of Development

Course development should be recognized in contracts either as creating a new course or as converting or adapting an existing course to a DE format.

* * * * *

Onondaga and Suffolk offer straightforward language to this effect.

- **Contract Language from Onondaga Community College (expires August 31, 2014)**

Course development is recognized as either (1) creating a new course; or (2) converting or adapting an existing course to a distance learning format. New courses shall follow existing college course offerings, development and approval processes.

- **Contract Language from Suffolk Community College (expires August 31, 2015)**

Course development is recognized as either 1) creating a new course, or 2) converting or adapting an existing course to a distance learning format.

b) Retaining Control

AFT
Guideline
#1

The first guideline of good practice identified by AFT is “Faculty must retain academic control.” We agree: This better ensures that high standards and quality education drive the process rather than financial profit, and we believe that academic departments should determine which existing courses are appropriate to be offered in a DE format, should initiate the approval process for new DE courses within the discipline, and should determine how many DE courses can be offered each semester.

* * * * *

The Jamestown, Nassau, Orange, and Suffolk language below stand in contrast to that of Finger Lakes and Sullivan.

- **Contract Language from Jamestown Community College (expires August 31, 2011)**

Associate degree credit courses covering topics not currently being taught shall be subject to the College’s “selected studies” curricular review process for new courses.

- **Contract Language from Nassau Community College**

(expires August 31, 2013)

All off-campus and other course assignments, and credit courses taught via radio television or distance learning, shall be offered at the initiation of the department with approval of the Administration or at the initiation of the Administration as per normal scheduling practices in accordance with the terms and conditions of the NCCFT contract and the policies of the Academic Senate.

- **Contract Language from Orange County Community College (expires August 31, 2012)**

Decisions of courses offered should be made by the departments and Department Chair with final approval by the Associate Vice President of the division.

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

Departments shall determine which existing courses are appropriate to be offered in a DE format, shall initiate the approval process for new DE courses within the discipline, and shall determine how many DE courses can be offered each semester. Such determinations shall follow existing College course offerings, development, and approval processes.

- **Contract Language from Finger Lakes Community College (expires August 31, 2011)**

The Parties to this agreement recognize and acknowledge that the responsibility and authority for establishing the criteria for and the process by which distance learning courses are planned, developed, scheduled, and conducted rests solely with the Vice President who may delegate such tasks as is appropriate.

- **Contract Language from Sullivan County Community College (expires August 31, 2009)**

Existing SCCC faculty or adjuncts must obtain permission of the appropriate Division Chair to: a) develop and teach each new web-based course, or b) update and teach a previously developed course. Once the Chair has obtained the permission of the Vice President for Academic and Student Affairs to proceed with these plans, a web-based workload assignment may be made.

Some courses may not be appropriate for web-based delivery. Appropriateness of a course for web-based delivery will be left to the discretion of the Division Chair. If an Instructor and Chair cannot resolve a disagreement about the suitability of a course for web-based delivery, the matter should be taken to the Vice President for Academic and Student Affairs. After appropriate consultation, the decision rests with the Chair and the Vice President for Academic and Student Affairs.

Note below that Onondaga provides the local with a list of courses so they can monitor what is being offered.

- **Contract Language from Onondaga Community College (expires August 31, 2014)**

Each semester the College will provide the Federation with a list of distance learning courses currently being taught.

To reinforce faculty control, we like the idea illustrated in the contract of Herkimer to acknowledge explicitly the right of the faculty members to determine the textbooks and materials for their asynchronous online courses. Textbooks and supplemental or ancillary materials increasingly are crafted to include plug-ins and other ready-for-use materials specifically designed for major commercial CMS packages, and publishers regularly approach colleges with contracts and deals if the institutions will exclusively adopt their materials. We must resist any encroachment upon faculty academic freedom.

- **Contract Language from Herkimer County Community College (expires August 31, 2014)**

Textbooks and materials for asynchronous courses are selected by the HCCC teacher.

Two colleges also give faculty members the right to adjust the calendar of their online courses. Westchester mandates that faculty open their online courses earlier than the semester start date but note that faculty are not required to monitor the course or respond to students during that time.

- **Contract Language from Herkimer County Community College (expires August 31, 2014)**

The calendar of the College will be used for each course being taught. The HCCC teacher may voluntarily adjust the course if all students in the class agree and with permission of the Dean of Academic Affairs.

- **Contract Language from Onondaga Community College (expires August 31, 2014)**

On-line courses shall be opened for student access on the first on-hand day of the semester or 3 work days before a course is to begin. A faculty member may request their online course open 2 days earlier, without compensation, but it is the responsibility of the faculty member to notify students of the earlier opening date.

- **Contract Language from Westchester Community College (expires August 31, 2008)**

All courses shall be ready and available to students 5 working days before the start of the coming semester. The faculty member does not have to respond or monitor the course in any way during these 5 days. Failure to comply may result in the cancellation of the course. Note: the DL office will pull in (add) all registered students a week early. [A disclaimer will be available for instructors to post on their WebCT home pages before the semester begins. It will state that the WebCT course has been opened early to allow students time to become familiar with the structure of the course. The instructor will not be available until the semester starts (date/day included) and that any questions or problems students have before that date should be directed to the DL office (contact information to be included).]

Course materials and activities for the entire semester shall be in place within the WebCT shell at the time the course is open to students but they do not necessarily have to be visible to students.

Finally, at Broome, experienced DE faculty have the option of letting students enrolled in their on-campus classes “take the course in Internet based mode.”

- **Contract Language from Broome Community College (expires August 31, 2012)**

Faculty members having prior experience teaching Internet based courses may allow students to enroll as part of an existing on-campus course section but take the course in Internet based mode. Faculty members must agree in advance to participate in this type of instruction. The intent is to increase student access to college coursework.

c) Determining Faculty Involvement

AFT
Guideline
#8

All faculty—full time or part time, consistent with the provisions of each local contract—should have the opportunity to develop and teach departmentally approved DE courses. Not only does this help achieve AFT Guideline #8, which encourages experimentation with a broad variety of subjects, it also is fair and equitable. Especially on those campuses at which DE is considered a valuable commodity by administration, denying some faculty members the opportunity to participate could adversely affect their promotion and/or tenure. Furthermore, compensation is a significant issue as well; if additional compensation is given for developing and teaching DE courses, all faculty members should have the opportunity to develop and teach DE courses. If not yet qualified to do so, faculty should have training and professional development opportunities available to develop the necessary skills to become effective DE practitioners.

By the same token, no faculty member should be denied promotion or tenure for choosing not to teach in a DE format. Colleges must consider other professional growth, development, and creative and innovative contributions when granting promotion and tenure to those faculty who choose not to participate in DE.

AFT
Guideline
#2

While all faculty should be given the opportunity to develop and teach DE courses, no faculty member should be required to teach a DE course. Because certain technological skills and a desire to teach in DE significantly improves the quality of the educational experience, the sample language on this principle is relatively straightforward, as shown below.

* * * * *

The following language from Monroe establishes the principle that assignment of courses to adjunct faculty—including DE courses—must be consistent with general college policies.

- **Contract Language from Monroe Community College (expires August 31, 2012)**

Adjunct Faculty. Section C. Assignment of Available Courses. Departments are responsible for developing and implementing procedures for assigning available courses to adjuncts. These procedures must be consistent with general College policies.

Many colleges offer a straightforward statement about the voluntary nature of faculty involvement in developing and teaching DE courses. Note that Tompkins Cortland qualifies its language in case faculty aren't able to make their standard load with non-DE or non-teaching options.

- **Contract Language from Broome Community College (expires August 31, 2012)**

Faculty members will undertake Internet based courses on a voluntary basis only. No faculty member shall be required to teach an Internet based course to meet load requirements.

- **Contract Language from Cayuga Community College (expires August 31, 2011)**

Faculty shall have the right to refuse assignments to teach DL courses.

- **Contract Language from Finger Lakes Community College (expires August 31, 2011)**

No unit member shall be required to teach a distance learning course.

- **Contract Language from Herkimer County Community College (expires August 31, 2014)**

Participation is voluntary.

- **Contract Language from Hudson Valley Community College (expires August 31, 2011)**

All distance learning course assignments will be voluntary on the part of the faculty member and require the prior approval of the faculty member's department chairperson.

- **Contract Language from Mohawk Valley Community College (expires August 31, 2013)**

Participation in web-based courses shall be voluntary for all bargaining unit members unless a bargaining unit member is otherwise informed in the appointment letter.

- **Contract Language from Nassau Community College (expires August 31, 2013)**

Faculty may be assigned to teach these courses as part of their regular course load on a strictly voluntary basis.

- **Contract Language from Orange County Community College (expires August 31, 2012)**

Full time faculty choosing to teach a distance education course shall be given first priority within their discipline or discipline of secondary competency. No faculty member shall be required to

teach a distance learning or hybrid course. Faculty who do not volunteer cannot be adversely affected.

- **Contract Language from Schenectady County Community College (expires August 31, 2009)**

A distance learning course will not be assigned to a faculty member without his/her consent.

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

No faculty member shall be required to teach a DE format course.

- **Contract Language from Sullivan County Community College (expires August 31, 2009)**

Faculty members may not be involuntarily assigned to develop or to teach web-based courses.

- **Contract Language from Tompkins Cortland Community College (expires August 31, 2009)**

Participation in any Distance Learning course is voluntary on the part of the faculty. However, in the event that a faculty member's standard load cannot be filled due to a lack of courses which the faculty member is qualified to teach, Distance Learning courses which the faculty member is qualified to teach may be assigned to fill the standard load (unless other non-teaching options are agreed to by both the affected faculty member and the College).

- **Contract Language from Ulster County Community College (expires August 31, 2010)**

Participation in distance learning or on-line teaching is voluntary. Faculty who do not volunteer cannot be adversely affected.

4) Class Size

AFT
Guideline
#5

Distance education courses, especially web-based courses, require significantly more time on the part of the faculty member to ensure quality instruction and to maintain high levels of interaction between faculty and students as well as among students. The best way to reduce the high dropout rates in online courses is to increase the amount of personal and individualized instruction, which also is advocated in AFT Guideline #5. A lower class size for DE courses versus their on-campus equivalents has proven most effective.

Despite the recent development of massive open online courses, or MOOCs—which enroll tens of thousands of students only to see dropout rates reaching 90% (see bargaining issue #11)—research has long demonstrated the benefits of smaller class sizes in higher education. Three researchers from SUNY Binghamton, for example, showed that the number of students in a college class does impact student performance. AFT's February 2003 issue of *On Campus* summarizes the study's findings:

The effect is most noticeable for class sizes under 10-20 students, with the data showing that the best class size of all is one. Each student added up to a total of 20 students has a significant effect on student grades, but as the numbers increase over that, the effect of the class size variable gradually becomes less pronounced.

Thus, the probability of a student getting a B+ or better in a class with fewer than 20 students is approximately twice as great as in a class with 120 students, but only slightly less in a class with 400 students. (“College size does matter”)

Although class size reductions are difficult to bargain in most circumstances, bargaining units should work especially hard to achieve contract or policy language on class size. This language should acknowledge that class size in DE courses is a critical issue that not only affects the faculty member’s working conditions but also impacts academic quality. The final class size language should articulate that either the contract or traditional faculty governance- or policy-making processes should determine appropriate class sizes for DE courses.

Negotiators might argue for a reduced ratio, such as an online section being 2/3 of its on-campus equivalent, or for a hard class cap, such as 18 or 20—or any combination that works for the various DE methods of delivery at that institution. In no case, we feel, should a web-based class size be larger than its on-campus equivalent with a single instructor. If necessary, bargaining units might achieve language using a sundown or pilot-project clause, as was accomplished by Suffolk from 1999-2002 (for online courses) and from 2003-2005 (for hybrid/blended courses), which would then allow faculty members time to gather evidence that lower class caps are more effective for sound academic and retention reasons.

* * * * *

Both Suffolk and Orange achieved language that establishes the maximum class DE sizes as a ratio of their on-campus sections; for Suffolk this applies to all DE courses—except the on-campus distance learning classroom courses—while at Orange it only applies to the first time the faculty member is teaching an online course (thereafter the class caps vary but cannot exceed the on-campus equivalent).

■ **Contract Language from Suffolk County Community College
(expires August 31, 2015)**

The class size maximums in effect for existing courses shall apply to such courses that have been converted to a DE format.

Class size maximums for new courses developed for a DE format shall be determined through the existing College curriculum development procedures.

The class size for an asynchronous course shall be a hard limit and shall not exceed 2/3 of the official maximum class size (after the census date) for a corresponding or similar course taught in a traditional format.

■ **Contract Language from Orange County Community College
(expires August 31, 2012)**

In recognition of the extra instructional effort required of the instructor during the first semester of a new distance learning or hybrid course, the number of students admitted to the course will be limited to 60% of normal class enrollment. In subsequent semesters the Associate Vice President of the division and the Department Chair will confer with the course instructor to establish the maximum number of students enrolled in similar courses taught in traditional classes. Enrollment shall not exceed the usual and customary number of students in similar courses taught in traditional classrooms.

Several colleges identify specific class sizes in their language, if only for the first time a faculty member teaches online.

- **Contract Language from Broome Community College (expires August 31, 2012)**

The minimum enrollment required to offer an Internet based course is eight (8) students for the first time a department offers a course and twelve (12) students thereafter.

- **Contract Language from Finger Lakes Community College (expires August 31, 2011)**

The College recognizes that a distance learning course may require more instructional time than a classroom-based course, especially during the first semester in which it is taught. Therefore, in the first semester in which the course is taught the number of students admitted to an SLN course will be limited to ten.

In subsequent semesters, the Vice President will confer with the course instructor and the appropriate department chair to establish the maximum number of students who will be admitted to each distance learning course.

Enrollments in distance learning courses shall not exceed the usual and customary numbers of students enrolled in similar courses taught in a traditional classroom setting on the College campus.

- **Contract Language from Mohawk Valley Community College (expires August 31, 2013)**

Beginning with the ratification of this agreement, all web-based courses will have a cap of 25. Upon mutual written agreement with the bargaining unit member, the cap may be raised above 25, but not to exceed 40.

- **Contract Language from Westchester Community College (expires August 31, 2008)**

The maximum class size shall be 25 students. However, the first time a course is taught by an individual faculty member the maximum class size shall be 22 and the minimum shall be 5. For subsequent offerings the minimum enrollment is 15.

Some colleges identify the process by which DE class size is determined or indicate that the DE class sizes will be the same as on-campus class sizes for each course.

- **Contract Language from Hudson Valley Community College**

(expires August 31, 2011)

The total number of seats available for a distance learning section as set forth in the master schedule distributed in accordance with Article VIIG shall be the maximum number of students for that section. The maximum number of students, however, may be increased by agreement between the appropriate department chairperson and the affected faculty member.

In the event that the student contact hours of a full-time faculty member exceed 500 contact hours in any semester and there are more than thirty-three (33) students in a distance learning course taught by said faculty member during that semester, the faculty member shall have additional compensation as follows:

		<u>2010-11</u>
34-45 students	2 contact hour	@\$995
46-57 students	3 contact hour	@\$995
58-69 students	4 contact hour	@\$995
70-81 students	5 contact hour	@\$995

■ **Contract Language from Jamestown Community College
(expires August 31, 2011)**

Since the size may well vary with the subject area and individual instructor preference the class size in each discipline will be discussed by the faculty member involved, the assistant dean/coordinator, and the administration, the final determination on class size shall rest with the Administration compatible with the concept of quality education and manageable class size consistent with the DE format utilized.

■ **Contract Language from Monroe Community College
(expires August 31, 2012)**

For classes taught via distance education, there is no change in maximum class size or faculty contact hour credit.

■ **Contract Language from Onondaga Community College
(expires August 31, 2014)**

Class size maximums in effect for existing courses shall apply to such courses that are converted to a distance learning format.

Class size maximums for new courses in a distance learning format shall be established in accordance with Section 6.2 of this Agreement.

■ **Contract Language from Schenectady County Community College
(expires August 31, 2009)**

The enrollments in distance learning courses will be consistent with the scheduling guidelines as established by the Dean of Academic Affairs in conjunction with the Academic Departments and Continuing Education. The class size for a distance learning course will be established prior to faculty assignment. Compensation for distance learning courses will be in accordance with the current Agreement.

Others, such as Herkimer and Ulster, have a statement of principle in their contracts.

- **Contract Language from Herkimer County Community College (expires August 31, 2014)**

The College will make a good faith effort to see that reasonable class size is maintained. Final class size for purposes of determining extra service pay will be assessed on the day that late registration ends for a given class session.

- **Contract Language from Ulster County Community College (expires August 21, 2010)**

The College will make a good faith effort by advertising and other means to see that reasonable class size is maintained.

5) Course Assignment

a) Assignments of Courses to Faculty

A major concern within the realm of course assignments is which faculty members get to develop and teach the courses. All DE courses should be taught by qualified bargaining unit faculty in the local. In addition to protecting bargaining unit work, this better ensures quality DE courses for students, who deserve to have the same well-established and knowledgeable faculty members that they would have in equivalent on-campus courses. This also protects bargaining unit members from the importing of “canned curriculum” or publisher prepared courses, which are rejected by faculty as a threat to bargaining unit work.

* * * * *

At Suffolk and Mohawk Valley, all faculty have an opportunity to develop and teach DE courses; after all eligible faculty members who desire to teach a course have done so, seniority is used to make further decisions.

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

All DE courses offered by the College shall be taught by Association faculty members.

Assignment to teach a DE format course shall be based on a faculty member's request, proficiency that is either demonstrated or certified, and seniority.

For the purposes of assignment and seniority, DE courses shall be treated as special topics courses and shall follow the existing College procedure for the assignment and duration of such assignment. (I.e., if more than one faculty member in a discipline requests to teach an existing course in the DE format, the most senior faculty member making the request will be assigned the course for a period not to exceed two (2) semesters, at the end of which the next most senior faculty member making the request will be given the assignment. When all faculty members in a discipline have been given the opportunity to use a DE format, the future assignments for DE formats shall be based on seniority.)

- **Contract Language from Mohawk Valley Community College (expires August 31, 2013)**

Bargaining unit members who create an original web-based course will maintain ownership and priority to teach one section of the course per semester by seniority. Developers and redevelopers of courses shall be given seniority in chronological order. Once priority has been met for all developers and redevelopers of a given course, assignment begins again with the most senior creator until all sections are assigned.

The parties acknowledge that as a general rule qualified bargaining unit members shall have first rights to develop web-based courses offered at the College. The Association recognizes that there may be exceptions to this rule based on unique qualifications of a non-bargaining unit member. The College will notify the Association during any semester in which a non-bargaining unit member has developed a course.

Another approach, used by Fashion Institute of Technology and Onondaga, is to grant faculty members the first right of refusal for a specific period of time.

- **Contract Language from Fashion Institute of Technology (expires May 31, 2010)**

A faculty member who adapts a current course or develops a new course for delivery by Distance Learning shall have the right of first selection of that course for the first four times the course is offered.

If the faculty member who developed the course opts to decline teaching the course in a given semester, the semester in question shall count as one of the four. When two sections of the course are offered, the decline of one section shall not count toward the four. However, if the faculty member chooses to teach two sections in one semester, it shall count as two.

If the faculty member is unable to teach because of circumstances beyond his/her control, the Vice President for Academic Affairs in consultation with the UCE of FIT shall determine if that semester will count as one of the four.

- **Contract Language from Onondaga Community College (expires August 31, 2014)**

The originating instructor has the first right of refusal to teach all sections of the distance learning course he/she has developed subject to Article 6.3 of and Article 15.4. In the event the originating instructor opts not to teach certain sections of such course, or in the event the originating instructor's desire to teach certain sections of such course would place the instructor's teaching load above the maximum described in Article 6.3 or 15.4, the remaining sections of such course may be made available to full-time and part-time faculty and then assigned to adjuncts as per 15.1 of the contract.

With respect to courses currently being taught at the College, the College retains the right to offer such a course or a section of a program in distance learning format and modality through a faculty member employed by the College. The College will not hire a new faculty member to teach the course via distance learning unless the academic department is unwilling or unable to offer the course in a distance learning format through presently employed faculty.

A related concern: If the college has conceded proper ownership to faculty members, it will be concerned with scheduling and advertising a DE course that may not run should the developing faculty member be unwilling or unable to teach it. This is especially true if the bargaining unit has achieved compensation for the development of the course; few colleges want to pay a faculty member to develop a course that he or she then decides not to teach. You can see several methods to address these concerns in the following contract language.

■ **Contract Language from Cayuga Community College
(expires August 31, 2011)**

Assignments to DL Courses will be governed by the following:

1. Assignments to teach DL courses shall be governed by the competency provisions in Article XIV Section 6.
2. Assignments to teach DL courses shall be subject to the approval of the Vice President of Academic and Student Affairs.
3. Faculty members who receive the stipend for the development and delivery of a course can expect to be assigned to teach that course a minimum of three (3) times. However, faculty members shall have the right to refuse assignments to teach a DL course.
4. All faculty teaching a DL course must complete training specific to that course as defined in Article LX Section 62.
5. Assignments to teach a DL course will be subject to restrictions imposed upon the College by the online courseware management provider or the IVS technology.
6. Faculty teaching a DL course cannot be displaced by other faculty members after the time limits required by the technology for their courses have passed.

■ **Contract Language from Erie Community College
(expires August 31, 2009)**

Faculty shall be assigned to distance learning courses in accordance with Articles 33, 36, and 37. These courses will be included in the course schedule booklet in the usual manner as specified in Articles 33, 36, and 37. A faculty member must teach at least two seated courses in their regular load. A full-time member of a unit may select one additional distance learning course as overload. This additional selection will be based on seniority providing that there has been an equitable distribution of distance learning courses within the unit to the remaining full-time faculty members.

(1) Full-Time Faculty: To provide quality distance learning opportunities to our students, a first-time Distance Learning teaching process has been developed to recruit faculty and improve implementation for faculty teaching in this format. There shall be a one-time additional compensation for learning the approved College platform at the current rate of three (3) contact hours. This shall only occur during the first time a faculty member teaches an online course. All DL faculty shall be compensated at the current overload rate. Annually, the College will provide Distance Learning faculty an opportunity during the summer for an optional professional development session at the College. This optional training session could include but is not limited to distance learning best practices, innovations, and technology updates.
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(2) Retired Faculty: Retired faculty may request teaching assignments in the (online) Distance Learning format within their former Unit. Retiree selection of the online (DL) formatted courses will occur only after all (DL) qualified full-time members within the Unit have exercised his/her rights to the selection of courses in the online (DL) format within the Unit. Retired faculty members will be compensated at the current overload rate along with any other associated compensation approved for Distance Learning.

(3) Part-time Faculty: Part-time faculty may only be utilized to teach an online (DL) course where the Unit has approved the need and all DL qualified full-time members within the Unit have exercised their rights to the selection of courses within the Unit. An approved part-time faculty member may only teach one (1) DL course per semester as part of their teaching load. Part-time faculty members will be compensated at the current overload rate for the course approved for distance learning along with a one-time payment of one and one-half (1 ½) contact hours for learning the appropriate Distance Learning platform prior to teaching a course for the first time.

Online (DL) sections are offered as part of distance learning.

(a) To teach an online section, a faculty member must use an ECC-approved platform for online course delivery as the primary method of instructional delivery and must have participated in training or be deemed trained by the Associate Vice President of Academic Affairs responsible for Distance Learning before offering an online section.

(b) Faculty will have the right to teach the online course that he/she prepared and developed for four offerings within a two-year period. They will have the right of first refusal to their online course during that time frame.

(c) An online section will be allowed to run and will not be cancelled as long as it meets enrollment requirements.

(d) Online sections are included in the course schedule booklet and are subject to all scheduling procedures as addressed in Articles 33, 36, and 37 of the FFEC contract. When two or more faculty members serve as co-creators, they will alternate or mutually agree upon another arrangement for the right of first refusal.

■ **Contract Language from Finger Lakes Community College
(expires August 31, 2011)**

Employees who teach distance learning courses will be permitted to teach said course at least twice before another member is selected to teach the same course, providing the member desires to teach the course and is able to do so.

In the case where two or more employees have developed the same course, the decision on who will teach in subsequent semesters will be made by the Vice President.

Final assignment of SLN courses to employees is made at the discretion of the Vice President in consultation with the appropriate department chairs in keeping with the provisions of Article IX Section 10.A 3.

If a distance learning course is cancelled the first time it is offered, the member who has been paid for the course development will commit to offering the course for each of the next three semesters or until the course has enough students to run, whichever comes first.

■ **Contract Language from Herkimer County Community College
(expires August 31, 2014)**

Faculty who agree to participate, agree to develop the course and teach it at least twice.

■ **Contract Language from Jamestown Community College
(expires August 31, 2011)**

Bargaining unit members who develop a DE course will be expected to teach that course the first semester it is offered. Faculty hired before September 1, 2000, may be assigned to teach DE courses as part of their regular course load on a voluntary basis.

■ **Contract Language from Nassau Community College
(expires August 31, 2013)**

Should an off-campus course, or a radio, television, or distance learning course, fail to develop after assignment as part of a regular schedule, the faculty member shall have three (3) regular semesters to teach an extra course or courses in order to make up the deficit. Should it become necessary or with the concurrence of the appropriate Dean, this assignment may be fulfilled during the evening or summer sessions.

■ **Contract Language from Orange County Community College
(expires August 31, 2012)**

Faculty who develop and teach a distance education course will be permitted to teach that course for at least two semesters before another faculty member may be selected to teach the same course section.

Faculty will be expected to teach a new distance learning or hybrid course within 1 year of its development and for a minimum of 2 subsequent semesters. Where a faculty member chooses not to continue teaching a distance learning or hybrid course, the Department Chair and the Associate Vice President of the division will select who will voluntarily teach the specified course(s) in subsequent semesters.

■ **Contract Language from Sullivan County Community College
(expires August 31, 2009)**

Faculty members who develop and teach new web-based courses, or who update and teach a previously developed course, shall be assigned to teach such course a minimum of three times.

■ **Contract Language from Tompkins Cortland Community College
(expires August 31, 2009)**

Assignment of the work of revision will be made on the following basis, in order of priority:

1. the original developer of the on-line format for the course
2. seniority within the curricular area among those bargaining unit members who have taught on-line courses
3. other qualified bargaining unit members who have taught on-line courses, based on seniority within the bargaining unit
4. choice of the Provost/Vice President of the College

The creator of the original on-line format of the course or the reviser of the master course template (whoever has most recently performed this work) will have the right of first refusal to teach all sections of this course for the following six semesters, excluding summers, up to a full teaching load.

For two (2) years, the originating instructor has the first right of refusal to train subsequent instructors to teach all sections of the Distance Learning course he/she has developed.

■ **Contract Language from Ulster County Community College
(expires August 21, 2010)**

Faculty who agree to develop a course will agree to offer it twice within a two-year period. If the Faculty and the College both agree that the course should not be offered a second time, the course may be discontinued.

■ **Contract Language from Westchester Community College
(expires August 31, 2008)**

Distance learning fellowships shall be limited to full-time faculty developing fully online courses. [For faculty members] converting existing on-campus courses to online courses without DL fellowship support [i.e., who have not received a distance learning fellowship,] Before any fully online course is independently developed it must be approved first by the faculty member's Department, Associate Dean and the Academic Vice President. Scheduling of the course is at the discretion of the Academic Vice President.

The first four years an instructor teaches his/her course Section 3.9 of the contract is suspended and no one can bump the instructor from teaching the course.

When a course is developed the faculty member must teach the course at least twice.

This agreement provides online course developers with the right to teach each course for up to eight semesters. The eight semester rule applies only to one section of the same course per semester whether taught as part of an individual's regular load or overload. As of fall 2007, the first developer of an online course may complete the remaining semesters of his or her eight semester cycle. Summer school assignments are not included in this agreement.... The eight semester rule will be suspended during authorized leaves of absence and resumed upon return. When a developer chooses not to teach a course fall or spring semester, he/she may resume the eight semester cycle the following semester, but forfeits those semesters he/she has chosen not to teach.

Adjuncts shall be able to teach a previously developed WCC online course in a specific semester provided:

- a. the full-time instructor who designed the course agrees the adjunct instructor may use/modify the full-time instructor's WebCT course content. Subject to review as in B. 2a.ii above. The full-time instructor retains ownership of the original course content. – or – The adjunct instructor will develop the course while working with a DL Buddy and/or the Distance Learning office. Subject to review as in B. 2a.ii above.
- b. the adjunct instructor has experience using WebCT as a supplement at WCC (or at another school)
- c. the adjunct instructor has the skills necessary to successfully manage and facilitate an online WebCT course (to be determined by the full-time instructor and/or the DL office)

Adjuncts shall be able to teach a WebCT course they have developed and taught at another school if (a) they have ownership of the course content and (b) approval of the course is given by the appropriate academic department at WCC and the DL office.

Support for adjuncts shall be provided by the DL office as stated above [equivalent to those without DL fellowships]. The College will NOT provide a laptop or PC.

Finally, several contracts explicitly address how DE courses will impact faculty course load.

- **Contract Language from Fashion Institute of Technology (expires May 31, 2010)**

Full-time faculty can teach one online course as part of their day schedule and two as part of their evening schedule for a total of three courses.

Part-time faculty can teach up to two online courses, one of which can be part of their day schedule.

Faculty members must teach at least four courses in the classroom before being eligible to teach online.

Adjuncts must teach at least one face-to-face class on campus every 4th year.

- **Contract Language from Herkimer County Community College (expires August 31, 2014)**

No teacher will be adversely affected because of the College's participation in asynchronous instruction. There will be no reduction in College faculty and staff directly related to the College's participation in asynchronous learning.

- **Contract Language from Nassau Community College (expires August 31, 2013)**

On-campus schedules for faculty who also teach off-campus courses, radio, television, or distance learning courses, may be reduced to three (3) days with the approval of the appropriate Dean, but in no case shall a faculty member's on- and off-campus schedule exceed four (4) days.

- **Contract Language from Schenectady County Community College (expires August 31, 2009)**

One distance learning course may be taught for load in any given semester. An additional distance learning course may be taught as an overload in the Fall and Spring Semesters. Summer assignments will be in accordance with current Agreement. (Note: Early Spring courses are taught as an overload for the Spring Semester).

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

Subject to the availability of DE classes as scheduled by the College, full-time faculty who have been approved to do so may teach up to forty percent (40%) of their basic load (two (2) sections totaling no more than eight (8) credits online (i.e., asynchronous and blended/hybrid formats). Under extraordinary circumstances, and only with the approval of the Executive Dean/Campus

CEO and the Association, a faculty member may teach in excess of forty percent (40%) of his/her basic load online in a given semester. There are no restrictions for overload or adjunct load.

- **Contract Language from Tompkins Cortland Community College (expires August 31, 2009)**

A Distance Learning section is credited to a faculty member's total load the same as any non-distance learning section of the same course.

- **Contract Language from Westchester Community College (expires August 31, 2008)**

All full-time faculty can teach up to a maximum of two online classes per semester, as part of their regular load. However, full-time faculty, with 6 or more hours of release time, must teach one face-to-face class as part of their regular semester load. F/T faculty members, who teach an online course as part of their regular load AND have their finals online, must pick up an on-campus proctoring assignment for each online course involved. (Those who hold on-campus finals for online courses don't "owe" any proctoring.)

b) Imported Courses

Colleges at times will want to import courses from other institutions. We feel that if the desired imported course would compete with a course already being offered, then the college should not sponsor a DE course offered by any other institution or provide a reception site for any course that would compete with a currently offered course. This further protects bargaining unit work and the traditional policies by which DE courses are selected by academic departments.

* * * * *

In the language below, Suffolk's is stronger, but the Hudson Valley, Onondaga, and Orange language at least contractually grants to academic departments the right of first refusal, notifies the union of intentions to import courses, and protects the courses currently being taught by bargaining unit members.

- **Contract Language from Hudson Valley Community College (expires August 31, 2011)**

In the event that a distance learning course is imported from sources or locations outside of the College, the College shall offer the same courses and number of sections in the discipline of which the distance learning course is a part that were offered in the previous academic year's master schedule. Provided, however, the number of said sections including the distance learning course that will be run in a particular semester shall be determined in accordance with the usual academic process.

- **Contract Language from Onondaga Community College (expires August 31, 2014)**

Nothing in this Article and Section or in any other Article or Section of this Agreement shall preclude the College from sponsoring a distance learning course not currently taught at the

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College which was developed by someone at another institution or business who is not a member of the College's faculty, or from providing a reception site for such a course.

Before exercising this right, the College will give the appropriate Academic Department of the College a "right of first refusal," meaning that the College will notify the appropriate Academic Department (notification will also be given to the Federation) of its decision to use an externally developed course unless the Academic Department opts to develop and present a comparable course. Unless the Academic Department initiates its proposal and begins the academic review process, including consideration of a Selected Topic offering, within 30 days of the College's notification, the right of first refusal will be forfeited.

With respect to courses that are currently being taught at the College, the College will not sponsor a distance learning course developed by someone at another institution or business who is not a member of the College's faculty, or provide someone at another institution or business who is not a member of the College's faculty, or provide a reception site for such course, without discussions with and consent of the Federation.

- **Contract Language from Orange County Community College (expires August 31, 2012)**

The College shall not sponsor a distance learning or hybrid course by any other institution or provide a reception site for any course that would compete with a SUNY Orange course currently being taught and/or listed in the College catalog unless: (1) the College enters into a reciprocal agreement with the other academic institution(s) for the purpose of offering shared delivery of programs and/or course (i.e., academic consortia), (2) the department deems such an offering acceptable, and (3) no other eligible member of the department or adjunct is willing to teach the distance learning course.

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

The College shall not sponsor a DE course offered by any other institution or provide a reception site for any course that would compete with an SCCC course currently being taught and/or listed in the College catalog.

Online courses are faculty developed.

Blended/hybrid courses are faculty developed.

c) **Effects on On-Campus Courses**

If not bargained carefully, the participation of a college in DE courses has the potential to cause a division between DE practitioners and non-practitioners within a bargaining unit. To help protect the bargaining unit work of non-practitioners, a decrease in on-campus classes offered as a direct result of the college's participation in DE should be prohibited.

- **Contract Language from Herkimer County Community College (expires August 31, 2003)**

No teacher will be adversely affected because of the College's participation in asynchronous instruction. There will be no reduction in College faculty and staff directly related to the College's participation in asynchronous learning.

- **Contract Language from Fashion Institute of Technology (expires May 31, 2010)**

For the life of this contract, there will be no reduction in the number of employees and/or sections available to faculty on campus as a direct result of the college's participation in the distance learning program.

- **Contract Language from Tompkins Cortland Community College (expires August 31, 2009)**

The College and the Faculty Association recognize that Distance Learning is a developing area and agree to communicate regularly on issues of concern. The impact on enrollment of Distance Learning courses shall be monitored by the Labor Management Committee. Each semester the number of Distance Learning courses and the particular enrollment in each course will be assessed to ascertain whether there is any potential for negative impact on the numbers of courses/sections offered at the College. If the trends suggest any negative impact on numbers of courses/sections offered at the College, the College agrees to limit the number of Distance Learning courses in that course area so as to avoid any further negative impact.

- **Contract Language from Ulster County Community College (expires August 21, 2010)**

There will be no reduction in College faculty directly related to the College's participation in asynchronous learning.

6) Training and Technical Support

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#2

Because faculty must attain a certain level of technological proficiency in their chosen DE method of delivery, colleges should provide the best possible training and technical support on a regular and ongoing basis, made available in a variety of ways. Faculty members should play an integral role through policy and governance bodies as well as through contract language, in determining the hardware, software, course management systems (such as Blackboard, Moodle, Desire2Learn, or an institution-specific system) to be utilized in DE courses. If a bargaining unit is unable to achieve contract language, policy language should be pursued.

* * * * *

The following Mohawk Valley language is good, but the final sentence negates the effectiveness of the first. The Suffolk language reflects the policy of the college's standing DE committee as well as establishes the technical support required for synchronous (interactive video) DE courses.

- **Contract Language from Mohawk Valley Community College (expires August 31, 2013)**

The College is committed to providing the best training and technical support possible to instructors of web-based courses both during the developmental period and when the course is offered. Faculty and staff who intend to create online courses must be trained in the technology.

special skills and methods necessary for online instruction including retraining to address changes in technology. Training will be offered by the College at a mutually agreeable time. The statement of principle contained herein and the commitment to training contained herein are not subject to the arbitration step of the grievance process.

■ **Contract Language from Suffolk County Community College
(expires August 31, 2015)**

- A. The College shall provide periodic general training for the various DE formats for faculty on all campuses.
- B. A College Distance Education Committee (DEC) shall be established. The College Distance Education Committee members shall include two (2) elected faculty representatives from each campus, at least one (1) of whom has experience with or involvement in DE delivery, one (1) Association representative, the Associate Dean of Instructional Technology, one (1) College Executive Dean/Campus CEO, one (1) Multimedia Instructional Designer (MID) appointed by the College and one (1) representative of the Continuing Education Office selected by the President of the College. The Committee shall meet regularly throughout the year and is charged to do the following:
 - 1. Establish guidelines to determine the level of technological proficiency required by a faculty member to teach in DE formats.
 - 2. Make recommendations as to which courses/programs are academically appropriate for online delivery.
 - 3. Ensure that established DE procedures (e.g., course proposals) are followed properly and fairly.
 - 4. Develop support services, professional development and training opportunities for faculty.
 - 5. Make recommendations to the College concerning changes in available technology, support services and training opportunities.
 - 6. Recommend policies regarding privacy, security and surveillance of electronic work activities as they affect DE, such as email, Internet access, usage, etc.
 - 7. Recommend policies regarding workload issues.
- C. In order to encourage faculty to develop synchronous and asynchronous courses and other innovative technological instructional materials/tools, the following provisions shall be instituted:
 - 1. The first time a faculty member is selected to teach a synchronous or asynchronous DE course, he/she shall receive three (3) contact hours of either reassigned time or overload compensation the semester prior to the DE assignment for the purposes of training and/or course modification. Such training may also include proficiency training for the DE format of the course.
 - 2. Under Article V, D, 5 up to \$10,000 per year of the total amount allotted to Faculty Development and Retraining Leaves shall be set aside for faculty members to take courses pursuant to each applicant's plan to enable said applicant to teach or develop DE courses. Tuition for courses taken for this approved purpose shall be reimbursed at the 100% level.

* * *

Synchronous distance education courses...

- 1. Initially two (2) remote sites shall be used for any one (1) synchronous DE course.
- 2. Each site shall include appropriate support staff:

- a) An audio-visual Professional Assistant shall be made available at each site for technical support at both the beginning and the end of each transmission and for assistance during the transmission.
- b) The College shall provide other non-faculty staff assistance to distribute, collect and fax materials at remote sites and to proctor tests/exams at the remote sites, as required by the Instructor.
- c) The College shall also provide other staff assistance as necessary for safety and security concerns at remote sites.

Suffolk's contract also is notable for having language specific to the use and assignment of peer mentors to assist DE faculty throughout their DE experience of developing and teaching online or hybrid/blended courses.

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

Peer mentors are faculty who have been recognized by the College as having extensive knowledge of online learning and pedagogy. Peer mentors work closely with faculty who are developing or teaching an online class to provide advice about and assistance with creating pedagogically sound learning environments.

- A. The selection process will be based on seniority as outlined in Article IV, T.
- B. All ten (10)-month and adjunct teaching faculty will be eligible to apply to be a faculty mentor.
- C. All mentors will be certified by the appropriate Executive Dean/Campus CEO.
- D. All assignments will be made through the appropriate Executive Dean/Campus CEO's office.

When reading the following Onondaga and Ulster language, keep in mind that those contracts do not allow for additional compensation for the development or teaching of DE courses.

- **Contract Language from Onondaga Community College (expires August 31, 2014)**

The trained staff of the Office of Distance Learning will be responsible for providing support to faculty developing and offering courses through whatever distance formats the college supports. Specifically these individuals will provide support to include:

- support for distance learning faculty as they conceptualize, create, and manage their courses.
- workshops, coaching, and course reviews as defined in 6.26.d.3 on topics such as
 - online pedagogy (course design supports the course outcomes and objectives, appropriate instructional strategies and tools are selected),
 - developing active learners,
 - building learners' understanding of academic integrity, generating and maintaining ongoing teaching presence, deliberately building in social presence,

- enhancing clarity in faculty expectations of students, and
- suggestions for increasing learner achievement, participation, and satisfaction.

Technical support shall be available for distance learning purposes.

■ **Contract Language from Ulster County Community College
(expires August 21, 2010)**

The College will provide faculty members who participate with an appropriate desktop or laptop computer while developing and teaching the course based on the faculty member's preference and technological needs.

The College will provide faculty members who participate with the appropriate training and technical support as proposed and contractually agreed upon by both the College and faculty member using Form DLC.

The College will provide faculty members who participate with the required software to teach the course and it will be installed at least four months prior to the course start date.

The College will provide faculty members who participate a monthly allowance of \$50 per month for an Internet Service Provider (ISP) and telephone line fees (if applicable due to physical location of the home and the location of the ISP), as long as the course is taught.

Training and technical support language from other locals is indicated below.

■ **Contract Language from Broome Community College
(expires August 31, 2012)**

The faculty member agreeing to teach an Internet-based course must satisfy College mandated training requirements prior to teaching an Internet-based course. All associated costs for training mandated by the College will be paid by the College.

■ **Contract Language from Cayuga Community College
(expires August 31, 2011)**

A. Initial Training and Orientation. Any faculty member who wishes to teach a DL course for the first time must attend an orientation developed and/or approved by the Director of Evening and Special Programs. A stipend will not be paid for the training; however, travel reimbursement at the IRS approved rate (if no College vehicle is available) will be provided if travel is required. The training may be counted as equivalent graduate credit at the discretion of the Vice President of Academic and Student Affairs consistent with Article XI Section 21.A.

B. Training Beyond the Initial Offerings. Each time a faculty member teaches a credit bearing DL course he or she must attend returning faculty training as developed and/or approved by the Director of Evening and Special Programs. There will be no stipends for this training but travel reimbursements will be the same as in Section 62.A.

C. Training for Non Credit Offerings. The Director of Evening and Special Programs will develop and/or approve training for the teaching of non-credit DL courses as needed. This training will be required of those wishing to teach a non-credit DL course.

■ **Contract Language from Clinton Community College
(expires August 31, 2008)**

A Faculty Member who agrees to teach a distance learning course agrees to participate in course developing training, including technology training and curriculum design workshops and seminars. The College will provide reimbursement for any direct cost of training.

- **Contract Language from Erie Community College
(expires August 31, 2009)**

Under extenuating circumstances, such as active military service, medical reasons, etc. (not vacations) online courses may be opened two weeks early with instructor approval provided the Administrative service can properly implement an early start.

The College recognizes that distance learning courses will have the needed technical support and resources to run a successful delivery system. Faculty have no responsibility to provide distance learning technology access from their home.

- **Contract Language from Finger Lakes Community College
(expires August 31, 2011)**

The College agrees to provide members with the following support in the development and presentation of distance learning courses.

- a. The College will provide appropriate hardware and software to the member during the development and presentation of Internet-based courses as needed by the individual.
- b. The College will ensure that appropriate training is available.

- **Contract Language from Jamestown Community College
(expires August 31, 2011)**

The College shall provide access to training for faculty involved in DE activities. Faculty who receive training in the technology, special skills and methods necessary for instruction in the DE environment may apply for faculty development funds to attend such training (See section 12.8.5 and Appendix F).

- **Contract Language from Orange County Community College
(expires August 31, 2012)**

The College will provide faculty members who teach a distance learning or hybrid course an appropriate computer to use while the faculty member is developing and teaching the course. The faculty member's input about his/her technological needs will be considered when the College selects the computer. The College will also provide appropriate training and technical support. The College will install the required software to teach the course on the computer in a timely manner.

- **Contract Language from Schenectady County Community College
(expires August 31, 2009)**

Each faculty member assigned a distance learning course will be provided an opportunity for prior training in the appropriate delivery system.

The College shall provide the software necessary to offer distance learning courses and shall provide support on instructional software consistent with College procedures.

The College will provide hardware/software support for distance learning courses consistent with the corresponding support for courses offered on campus.

■ **Contract Language from Tompkins Cortland Community College
(expires August 31, 2009)**

The College shall provide appropriate and timely training for faculty and staff involved in Distance Learning activities. Faculty and staff will be trained in the technology, special skills and methods necessary for instruction in the Distance Learning environment. All costs associated with such training shall be paid for by the College.

This agreement presumes that the College continues to use the platforms for on-line courses that are currently in effect. Should that change, the College and the Faculty Association agree to revisit this issue.

■ **Contract Language from Westchester Community College
(expires August 31, 2008)**

Faculty members [who have received a distance learning fellowship] shall be provided the exclusive use of a laptop computer and have his/her office PC upgraded, if necessary, while developing and teaching a Distance Learning course. During the same period of time, no DL faculty member shall be required to share an office PC with anyone else.

All DL Fellows shall agree to keep laptops current with respect to Windows and virus updates and to comply with the most current guidelines issued by the IT department. This is a crucial procedure needed to protect the integrity of the WCC network. Failure to comply shall result in the loss of the use of the laptop.

A \$100 stipend will be available for on-line faculty who complete a series of 3 voluntary training sessions for CE 6 [Blackboard Campus Edition 6]

Should any major unanticipated difficulties arise as a result of the conversion to CE 6 which will require intensive faculty training, the Union and the Administration will meet to address the problem.

[For faculty members] converting existing on-campus courses to online courses without DL fellowship support [i.e., who have not received a distance learning fellowship,] All WebCT support and training services provided by the Distance Learning office shall be available to the instructor e.g., workshops and one-on-one help. A laptop and/or upgrade of the faculty member's office PC may be provided but is not guaranteed.

7) Online Office Hours

Online or virtual office hours should be optional but encouraged. Holding synchronous office hours at a distance, in addition to regular on-campus office hours, can help faculty members reach students unable to come to campus. Most frequently, online office hours take the form of the faculty member being available in a class chat area. However, since chat areas in a class website may be public to all students in that class, for one-to-one communications of a more private nature, the use of email or telephone are effective supplements.

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Nine locals now have contract language specific to online office hours. Several allow faculty to hold two weekly office hours online or a proportion of their office hours online based on the number of DE courses they are currently teaching.

- **Contract Language from Clinton Community College (expires August 31, 2008)**

On-campus office hours may be reduced when a Faculty Member teaches asynchronous or hybrid courses. The reduction will be based on the number of on-campus/online credits being taught. For example, a Faculty member teaching four courses on campus and one course online would have the required on-campus office hours reduced from 5 to 4.

- **Contract Language from Jefferson Community College (expires August 31, 2012)**

Faculty may schedule two (2) of the seven (7) office hours as Virtual Office Hours utilizing electronic media, leaving five (5) office hours on campus. Virtual office hours are subject to the approval of the immediate supervisor.

- **Contract Language from Mohawk Valley Community College (expires August 31, 2005)**

Teaching faculty shall schedule, post, and be available to their students for at least five (5) office hours per week distributed over the days of the week when classes are in session to provide instructional or other assistance. Faculty teaching web-based courses may schedule one virtual office hour per web-based course up to a maximum of two of the five office hours per week. Virtual office hours will be posted in the same way as other office hours, and faculty will be available on line at those times to provide instructional or other assistance.

- **Contract Language from Nassau Community College (expires August 31, 2013)**

On-campus office and advisement hours may be reduced proportionately for faculty teaching off-campus courses or radio, television, or distance learning courses so that faculty may schedule conferences for their off-campus students. This adjustment must be approved by the appropriate Dean.

- **Contract Language from Sullivan County Community College (expires August 31, 2009)**

Instructors of on-line courses shall maintain office hours for on-line students with the same frequency and duration as maintained by instructors of on-campus classroom coursework. During the Fall and Spring semesters, instructors shall be present in their offices on campus and shall make themselves available to students during designated office hours. Section 1103 shall apply to both on-line and on-seat courses. The office hours will be disseminated to the Chair and to the Division's support staff and they will be posted online.

The following four locals allow faculty the option of holding one of their weekly office hours online.

- **Contract Language from Orange County Community College**

(expires August 31, 2012)

Faculty teaching distance education courses may schedule one virtual office hour in lieu of holding one college office hour per three credit course or its contact equivalent course. Such office hour will be posted in the same way as other office hours. The faculty member will be available on-line at the posted time to order to provide instructional or other assistance. The faculty member will also be available during this time to work with advisees.

- **Contract Language from Schenectady County Community College (expires August 31, 2009)**

A faculty member teaching a distance learning course for load (of at least three (3) credits) may reduce his/her contracted office hours by one hour. Any office hour reduction will be devoted to interaction with students in the distance learning course.

- **Contract Language from Suffolk County Community College (expires August 31, 2015)**

One (1) of these office hours may be scheduled at the faculty member's option as a synchronous online office hour, pursuant to rules and rule and regulations established by the College following consultation with the Association.

- **Contract Language from Westchester Community College (expires August 31, 2008)**

Online faculty may replace one on-campus office hour by an online office hour which must be accessible to students. They must publish the day/time of the online office hour and the methods of accessibility that may be used.

8) Privacy and Surveillance

For the protection of privacy of faculty-student and student-student communications, there should be a presumption of privacy in DE courses, expressly written in contract or policy language. To this end, every effort should be made by the institution to "secure" insecure environments. For example, at one NYSUT community college using password-protected html-based class websites, faculty had assumed because of the password requirement that their course materials were completely secure, only to discover that they were easily accessible as individual webpages from any major Internet search engine. This raised serious issues for both students and faculty.

In the case of management observation/evaluation of faculty in an online environment, clearly defined parameters, along with unambiguous notification, should exist as to when management has access to an online class or other student/teacher learning spaces.

In "A Framework for Contract Negotiations Related to Educational Technology Issues," the Community College Council of the California Federation of Teachers' (CFT) Distance Education and Technology Issues Committee offers the following rationale for policy statements on privacy and surveillance:

Academic freedom is the freedom of faculty to inquire, debate, and give opinions. Such activities occur throughout the campus, and faculty expect privacy in many of these communications. Some communications involve highly controversial and delicate subjects, with faculty and students sharing personal opinions, sometimes in confidence. In these circumstances, faculty have reasonable expectations that the computer e-mails they receive and generate will not be searched indiscriminately. (17)

Therefore, the CFT advises that contract language similar to the following be achieved:

There is a presumption of privacy from district surveillance in the employee's use of technology-based work activities such as e-mail accounts, Internet usage, and other electronic tools.

Access to restricted bulletin board postings, Internet postings and e-mail correspondence must be safeguarded by the institution to the greatest extent possible against piracy or unwarranted intrusion.

* * * * *

Suffolk has the following policy language in their institution-wide computer/network use policy statement under privacy and also has contract language specific to synchronous DE courses (interactive video courses).

- **Policy Language from Suffolk County Community College "Information Technology Policies and Guidelines: For Administrators, Faculty, and Staff" (approved by SCCC Board of Trustees February 2002)**

Privacy Policy

To the extent possible in the electronic environment and in a public setting, a user's privacy will be honored. However, it should be understood that material on the college server or on college desktop equipment is college property (except as may be owned by another in accordance with intellectual property rights). Material may be subject to subpoena or an application to review records under the Freedom of Information Law (as indicated above), and it may be taken by the college (see below) or locked from user access. Also note, this material is not totally secure from unauthorized viewing or editing. While the college will make every effort within its resources to prevent unauthorized access, it cannot guarantee the result.

Any review of files maintained on college equipment, servers and personal computers should only be in accordance with a specific investigation, and where there is reasonable cause, in the estimation of the College President or the Vice President for Legal, Planning and Information Services, that evidence will be found, and where the search is limited to locating evidence of misconduct. Prior to the search of files, the computer will be secured and the individual who is the subject of the investigation shall be notified and offered the opportunity to be present during the search.

The College does not monitor or review the content of electronic mail transmissions, files, or other data maintained in its computing resources, except as stated below.

Monitoring may occur in connection with a specific investigation of the violation of law or College policy and when there is reasonable cause, in the estimation of the College President or the Vice

President for Legal, Planning and Information Services, to believe that the suspect is committing such a violation.

Monitoring can also occur of the applications currently in use, not the content, if technology staff reasonably suspects that college rules are being violated.

Technology staff may also inadvertently compromise privacy during routine network performance monitoring or troubleshooting, or during system maintenance. The number of persons with this level of access will be strictly limited and they have been directed to respect privacy and keep confidential the contents of any message read. However, should this reveal any activity that violates the law or college policy, an investigation will be initiated.

In addition, during the absence of an employee, it may be necessary to access the computer assigned to such employee in order to conduct the ordinary business of the college. In such instances, the supervisor may request that the Office of Desktop Services provide such access, and a representative of the Office of the Vice President of Legal, Planning and Information Services must be present.

* * *

No synchronous DE course shall be taped without the faculty member's permission.

Other locals have contract language such as the following:

■ **Contract Language from Hudson Valley Community College (expires August 31, 2011)**

Notwithstanding anything in the Collective Bargaining Agreement to the contrary, all videotapes and/or tape recordings of a distance learning course and all copies thereof shall be archived with the College Library as a resource only for a period of one year from the completion of the course in which said materials were last used and upon expiration of that period said materials will be destroyed unless otherwise agreed to by the faculty member and the College.

■ **Contract Language from Jamestown Community College (expires August 31, 2011)**

To the extent possible in the electronic environment and in a public setting, a user's privacy will be honored. However, it should be understood that material on the college server or on college desktop equipment is college property (except as may be owned by another in accordance with intellectual property rights). Material may be subject to subpoena or an application to review records under the Freedom of Information Law, and it may be taken by the College (see below) or locked from user access. Also note, this material is not totally secure from unauthorized viewing or editing. While the College will make every effort within its resources to prevent unauthorized access, it cannot guarantee the result and users should not have an expectation of privacy in anything they create, store, send, or receive on the computer system.

The College does not monitor or review the content of electronic mail transmissions, files, or other data maintained in its computing resources, except as stated below:

- a. Monitoring and/or review may occur in connection with a specific investigation of the violation of law or College policy and procedures and when there is reasonable cause, in the estimation of the College President or his designee, to believe that the suspect is committing such a violation. Prior to a search of files, the computer will be secured and the individual who is the subject of the investigation shall be notified and offered the opportunity to be present during the search unless extenuating circumstances prevent it.

- b. Monitoring and/or review may occur by technology staff to assure system security, performance, and maintenance. Technology staff are directed to respect privacy and keep confidential the contents of any message read, but should this reveal any activity that violates the law or college policy, an investigation will be initiated.
- c. Monitoring and/or review may occur by the College in order to comply with subpoenas, litigation discovery demands, requirements of state and federal contracts, applications to review records under the Freedom of Information Law, and other compliance required by law, rule, or regulation.
- d. Monitoring and/or review may occur during the absence of an employee in order to conduct the ordinary business of the College.

- **Contract Language from Orange County Community College (expires August 31, 2012)**

The College will take reasonable precautions to restrict access to bulletin board postings, Internet postings, and e-mail correspondence against piracy or unwarranted intrusion. Faculty members shall be held harmless in the event of any intrusion, misuse, or inappropriate electronic communication unless same was due to negligence by the faculty member.

9) Course Observation and Evaluation

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Guideline
#14

The nature and purpose of all observations and evaluations of a faculty member's DE course must be made clear, in advance and in writing. The contract should be explicit, for example, in regard to when, how, and for how long supervisors or peer evaluators can have access to a faculty member's class website. For faculty members teaching any distance education courses, failure to have clear language on course observation and evaluation potentially could have a devastating effect.

* * * * *

In the Hudson Valley and Mohawk Valley language below, the purpose of the administrative evaluation delineates the methods/options in which the DE courses may be observed.

- **Contract Language from Mohawk Valley Community College (expires August 31, 2013)**

Administrative Observation

1. For the Purpose of Formal Evaluation. Observation of web-based courses for the purpose of formal evaluation shall follow the same procedures used for observation of classes taught by other methods.

2. For Other Purposes. The College may observe web-based courses for other purposes, including but not limited to compensation pursuant to Section 5.14.C.5 and adherence to third-party requirements. In such instances, the College will notify the instructor in advance in writing (which includes e-mail) of the section to be observed, when the observation will begin and when the observation will end. The College may visit web-based courses for the purpose of response to technical problems without prior written notification.

■ **Contract Language from Hudson Valley Community College
(expires August 31, 2011)**

Distance Learning Courses (online courses, hybrid courses) shall be subject to observation in accordance with provisions in this paragraph.

(a) Online Courses: The Department Chairperson, in consultation with a faculty member teaching an online course, will meet and agree upon one of two methods of observation for online instruction as outlined below:

(i) Guided Access. At a mutually agreed upon time, the department chairperson and faculty member will meet for 50 minutes to review and discuss the online material.

(ii) Department Chairperson Access. In the event a faculty member teaching an online course agrees to Department Chairperson Access as the preferred method of observation, said faculty member shall be informed of the date and time the observation will occur. This selected method by the faculty member provides complete access by the Department Chairperson of all online material and will allow for 50 minutes of access by the Chairperson. These 50 minutes of observation may occur during one (1) observation or for no more than three (3) observations of approximately 15 minutes in length within a three week period.

(b) Since ITV courses are conducted like traditional courses, the observation of faculty teaching said courses shall be conducted in the same fashion as those observations done for traditional courses.

(c) Since hybrid courses are a composite of traditional courses and online courses, the department chairpersons annually shall determine whether to conduct the observation in accordance with subparagraph A or subparagraph B above and depending upon the determination shall follow the procedures set forth in the appropriate subparagraph.

(d) With respect to distance learning courses, subject to the provisions of this subparagraph D, the department chairperson, at any time, shall have access to course statistics for all distance learning courses under his/her supervision upon request and upon providing written reason therefor to the faculty member.

(e) A department chairperson will not release the course materials developed by a faculty member in connection with teaching a distance learning course to another faculty member unless the faculty member who developed the said course materials consents to such release.

If contract language for on-campus courses is effective, then a statement that observation and evaluation of DE courses shall follow the same procedures should suffice, but, again, it's best to have clear language specific to DE courses. In all of the following, we would caution against contractually obligating unit members to give unlimited guest access to their immediate supervisors.

■ **Contract Language from Broome Community College
(expires August 31, 2012)**

Evaluation of Internet-based courses shall follow the same procedure and evaluation standards as per the existing collective bargaining agreement. Academic and individual freedom will apply as with existing modes of course delivery.

- **Contract Language from Cayuga Community College
(expires August 31, 2011)**

Online courses shall not be observed without the knowledge and permission of the instructor. Although administrators may have passwords to allow access to a course, they shall not enter the domain of that course without the knowledge and permission of the instructor.

- **Contract Language from Clinton Community College
(expires August 31, 2008)**

The Faculty Member agrees to conduct course evaluations at the end of each semester and to participate in any research or assessment of distance learning outcomes.

- **Contract Language from Fashion Institute of Technology
(expires May 31, 2010)**

Effective Spring 04, faculty who are tenured or have received a CCE teaching online for the first time at FIT must have peer evaluations for their first two consecutive semesters teaching online.

Notwithstanding the above all faculty shall be subject to the evaluation processes outlined in the collective bargaining agreement.

- **Contract Language from Herkimer County Community College
(expires August 31, 2014)**

The College will evaluate faculty members involved in Internet instruction, utilizing the same procedures as used for non-Internet instruction. The College will require each faculty member who agrees to teach an Internet course, to provide access to his/her course (guest status) to his/her immediate supervisor, or designee of the Dean of Academic Affairs, prior to beginning instruction.

- **Contract Language from Orange County Community College
(expires August 31, 2012)**

The College may observe any distance learning course for the purpose of evaluation, provided that the College notifies the faculty member in advance of the observation. The College may visit any distance learning course for the purpose of responding to technical problems without prior notification.

Student course evaluations will be administered on all distance learning courses utilizing the same or similar procedures as traditional courses.

- **Contract Language from Schenectady County Community College
(expires August 31, 2009)**

Each faculty member teaching a distance learning course will provide a copy of the syllabus and a portfolio of materials used in the course to the appropriate supervisor upon completion of the course. Distance learning assignments will be addressed, in collaboration with the supervisor, in the annual evaluation process.

▪ **Contract Language from Suffolk County Community College
(expires August 31, 2015)**

Observations of online courses shall follow the criteria and procedures for observations in traditional classroom formats as stated in Article VII, E with the following modifications:

- A. The faculty member whose course is observed, the administrator observing the course and the peer chosen by the faculty member will arrange a meeting in real time during which the faculty member will introduce the online course format and structure to the administrator and the peer.
- B. If requested, the faculty member shall provide a 24-hour guest access to the administrator and the peer observer to allow them "student access" to the course.
- C. If access is provided to the observers, the faculty member shall notify his/her students of the observation via an online announcement within the course.
- D. The faculty member shall also post the email addresses of the observers in an online announcement to his/her students to provide students the option of sharing their experiences in the course with the observers.
- E. The observers agree to share with each other any emails addressed to one and not the other.

▪ **Contract Language from Sullivan County Community College
(expires August 31, 2009)**

SLN/Online courses shall be observed and/or evaluated using the same procedures and assessment standards that are currently in effect for the observation and/or evaluation of on-campus classroom coursework. With appropriate advance notice to the instructor, SLN/on-line course instructors will be required to provide the evaluator with access to a sampling of on-line instruction and discussion with participants as part of the observation/evaluation process.

▪ **Contract Language from Tompkins Cortland Community College
(expires August 31, 2009)**

Evaluation of faculty members teaching Distance Learning courses shall follow the same procedures and practices that apply to regular classroom courses. Electronic transmissions of course materials, lectures or chat groups will not be monitored by the College except for purposes of evaluating the faculty member according to the standard procedures.

Faculty members shall have the option to participate in the formation of Distance Learning teaching policies and procedures and to work with the College to provide regular assessment of Distance Learning courses.

▪ **Contract Language from Ulster County Community College
(expires August 21, 2010)**

When a faculty member offers an online or blended course, the faculty member shall for the first two offerings be subject to peer and student evaluations as developed by the Academic Senate Instructional Resources Committee and approved by the Dean for Academic Affairs.

The Onondaga and Westchester contracts also address review of DE courses for form and function rather than for content or faculty performance.

- **Contract Language from Onondaga Community College (expires August 31, 2014)**

Evaluation of faculty members teaching distance learning courses shall follow the evaluation procedures set forth in the contract for regular classroom teachers.

Course reviews of newly developed/developing distance learning courses will be conducted by trained staff in the Office of Distance Learning upon timely notification to the faculty member. Any faculty member teaching a distance learning course may also request a course review. The faculty member has the right to be present during the course review; however, such request cannot unduly delay the review. The purpose of the review is to ensure high quality standards for all distance learning courses. The review will not include course content and manner of organization, nor the subject of communication between faculty and their students. The course review will not be used toward evaluation of a faculty member for reappointment, tenure or promotion.

Changes to a distance learning course will only be made by the faculty member or by consent and agreement of both the faculty member and the Office of Distance Learning by the Office of Distance Learning.

- **Contract Language from Westchester Community College (expires August 31, 2008)**

[For faculty receiving a distance learning fellowship from the college] Development of the course and review by DL office: The review should take place at least 4 weeks before the semester starts. It will address the overall design and structure of the course and will incorporate the guidelines listed in the most current DL Course Checklist. Course content will not be reviewed. All corrections, if any are needed, should be made within the next 2 weeks when the course is reviewed again. Failure to comply will result in cancellation of the course.

[For faculty members] converting existing on-campus courses to online courses without DL fellowship support [i.e., who have not received a distance learning fellowship,] The first time the course is offered it must be reviewed for form not content by the DL office. Instructors who have previously taught a fully online course in WebCT: see [DL fellows paragraph] above for more details.

Instructors who have not previously taught a fully online course in WebCT must demonstrate familiarity with WebCT and follow details outlined in [DL fellows paragraph] above.

Online courses shall be subject to student evaluation in accordance with the provisions of the contract. Student complaints shall normally be governed by the 1983 memorandum concerning procedures to be followed.

10) Intellectual Property/Ownership

a) The Need to Protect Intellectual Property

In all academic environments, including DE, faculty should control the ownership of their intellectual property. Many faculty erroneously believe that because they are the creators of their intellectual work, they automatically have ownership of it under the law. As discussed below, this is a faulty assumption.

In his *Academe* article titled “Whose Property Is It? Negotiating with the University,” Gary Rhoades, Professor of Higher Education and Director of the Center for the Study of Higher Education at University of Arizona, analyzes the need to protect faculty intellectual property. In exploring collective bargaining contracts at unionized colleges and universities as well as intellectual property policies at non-unionized research universities, Rhoades asserts that “institutions with collective bargaining tend to do a better job of protecting the interests of academics than do research universities without unions” and argues that “paradoxically, the path to enhancing our position may lie less in advancing our private property claims than in promoting the public’s access to and benefits from our intellectual work” (Rhoades).

An understanding has long existed that professors in public colleges and universities develop intellectual property in the interests of advancing public knowledge. The increasing commercialization of higher education has been threatening this principle for some time, especially in terms of DE, and we stress that our community colleges should resist external pressures from the marketplace, such as canned curricula or MOOCs, and maintain their primary mission of public service as the driving force in all decisions relating to distance education.

b) Definitions and Types of Intellectual Property

In DE, intellectual property refers to the product or result of human knowledge, ideas, and creative activities including but not limited to multimedia, software, or web content of their design or development; instructional materials such as lecture notes, syllabi, student exercises, quizzes and exams; films, video, or audio recordings. There are four basic categories in determining ownership of intellectual property in academia:

- 1) works created by individual initiative and effort, in the normal course of employment of a faculty or staff member
- 2) works created with nominal support from the college (resources regularly available to all faculty and staff members)
- 3) works created with substantial support from the college (resources not regularly available to all faculty and staff members)
- 4) works created specifically as commissioned or sponsored by the college (works for hire)

For works created in the first two categories, the intellectual property should remain with the faculty member. For works created in the second two categories, the intellectual property may belong in part or in total to the college—the terms of which should be negotiated in clear contract language between the union and the college.

In the absence of clear contract language for the first two categories, a college may declare its financial and/or technical support of a faculty member’s development of a DE course as “work

for hire.” David Strom, AFT Legal Department Director, states in *Intellectual Property Issues for Higher Education Unions: A Primer* that “In its simplest form, the work for hire doctrine says that an employer owns the work of its employees if the work was prepared in the course of the employee’s job” (3). Although higher education institutions as well as the courts traditionally have recognized a “teacher’s exemption” to this rule, Strom notes, generally courts have found that an employee’s work falls within the scope of his or her employment when

- It was the kind of work he or she is employed to perform;
- It was created substantially within authorized work hours and space;
- The purpose of the work, at least in part, was to serve the employer.

Strom explains that since the passage of the Copyright Act of 1976, “the employer’s hand has been significantly strengthened in the debate as to who owns the work in question” (4). Further complicating matters are DE courses in the development and teaching of which, faculty often rely heavily on the resources of the college for training, technical support, and equipment. Therefore, Strom concludes,

By and large...higher education unions are in the best position to protect the intellectual property rights of higher education faculty—either through collective bargaining contracts or through extra-contractual negotiation over institutional policies. The union may clarify ownership rights in a legally enforceable agreement with the administration. The Copyright Act expressly contemplates and recognizes the validity of such agreements. Section 201(b) states that an express written agreement is sufficient to defeat the general ownership principles of the employer set forth under the work for hire doctrine. A collective bargaining agreement or memorandum of understanding between the union and administration clearly falls within that definition of a written agreement. (4)

AFT
Guideline
#12

Proper negotiation of the intellectual property rights of members will protect the entire bargaining unit from the college assigning members’ already developed courses to adjunct or untenured faculty members at a lower rate of pay, or creating a second tier of employees, such as an “educational specialist” to design/develop the course or a “course administrator” to serve as “facilitator” of the delivery of canned curricula.

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While we certainly advocate strong intellectual property protections, if the college initiates or provides unusual or extraordinary support not accessible to all faculty members, then the college should enter into an ownership agreement with the faculty member using guidelines developed through regular labor-management negotiations or a joint labor-management committee on DE such as the ones described in Bargaining Issue 10d. If mutually agreed upon contract language between the college and faculty member(s) is clear and unambiguous, then we would not advise any bargaining unit to limit faculty members from certain work-for-hire arrangements.

* * * * *

In the following sample language, Mohawk Valley grants complete ownership to the faculty for all web-based courses and even includes a clause protecting members against a work-for-hire claim. This ownership enables the faculty members to be compensated for allowing usage of their course—for which they received development and teaching compensation—by another

faculty member. This could be viewed as empowering faculty (being paid properly for different aspects of their labor) or as problematic (quantifying their intellectual property into a specific dollar amount).

■ **Contract Language from Mohawk Valley Community College
(expires August 31, 2013)**

Except as provided in this section, a bargaining unit member who develops a web-based course in conjunction with the unit member's job or teaching assignment, with any extended time or released time, or as a project authorized or directed by the College, shall own that course. For the purpose of determining authorship, the development of a web-based course shall not be construed as work for hire. No part of the course may be used, altered, or modified by the College without the written permission of the unit member. An entire web-based course developed with the support of the College may not be used in competition with the College without the written permission of the College during the bargaining unit member's employment with the College.

In every case that an agreement to share is requested by the College, the creator will be given first option to share the course with a colleague without compensation.

In the event that the creator of a web-based course chooses not to teach the course or is at maximum load and overload, the creator may be given the option of allowing usage of the course by the College for teaching by other instructors. During the usage period, the creator will maintain seniority rights to teach the course.

The compensation for usage shall be as follows:

\$300 per credit hour for 1 year's usage
\$400 per credit hour for 2 years' usage
\$500 per credit hour for 3 years' usage

In the event a bargaining unit member allows usage of a course, it will be offered to qualified bargaining unit members to teach before non-bargaining unit members.

Voluntary sharing or allowing usage of courses will not be subject to evaluation.

Redevelopment of courses created by bargaining unit members will be limited to other bargaining unit members.

Upon a bargaining unit member's separation from the College, the College will obtain joint ownership of any course for which it pays \$400 per credit hour. This shall be voluntary for all courses created prior to the ratification of this agreement.

The intellectual property provisions of Erie, Schenectady, Suffolk, and Ulster are effective in acknowledging the different categories of intellectual property and in specifying the parameters of ownership.

■ **Contract Language from Erie Community College
(expires August 31, 2009)**

(a) Intellectual Property Rights include copyrights, trademarks, trade names, trade secrets, and patents. The parties acknowledge that the form of intellectual property right which applied to most works of scholarly activity developed at the College is copyright. Copyright protection gives the

owner(s) of the copyright in a particular tangible creative work the exclusive right to do, and to authorize others to do, the following:

- (i) reproduce the work in copies;
- (ii) prepare derivative works based upon the work;
- (iii) distribute copies to the public by sale, license, lease, or rental; and
- (iv) perform or display the work publicly

(b) The College retains shared rights to specific course materials related to online course development when the College provides additional compensation as outlined in Article 69 (10).

(c) These materials include, but are not limited to, all orientation documents, teaching aids, course descriptions, course outlines, computer software, equipment utilized, and the sequencing of content modules developed for and used in the first online course offering.

(d) The College does not have rights to specific assignments or discussion questions and responses unless specifically granted by the instructor in writing.

(e) It is presumed when the College provides materials, support, and compensation for online course development, the College and the faculty equally share all rights to publication and copyrights. Neither the College nor the Faculty may negotiate for profit the sale of materials that were produced in connection with compensation and materials provided by the College without the written consent of the other party.

(f) Each creating faculty member owns all copyrights in specific assignments, questions, and responses related to the preparation or teaching of a distance learning course. When two or more faculty members serve as co-creators, they will agree in writing between or among them as to the ownership and use of such copyrighted materials.

General intellectual property rights. Except as provided in Article 36 (8), the creating faculty member or members shall own the intellectual property rights (which include the right to publish for private profit, to negotiate for manufacture and to acquire patent rights) in any traditional works of scholarly activity created by such faculty member. Such works include, but are not limited to, class notes, laboratory manuals, presentations, slides, videos, textbooks, reviews, scripts, workbooks, musical compositions, paintings, and sculptures.

■ **Contract Language from Schenectady County Community College (expires August 31, 2009)**

Schenectady County Community College enjoys a long tradition of respecting and upholding the academic curriculum development process. Inherent in that process are two key principles: 1) the College respects the rights of Faculty to ownership of intellectual property developed as a product or byproduct of the instructional process; and 2) the College maintains the right to schedule and assign instructors to any course offered in its master schedule of course offerings.

With the advent of asynchronous on-line courses, it is the College's policy to continue its practices with respect to the ownership of intellectual property:

- a. When the College has not paid for the development of a course or course materials, faculty own the rights to intellectual property developed as a product or byproduct of developing and teaching courses at SCCC, with respect to the sale or publishing of that property for uses external to the College.
- b. When the College has paid for the development of a course and its materials, joint ownership of the course and materials exists. Under joint ownership, faculty retain the rights for purposes of

utilization and sale external to the College, and the College maintains ownership for the purposes of utilizing the course and materials as part of its master schedule of course offerings.

A written summary will be created, detailing the intellectual property rights of the instructor and of the College and any level of compensation flowing from the application for the principles summarized above. Copies of the summary, signed by the instructor and the Dean of Academic Affairs shall be provided to the instructor, the offering Department, the Dean of Academic Affairs, and any other College officials deemed appropriate. An inventory file of summaries shall be available in the Office of the Dean of Academic Affairs.

■ **Contract Language from Suffolk County Community College
(expires August 31, 2015)**

Faculty (individually or as a team) who convert or develop alternative delivery instructional materials for a course, part of a course or other instructional materials into an alternative instructional delivery mode shall retain ownership of such materials and exclusive use thereof (except as provided herein) provided, however, that neither the College nor College students shall have to pay a licensing fee for the use of such materials in connection with a course taught at the College.

If the College initiates or provides unusual or extraordinary support not accessible to all faculty, then the College will enter into an ownership agreement with the faculty member using guidelines developed by the Joint Labor/Management Committee. Such guidelines may include such principles and policy positions as developed by the SUNY/CUNY/California State University Consortium for Educational Technology in University Systems.

* * *

Synchronous and asynchronous DE courses shall not be rebroadcast without the expressed written approval of the faculty member who taught the course.

■ **Contract Language from Ulster County Community College
(expires August 31, 2010)**

The College recognizes as part of the instructional educational mission the publication of certain kinds of materials which may be germane to educational processes or that may be classified as scholarly work. The College also recognizes and encourages the right of faculty to exercise individual initiative in creating materials which meet copyright specifications and which may generate royalty income for the creator when marketed.

It should be emphasized that this policy does not affect the personal ownership rights of faculty to books or other materials not specifically commissioned by the College or the preparation of which were not assisted in any significant way by a third party sponsor or the College. The creator is free to contract for publication, copyright his products in his own name, and receive royalties resulting from sales, providing the initiative for the work came from him and the College did not provide a significant portion of the resources utilized in production of materials, including grants, or contracts administered by the College (Form DLC attached as Appendix D).

Materials Subject to Copyright or Patent: shall be as provided by law.

Rights to Copyrightable Materials:

1. Individual effort: Any individual who produces copyright eligible material as the result of individual initiative and without the significant assistance, support or sponsorship of the college shall retain full right of ownership, control, use, and disposition over the material, use,

and disposition over the material. The individual shall be solely responsible under such circumstances for determining whether to copyright the material.

2. College Supported Individual Effort: If the college provides significant support or assistance for an individual in producing materials eligible for copyright such as, but not limited to, the creator's use of college funds, equipment, facilities, materials, staff services, or other resources without personal charge to the individual, ownership of rights in the material shall reside with the college unless a shared ownership agreement is negotiated at the beginning of each project using Form DLC. Attached as Appendix D.
3. College Sponsored Effort: Ownership rights in college sponsored materials shall be vested in the college subject to the conditions set forth in this statement of policy or agreement. Materials are college sponsored if the individual has been commissioned in writing by the college or otherwise assigned to develop the materials and, in their production, has been authorized release time for which the individual will receive compensation from the college funds, including grant and contract funds administered by the college as agreed upon in Form DLC. Attached as Appendix D.

The contract language below from different locals provides varying degrees of protection to faculty for their intellectual property: full ownership, joint ownership, or—worst of all—no ownership.

■ **Contract Language from Broome Community College
(expires August 31, 2012)**

Faculty members having developed or developing Broome Community College Internet-based courses shall hold intellectual property rights for course materials and content. Broome Community College shall hold rights to nonexclusive, royalty free use of the materials for a period of two (2) years from the date the course is initially offered online. The originating instructor has the right of first refusal to teach all sections of the Internet-based course that s/he has developed. This agreement does not preclude the College from contracting with individuals for the purpose of developing intellectual property for the College the rights to which shall remain with the College.

Any external licensing or commercial use of the materials developed with BCC assistance or support must be mutually agreed upon by the faculty member and the College within the two year period from the date the course is initially offered online. No individual program or department shall agree in a contract with any private or public entity to deliver distance education courses or programs developed with BCC support without prior approval from the BCC President.

■ **Contract Language from Cayuga Community College
(expires August 31, 2011)**

The policy governing intellectual property rights for courses at the College is essentially the same for all courses regardless of the medium: the contents and materials developed by the instructor (lectures, illustrations, notes, tests, etc.) remain the property of the instructor, and the course identity, description, and broader objectives are the property of the College.

■ **Contract Language from Finger Lakes Community College
(expires August 31, 2011)**

The member who develops the distance learning course will retain the copyrights to the outline assignments discussion questions lecture notes and other course materials which items shall become the intellectual property of the faculty member. In recognition of the financial assistance:

provided by the college for the development of the course, the College shall have a royalty free unrestricted license in perpetuity, which shall entitle the College to use, edit, and update said materials at no cost to the College. The College, however, may not sell said materials to a third party without the written consent of the faculty member. The employee shall hold the College and the county harmless for any claims of infringement by the employee in the development of the course and the College and county shall make a good faith effort to assist the employee as owner of the copyright to the course in protecting that copyright against infringement by others.

- **Contract Language from Herkimer County Community College (expires August 31, 2014)**

The College has rights to the course outline developed by the faculty member. The course outline shall include all orientation documents and the sequencing of content modules, but shall not include specific assignments, discussion questions, or other academic content, which remains the intellectual property of the faculty member.

- **Contract Language from Jamestown Community College (expires August 31, 2011)**

Intellectual Property Rights: Shared between the College and the faculty member. Faculty member has "ownership" with regard to revisions and the ability to take the course with them if they leave JCC. The College retains the right to assign a developed course to another instructor after the author has had the opportunity to teach the course for one semester.

- **Contract Language from Monroe Community College (expires August 31, 2012)**

Faculty who develop courses for distance education grant the college a non-exclusive license to the course materials and all derivatives, for the purpose of instruction, for five (5) years from the date the course is first taught.

- **Contract Language from Onondaga Community College (expires August 31, 2014)**

Faculty responsible for the development and origination of a distance learning course shall retain ownership of the materials and videos, and copyrights thereto, created for use in the distance learning course. Such materials shall be shared for a maximum of one semester in the event that the originating instructor opts not to, or cannot, teach any or all sections of the course.

- **Contract Language from Orange County Community College (expires August 31, 2012)**

The faculty member who develops a distance learning or hybrid course will retain the copyright to the outline, assignments, discussion questions, lectures, lecture note and other course materials (collectively referred to as "the materials"). These items shall become the intellectual property of the bargaining unit member. In recognition of the financial assistance provided by the College for the development and administration of the course, the College shall have a royalty-free, unrestricted license which shall entitle the College to use, edit, and update the materials at no cost to the College. The College, however, may not sell the materials to a third party without the consent of the bargaining unit member.

- **Contract Language from Tompkins Cortland Community College (expires August 31, 2009)**

The College will own the intellectual rights to the master course template, while the faculty member retains the rights to materials that are particular to each individual class section. The master course template will contain course information documents for SUNY Learning Network courses or their WebCT equivalent.

This agreement presumes that the College continues to use the platforms for on-line courses that are currently in effect. Should that change, the College and the Faculty Association agree to revisit this issue.

Materials designed for, or resulting from, Distance Learning initiatives shall not be sold by the College.

▪ **Contract Language from Westchester Community College (expires August 31, 2008)**

The College acknowledges faculty members shall have sole ownership of any materials they create for their online courses. Faculty members shall take responsibility for obtaining copyright permission where needed to avoid copyright infringements.

c) Learning Object Repositories

In October 2010, Suffolk County Community College received a federal Title III grant to increase student engagement through informed support. Four major working groups within the grant aim to dramatically improve student success and engagement at Suffolk during the life of the five-year program.

One working group, the Gateway Course Support Enhancement (GCSE) group, consists of department-based teams developing a collection of learning objects, available for instructor and student use, that are especially designed for target courses that most students take, called “gateway” courses.

The housing of these learning objects from the twenty most highly subscribed courses on the college’s password-protected website necessitated the development of contract language to protect the intellectual property of the faculty involved. Negotiations resulted in an agreement in which ownership was determined by whether the learning objects were created when faculty were granted reassigned time from the college (joint ownership), without reassigned time (100% faculty ownership), with collaboration of several faculty (joint ownership), or within the scope of a member’s employment (100% college ownership).

See Appendix A in this document for a copy of the memorandum of agreement (MOA) on learning objects and see Appendix B for the union-created frequently asked questions (FAQ) document that explains the provisions of the MOA in clearer language.

d) Joint Labor/Management DE Committees

We strongly recommend that bargaining units establish in their contracts a provision for a joint labor/management committee to address intellectual property issues—and any other DE issue that impacts the terms and conditions of faculty members’ employment—as they arise. Because

DE constantly is evolving, the terms and conditions of employment as well as the professional duties and responsibilities of faculty members should constantly be addressed. This committee can meet on an ongoing and regular basis or it can be called into existence by either the union or the college. Every attempt should be made to include appropriate DE practitioners on the committee, including both faculty and staff.

* * * * *

The following language from Suffolk is excellent model language in that it specifies the charge, issues, and composition and responsibilities of the joint committee.

■ **Contract Language from Suffolk County Community College
(expires August 31, 2015)**

Labor/Management Committee on Technology and Distance Education

A. Charge

The parties recognize that technological change may affect the terms and conditions of employment and professional duties and responsibilities of the faculty. The parties also recognize that issues involved with technological change and their impact on faculty are evolving and may not be anticipated or cannot be appropriately researched and resolved during the current round of bargaining. With this in mind, the parties agree to establish a Labor/Management Committee on Technology and Distance Education. This joint committee shall address itself to any issue concerning or related to information technology, technological change and distance education in the College where there may be an impact on the terms and conditions of employment and professional responsibilities of members of the bargaining unit.

B. Issues

In keeping with this understanding, the joint committee shall consider and make recommendations to the parties with copies to the governance chair(s) respecting the following:

1. College technology and distance education goals and long range planning policies and their relationship to and impact on professional responsibilities and terms and conditions of employment;
2. How support services, training opportunities and proficiency qualifications for faculty can be developed and enhanced;
3. How communications respecting such matters as changes in available technology, support services and training opportunities can be improved;
4. Compensation and workload which may include the number of sites and other factors that also affect workload;
5. Issues which are directly related to class size may be referred by the Labor/Management Committee to the Class Size Committee;
6. Policies regarding privacy, security and surveillance of electronic work activities as they affect distance education, such as e-mail, Internet access, usage, etc.;
7. Policies regarding ownership of intellectual property;
8. Policies and communication with regard to the use and retention of material used in the DE format.
9. Policies regarding reciprocal agreements with other institutions regarding distance education courses.

C. Composition and Responsibilities

1. Within thirty days of the signing of this agreement, the College and the Association agree to form the Labor/Management Committee on Distance Education and Technology. This committee shall consist of four (4) members appointed by the Association and four (4) members appointed by the College Administration and shall meet regularly throughout the year. Either party can call a meeting with at least seven (7) days notice.
2. The Labor/Management Committee shall have the authority to develop policies and procedures regarding technological change and distance learning applications that are consistent with the terms and conditions of this agreement.
3. The Labor/Management Committee shall not have the authority to add to or modify in any way the terms of this agreement. It shall function in an advisory capacity to the Association and/or the College with regard to technology and distance education issues that affect or have an impact on the working conditions of faculty.

The following language from Cayuga, Erie, Fashion Institute of Technology, and Mohawk Valley is less specific but establish the right of either party to call into existence the joint labor/management DE committee.

- **Contract Language from Cayuga Community College (expires August 31, 2011)**

It is understood by both parties that if DL issues such as class size, student discipline, office hours, other faculty rights and responsibilities, faculty compensation, student services, and testing emerge, they will be examined by the two (2) parties for possible discussion by the Issues and Resolution Committee or by representatives appointed by the two (2) parties and authorized by that committee for consideration of address in the faculty contract.

- **Contract Language from Erie Community College (expires August 31, 2009)**

Distance Learning Steering Committee: The DL Steering Committee will be composed of eight representatives – four from the faculty and four from the College. The College representatives will be appointed by the College President and will consist of 1) one member from one of the following: Director of Communications, the Network Support Specialist, or the Network Administrator for the on-line program, 2) the Director of the Center for Alternative Course Delivery, 3) two senior executive staff members. The Faculty Federation President will appoint the faculty representatives – all four must be tenured faculty who teach in the Distance Learning Program. The NTTP assigned to the DL Program will serve as an ex-officio member of the Committee.

Policy Committee: Within two (2) weeks following the final approval of this Agreement by all Parties, the President of the College and the President of the Faculty Federation shall each appoint two (2) individuals to the existing Distance Learning Steering Committee. The charge of the newly configured Committee will be to formulate a recommended comprehensive policy on Distance Learning within six (6) months from the date of its first meeting. The Committee will forward their results to the President of the College and the President of the Faculty Federation for their mutual written agreement on the final policy before it can be implemented and incorporated into the Agreement.

- **Contract Language from Fashion Institute of Technology (expires June 1, 2002)**

Any changes in terms and/or conditions of employment resulting from the use of distance learning must be mutually agreed upon by the College and the Union. During the life of this contract, discussions related to the use of technology will continue.

■ **Contract Language from Mohawk Valley Community College (expires August 31, 2005)**

The parties shall establish a joint committee to negotiate the impact on all terms and conditions of employment resulting from the adoption of, implementation of, or changes in instructional technology. The committee shall meet upon the request of either party.

11) Massive Open Online Courses (MOOCs)

a) Definitions

We recognize that technology advances at a rapid pace, so bargaining units should strive to keep abreast of such changes, be aware of new methods of delivery, and anticipate the implications of such changes in DE.

Before addressing the role of MOOCs in SUNY, it seems useful to know their history. The term *MOOC* was coined in 2008 by Dave Cormier in reference to a course offered at the University of Manitoba by George Siemens and Stephen Downes. “Connectivism and Connective Knowledge” enrolled some 2,300 students, with a small portion receiving academic credit. The 2008 course focused on how learning and knowledge emerge from a network of connections; real knowledge, they assert, rests in the diversity of opinions, experiences, perceptions—and learning is the process of connecting concepts from various disciplines and sources.

The theory of connectivism has been used by Downes to distinguish types of MOOCs. The term *cMOOCs*, he suggests, refers to the original connectivist MOOCs, which are not for profit and not necessarily even “courses,” as they interrogate the structure of traditional courses and the centralization of CMSs which defy the open principles of the Internet.

Mainstream media more often reports on *xMOOCs*, the private, for-profit type offered by companies like Coursera and Udacity that are structured like large lecture courses in that participants watch lectures recorded by professors at elite universities, then interact and take computer-scored or peer-scored quizzes/assessments in a CMS.

MOOCs, then, are online courses—typically by professors from elite universities—that enroll tens of thousands of students. Participants who complete MOOCs usually receive a certificate of completion.

In fall 2011, the *New York Times* reported on a Stanford MOOC on artificial intelligence that eventually enrolled over 160,000 participants. The professor, Sebastian Thrun, founded MOOC provider Udacity, while Stanford colleagues Daphne Koller and Andrew Ng founded Coursera. Unlike these for-profit ventures, MIT and Harvard developed edX as a non-profit.

Spring 2012 saw numerous colleges and universities race to affiliate with and offer courses through the three major MOOC providers. Due to the extensive media hype surrounding this latest incarnation of DE courses, some university boards of trustees and state legislatures have been promoting MOOCs at the expense of local governance procedures; MOOCs are hailed by external and internal administrative bodies as a solution to the current fiscal situation that has been complicated by years of austerity budgets and the national completion agenda.

With *The New York Times* declaring 2012 as The Year of the MOOC (Pappano ED26), they are a relatively recent phenomenon, yet faculty should monitor them closely for several reasons:

- In November 2012, the American Council on Education opened the door to allowing students to get college credit for participating in a MOOC; participants thus far receive a certificate of completion (“ACE to Assess Potential of MOOCs, Evaluate Courses for Credit-Worthiness”).
- Also in fall 2012, the Gates Foundation announced sizable grants to a dozen colleges and universities to investigate the effectiveness of MOOCs—including three community colleges, which are specifically creating MOOCs in developmental math and writing courses (“Massive Open Online Courses”).

Spring and summer 2013 saw Udacity offer three math courses (including a developmental math course) through San Jose State University—supported by a Gates Foundation grant—in which students performed so poorly compared with their on-campus peers that the university suspended the program.

- In August 2011, Paul LeBlanc, president of Southern New Hampshire University online division, described his vision for “the next big thing” in online education was described in a *Chronicle of Higher Ed* Wired Campus posting:

The vision is that students could sign up for self-paced online programs with no conventional instructors. They could work at their own speeds through engaging online content that offers built-in assessments, allowing them to determine when they are ready to move on. They could get help through networks of peers who are working in the same courses; online discussions could be monitored by subject experts. When they’re ready, students could complete a proctored assessment, perhaps at a local high school, or perhaps online. The university’s staff could then grade the assessment and assign credit. And the education could be far cheaper because there would be no expensive instructor.... (Parry)

“No conventional instructors” and “no expensive instructors” should cause concern as college presidents have expressed interest in bringing MOOCs into our NYSUT-affiliated community colleges. The touted benefits of MOOCs are reduced need for faculty interaction, reliance on greater student independence, and use of computer- and peer-grading systems. In other words, unbundle the expensive faculty role in educating students and let technology and classmates fill in the blanks.

Faculty and their unions need to carefully monitor the spread of MOOCs, interrogate their effectiveness, and resist efforts at displacing faculty with technology. We have long argued that DE should supplement, not supplant, the good work done by our faculty—and that remains as true as ever.

b) New York State Issues

In March 2013, the SUNY Board of Trustees approved a resolution called Open SUNY. This multi-faceted initiative aims to expand online degree programs and resources, prior learning assessments (PLA), and competency-based education (CBE) programs, three-year undergraduate programs/five-year graduate programs, and MOOCs to add 100,000 SUNY enrollments in three years and increase the number of SUNY graduates.

Inside Higher Ed quotes SUNY chancellor Nancy Zimpher on March 27, 2013, as saying that up to a third of the credits for some degree programs could come in from other institutions, including MOOCs from companies like Coursera, which she cited as SUNY's "main discussion partner." The article continues, "Being able to bring in credits from courses taught by professors at more elite institutions—Stanford University or Duke University—could help improve student perception of a SUNY education to being much more than a 'degree of convenience,' the chancellor said" (Rivard).

Another idea, as noted in a March 20, 2013, *Chronicle of Higher Ed* article, is that "The system will also push its top faculty members to build MOOCs designed so that certain students who do well in the courses might be eligible for SUNY credit" (Kolowich). According to the Open SUNY resolution members of the nascent Distinguished Faculty Academy—created in May 2012—will be tapped to deliver SUNY MOOCs. This merits close watch examination, given the SUNY seamless transfer initiative. Indeed, SUNY has already seen its first MOOCs (completed or in development) at Empire State College, SUNY Geneseo, and Stony Brook University.

Open SUNY, especially when examined in conjunction with the chancellor's SUNY seamless initiative, needs to be critically examined for potentially negative impact on our bargaining units. Questions to be asked about the role MOOCs might play in these initiatives include the following—although this is certainly not an exhaustive list:

- Intellectual property. How should our locals address MOOCs offered at our institutions from an outside company such as Coursera or Udacity, which might be understood as subcontracting our work? And how might that differ from addressing students who want to transfer in credit from a MOOC being offered at another institution or by a SUNY institution (e.g., must all such credits be accepted given the SUNY seamless initiative)?
- Compensation. What if a faculty member volunteers to teach a MOOC for free in a local that has bargained compensation for developing online courses?
- Class size. For our locals that have bargained specific contract provisions regarding class size in DE courses, where do MOOCs fit in when they can enroll hundreds, thousands, or even tens of thousands of students?

- Impact on bargaining unit. Only a couple of locals seem to have contract language regarding the importing of DE courses. If a faculty member somewhere in the SUNY system offers a very popular MOOC in, for example, college algebra, and our local institutions accept those credits, what does that mean for all of the math faculty in our NYSUT community college locals (full time and contingent)? And for our non-classroom faculty and professional staff members? If a single faculty member reaches thousands of SUNY students, what impact might that have on the employment status of our collective and local memberships?

With various initiatives coming out of Albany that point to questionable use of DE to address problems caused by perennially decreasing state funding, each local is wise to be as vigilant as ever about the promises and pitfalls of DE, about the research showing how community college students—within their various demographics—tend to fare in DE courses (such as that by Shanna Smith Jaggars and others at Columbia University’s Community College Research Center), and about how DE might be used to advance PLA and CBE initiatives or MOOCs in ways that are not in the best interests of our students.

Conclusion

Distance education has transformed the work of many NYSUT Community College faculty in the past decade and will continue to do so. As theories and practice in distance education continue to evolve, it is incumbent upon local bargaining units to investigate the effectiveness of current contract and policy language in protecting members in regard to each of the ten bargaining issues identified above—as well as to anticipate new issues and areas of concern.

To accomplish this, NYSUT Community College bargaining units should continue the practice that makes unions strong: relying on the knowledge and expertise of other educators and unionists both inside and outside of the local bargaining unit.

- On the national level, bargaining units should continue to rely on the resources and guidance provided by the American Federation of Teachers and National Education Association, especially the higher education departments which have carefully monitored trends in educational technology for years.
- On the state level, bargaining units should continue to network with other locals within NYSUT Election District 39, to discover what, how, and why others have achieved in terms of their distance education contract and policy language. The Community College Distance Education Committee exists precisely to help facilitate this kind of networking and access to information and resources.
- On the local level, bargaining units should continue to rely on the expertise within their own units, including the experiences of distance education practitioners, the motivations of enthusiasts, and the cautions of skeptics as well as the knowledge of skilled negotiators within the unit. Bargaining unit members should be actively involved in the faculty governance and

collegial committees that help shape the ways in which distance education impacts all local unit members.

Above all, bargaining units must continue to rigorously examine distance education courses and to negotiate strong contract and policy language that ensures DE courses will be held to high academic standards and that protects the rights of bargaining unit members. One of the most effective ways to do so, again, is to establish a joint labor-management DE or technology committee that will quickly address matters affecting the terms and conditions of unit members' employment.

Appendix A

COUNTY OF SUFFOLK
OFFICE OF THE COUNTY EXECUTIVE



Steve Levy, County Executive
Jeffrey Tempera, Director, Labor Relations

OFFICE OF THE PRESIDENT



Dr. Shaun L. McKay, President

Side Letter Agreement

Whereas, Suffolk County Community College (the College) is the recipient of Federal funding under the program commonly known as “Title III”; and

Whereas, Title III funding will permit the College to re-assign faculty members from their ordinary responsibilities to developing new programs and Learning Objects to further the goals of improving teaching and learning; and

Whereas, the College, the County of Suffolk (the County), and the Faculty Association of Suffolk County Community College (FA) recognize the need to clarify the ownership of any Intellectual Property produced by faculty members engaged in developing Learning Objects under the Title III grant subject to any Federal laws, rules or regulations; and

Now Therefore, the College, the FA and the County agree as follows:

1. The terms of this Side Letter Agreement shall be limited to Learning Objects, as defined hereinafter that are developed in connection with Title III funding;
2. A Learning Object is hereby defined as a form of content intended to be incorporated into a teaching and learning environment to achieve an instruction, assessment, or information objective. As a type of content, a ‘learning object’ may take the form of: a digital self-contained module in a learning objects repository; a digital resource hosted on a computer or media server; a reusable learning activity in digital form that may be accessed through a computer, mobile device, or other mediated end-user tool. A number of end users may simultaneously access digital-format learning objects within online or other mediated environments. A learning object cannot itself be a course or be considered as credit-bearing and programmatically-based on its own merits.
3. Faculty (individually or as a team) who develop Learning Objects in connection with Title III reassigned time or overload or with any other extraordinary support from the College, in accordance with the provisions of 8 NYCRR Section 335.29, shall have joint ownership of the Intellectual Property rights of the Learning Object with the College; and neither the College nor College students shall pay any fee or royalty for the use of such materials. The College shall retain the right, subject to a right of first refusal by the faculty member(s), to update and/or modify such materials at no cost to the faculty member(s) so long as the updated and/or modified materials are used solely by the College and College’s students royalty free.

4. For the purposes of this Agreement, 'joint ownership' shall mean that the College and the faculty member(s) who develop the Learning Object shall have the following non-assignable ownership interests in the Learning Object: The College 60%, the faculty member(s) 40%.
- 5a. For the purposes of this Agreement, 'commercialized' shall mean to sell, license or otherwise transfer some or all of the Intellectual Property rights in a work including grants of permission or a license to use the work. Commercialization does not include the submission of the work to a scholarly journal for publication.
- 5b. Either the College or the faculty member(s) may, without the consent of the other party, commercialize the Learning Object, but only upon five days prior written notice to the other party transmitted by a recognized overnight mail service or by certified United States mail, return receipt requested to the parties identified in paragraph 10 . Royalty income from commercialized copyrighted materials shall be distributed 60% to the College and 40% to the faculty member(s), their heirs or legatees.
6. Non-classroom faculty member(s) who develop or contribute to the development of a Learning Object when acting within the scope of their employment have no ownership interest in a Learning Object. The ownership of such property shall be in the College.
7. All Learning Objects shall be attributed at their inception to the faculty member(s) (individually or as a team) who develop such Learning Object and such attribution shall be transmitted in writing to the Title III Coordinator prior to the release or use of the Learning Object. Any change to the attribution of a Learning Object shall be made by the individual or a majority of the team responsible for developing the Learning Object. Such change in attribution shall be transmitted in writing to the Title III Coordinator within two business days of such change.
8. Except as specifically limited in this Side Letter Agreement, all other terms of the collective bargaining agreement between the College, the County and the FA remain in full force and effect.
9. This Agreement and all provisions thereof is subject to the Federal regulations governing Intellectual Property contained in Education Department General Administrative Regulations 34 CFR 74.36 and any other applicable Federal law, rule, or regulation.
10. Any communication regarding commercialization, notice, claim for payment, or other submission necessary or required to be made by the parties regarding this Agreement shall be in writing and shall be given to the College, the County or the FA or their designated representatives at the following addresses or at such other addresses that may be specified in writing by the parties and must be delivered as follows: for the College; Office of Legal Affairs, 533 College Road, NFL-230 Selden, New York 11784, for the County; Suffolk County Office of Labor Relations, H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., P.O. Box 6100, Hauppauge, NY 11788-0099, and for the FA; 533 College Road, Southampton Bldg., Room 224J, Selden, New York 11784.
11. Nothing contained herein shall provide a basis or a precedent for any other Intellectual Property policy which may be implemented in the future by the College. As such time as the College adopts a more formal policy for Intellectual Property, the provisions of this Side Letter Agreement shall terminate without any further action on the part of any of the parties hereto.

FACULTY ASSOCIATION OF SUFFOLK
COUNTY COMMUNITY COLLEGE

SUFFOLK COUNTY COMMUNITY
COLLEGE



Title III Intellectual Property Q & A



This Q & A document is designed to help faculty understand the agreement developed by Suffolk County Community College and the Faculty Association to address the matter of intellectual property of learning objects created as a part of the Title III grant awarded in 2010. Please read this entire document, as many answers build upon previous ones.

Q What is the college's intent behind this Title III agreement?

A The college wants to encourage your creative and collaborative endeavors to promote student success through the Title III grant. The college wants the virtual learning commons—where most of these learning objects (LO's) will reside—to be successful; therefore, they do not intend to put up road blocks to prevent you from participating or from developing commercially viable learning objects. In general, ownership depends upon how the object is created.

Q How will I know whether a learning object (LO) that I've developed is considered my intellectual property, the college's, or is jointly owned by me and the college?

A This depends on how it was created. Below are several scenarios by which learning objects might be created. Ownership provisions are further explained in later questions.

1. I received reassigned time (under Title III or otherwise) or other extraordinary support to develop an LO.

There is joint ownership between you and the college.

- ✓ This is because the college—and, ultimately, the federal government through this grant—has provided you with “unusual or extraordinary support not accessible to all faculty” in order for the LO to be created.

2. I received no reassigned time and no other extraordinary support to develop an LO.

Faculty retains ownership.

- ✓ If you create an LO on your own time, without “extraordinary support” from the college, it is your LO. You should specify how you want attribution by an upfront arrangement before the LO is placed into the virtual learning commons or any other college resource. The college has the right to use the LO royalty-free if it is placed into the virtual learning commons or any other college resource.

3. I'm on a Title III team but only one person on the team has reassigned time and it's a collaborative effort.

Joint ownership between your team members and the college.

- ✓ In this case, the team members must come to an agreement among themselves on who merits attribution based on their contributions. The college must receive a written copy of the agreement before the LO is placed in the virtual learning commons or any other college

resource. The LO itself is jointly owned by the college and each team member who has attribution on that particular LO, with the exception of anyone on reassigned time (see #1) or anyone for whom the work is within their scope of employment (see #4).

4. I'm a non-classroom faculty in a job where my contribution to an LO is within the scope of my employment.

College retains ownership.

✓ If it's generally part of your job to do the technological work of the sort needed to create a particular LO, you do not own the product.

Q What exactly does “joint ownership” mean?

A Joint ownership applies to those faculty members who have received reassigned time from the college and/or for whom the college provides “unusual or extraordinary support not accessible to all faculty.” Any such faculty member who then wishes to market for commercial purposes the educational/scholarly material developed with such support should know that any royalties earned from this material go 60% to the college and 40% to the individual faculty member.

Thus, faculty who receive reassigned time or “extraordinary support” to develop learning objects under the Title III grant and who may wish to market the learning objects for commercial purposes are subject to this 60% (college) and 40% (faculty member) agreement. Faculty who market material developed without reassigned time or “extraordinary support” would be entitled to 100% of any commercial arrangements. However, the college retains a royalty-free right use for the college and its students.

Q What does “unusual or extraordinary support not accessible to all faculty” mean with regards to intellectual property?

A This support implies either reassigned time from the college, other forms of compensation, or any other support—in terms of technology or personnel—that is not available to all other faculty at the college.

For example, if the college instructs your campus media department personnel to work with you for an entire semester to create a video, this would not be considered support available to all other faculty. Therefore, the college has a vested interest in having joint ownership of the product.

On the other hand, if you use the computer in your office, or if you use the hardware, software, or assistance of personnel within your campus Teaching and Learning Center to create a learning object that is placed in the virtual learning commons or other college resource, then this would *not* be considered “extraordinary support” since any faculty member at the college has ready access to these resources—and you retain ownership. However, the college retains a royalty-free right use for the college and its students.

Q If I develop the content and format for a LO on my own time without reassigned time from the college, can I expect that the college will provide me with technical assistance to create the LO?

- A** It depends. If the technical assistance is readily available to all other faculty at the college, the answer is yes. However, if the project requires the special expertise of other college personnel, the college would have to consider the workload issues of the college personnel before work on your project could be approved.
- Q** **If I'm a non-classroom faculty member whose scope of employment includes developing mediated material for the college, and I assist another faculty member in the technical/mediated elements of an LO, do I receive attribution and do I jointly own the intellectual property with the faculty member who provided the LO content?**
- A** You should receive attribution for each LO on which you collaborate, but you do not share ownership rights because your contributions fall within the scope of your employment.
- Q** **If I'm a non-classroom faculty member whose scope of employment includes developing mediated material for the college, do I own the intellectual property on LO work developed outside of my work hours?**
- A** Yes! Even if it's your job at the college to do this kind of work, if you choose to develop an LO or contribute to an LO outside of your work hours, then you absolutely retain ownership. However, if you work on the LO while "on the clock," the college retains ownership.
- Q** **Other than the college and its students, can I designate who can use a learning object I've developed on my own and placed in the college's virtual learning commons or other college resource?**
- A** If the LO is placed in the college's virtual learning commons or other college resource, the college and its students must have royalty-free access to use it. However, you do have the right to designate its use outside the college. The college has agreed to adopt the Creative Commons licensing model, by which you can designate attribution, share-ability, commercial use, and derivative use. Please note that this applies only to learning objects for which you retain complete ownership. The licensing options are here: <http://creativecommons.org/about/licenses>.
- Q** **Will the college restrict the sharing of the LO that I've developed for SCCC only through the portal or will my LO be freely available on the internet?**
- A** The college will place the LO behind a password-protected portal, learning management system, or other secure environment to protect the intellectual property rights of faculty so that only SCCC faculty, staff, and students have access to the LO. The college will post a "Do Not Copy or Share Notice" for LOs and a warning regarding copyright infringement. By mutual agreement, any LO may be made accessible in a public, non-secure online environment.
- Q** **Can my LO be altered by the college or any other faculty member without my permission? Am I required to update any LO that I've created? Can someone else be designated to update it? If so, under what conditions?**

A If you retain complete ownership of the LO (see above), then it depends upon which Creative Commons license you select.

However, if the LO is jointly owned by you and the college, then the college will give you first right of refusal. This means that if and when the college determines that the LO needs updating, they will contact you and invite you to make the appropriate modifications. At that point, you will have the right to decide whether or not you wish to commit your time and intellectual labor to the revision.

- ✓ If you do wish to revise your LO, then the college may provide resources to you assist with the revision but is under no obligation to pay you additional monies to accomplish the revision.
- ✓ If you do *not* wish to revise your LO, then the college has the right to ask others to revise the LO as the college deems necessary and appropriate to keep the LO up to date for students.

Q If I develop an LO as part of my Title III reassigned time, must I get the college's permission before I can market it commercially?

A No. The joint ownership provision means that you retain rights to the intellectual property of the LO, which means that you have the right to determine whether it is commercially viable and, if so, to benefit from the sale of your intellectual property. However, any royalties earned from this material must be shared between you (40%) and the college (60%). Again, the college's interest in joint ownership is that neither the college nor college students would have to pay a licensing fee to use the LO.

Works Cited

- “ACE to Assess Potential of MOOCs, Evaluate Courses for Credit-Worthiness.” American Council on Education. 13 Nov. 2012. Web. 20 Nov. 2012.
- American Federation of Teachers. *Distance Education: Guidelines for Good Practice*. Higher Education Program and Policy Council. Washington: AFT, 2000. Print.
- “College size does matter.” Campus Clips. *AFT On Campus*. February 2003. 20 Mar. 2003. Web. 17 Jun. 2003.
- Kolowich, Steve. “SUNY Signals Major Push Toward MOOCs and Other New Educational Models.” *The Chronicle of Higher Education*. 20 Mar. 2013. Web. 15 Jul. 2013.
- Kruger, Thomas. “Virtual Revolution: Trends in the Expansion of Distance Education.” *AFT Technology Review* Higher Education Program and Policy Council. Washington: AFT, 2001. Print.
- “Massive Open Online Courses (MOOCs).” The Bill and Melinda Gates Foundation. 13 Nov. 2012. Web.
- McMurray, Lynn. “Technology and the Work Environment.” A Framework for Contract Negotiations Related to Educational Technology Issues. Distance Education and Technology Issues Committee of the Community College Council of the California Federation of Teachers. Oakland, CA: CFT, 2001. Print.
- Pappano, Laura. “The Year of the MOOC.” *The New York Times*. 4 Nov. 2012, Long Island ed: ED26. Print.
- Parry, Marc. “Online Education Is Everywhere. What’s the Next Big Thing?” *Wired Campus*. *The Chronicle of Higher Education* 31 Aug 2011. Web. 5 Sep. 2011.
- Rhoades, Gary. “Whose Property Is It? Negotiating with the University.” *Academe* 87.5 (2001). 1 March 2003. Web.
- Rivard, Ry. “Economies of Online Scale.” *Inside Higher Ed*. 27 Mar. 2013. Web. 28 Mar. 2013.
- Strom, David. *Intellectual Property Issues for Higher Education Unions: A Primer*. Higher Education Program and Policy Council. Washington: AFT, 2002. Print.

