

Fund History

The PSC-CUNY Welfare Fund is the successor to the City University Faculty Welfare Fund (“CUFWF”), an entity that predates the Professional Staff Congress. The CUFWF was created pursuant to a Trust Indenture (“DOT”) dated June 9, 1967. A faculty organization called the Legislative Conference existed at the time, but there was no union then representing the faculty nor was there a collective bargaining agreement covering the University’s Instructional Staff. A body denominated “The City University Faculty Welfare Trustees,” which purported to represent all members of the permanent instructional staff of CUNY, executed the DOT. The faculties of the University elected the Trustees from the full-time members of the instructional staff with at least five years of service. The IRS qualified the Fund under the Internal Revenue Code as a tax-exempt entity thereafter.

The arrangement whereby the Board of Higher Education (“BHE”) was the prime contractor for health insurance policies for the faculty was too unwieldy and the Faculty Welfare Fund Trustees passed a resolution at its Executive Committee meeting on October 17, 1968 requesting the BHE make the CUFWF Trustees the prime contractor. On December 23, 1969, the Executive Committee of the Board of Higher Education adopted a resolution assigning to the CUFWF Trustees the contracts that the BHE had with TIAA, United Medical Service, Inc. and Associated Hospital Service of New York, upon acceptance by the CUFWF Trustees of responsibility for the contracts. The resolution states that the arrangement will “correct the present cumbersome and inappropriate contractual arrangement by eliminating the [BHE] as a conduit between the Trustees of the [CUFWF] and said insurance companies with respect to all contract changes, as well as certain financial transactions.” According to an analytic memorandum from the Fund’s files in preparation for negotiations between the PSC and the Board of Higher Education and is dated October 24, 1972

Trustees [were] elected by the faculties of the several colleges at the rate of one or two per unit, depending on size, the entire Board of Trustees elects 5 faculty members of [sic] an Executive Committee; the Board of Higher Education appoints 2 of its members and the Deputy Chancellor; the 8 constitute the total Executive Committee. This works very well. The Administration (Board of Higher Education and Vice Chancellor) Members have the sole responsibility to protect against an excessive administrative budget and to protect the investments. The faculty control their own benefits.

By this time, the Fund was providing to Fund participants a \$15,000 life insurance policy, a disability insurance policy, a dental plan, a major medical policy with TIAA for members with HIP or GHI coverage and certain supplements to basic coverage, including an extension of the cap on the Blue Shield Major

Medical plan, a continuation of Blue Cross coverage for dependent children who are full-time students age 19 to 23, and certain special Blue Cross riders. Faculty who retired or died before June 30, 1966 were covered by the Fund but there was no employer contribution. Payments for them came out of contributions for active members of the Fund.

The CUFWF expanded the package of benefits provided to cover retirees who met the "Rule of 80." An active faculty member who retired whose age plus years of service totaled 80 at retirement was at least 55 years of age and had at least 15 years of service met the "Rule of 80." They too received coverage from the monies contributed for actives but no contributions were made on their behalf until 1982. He or she continued to receive the same level of benefits as active employees did except for life and disability insurance.

In 1969 collective bargaining began between the BHE and both the Legislative Conference and United Federation of College Teachers, negotiating on behalf of different segments of the faculty. Neither collective bargaining agent wanted to abolish the CUFWF's Board of Trustees nor the method by which they were selected. In 1972 the two unions merged. The resulting Union, the PSC-CUNY (hereafter, simply "PSC"), then began negotiating contributions for the Faculty Welfare Fund.

On October 14, 1977, the Trustees of the CUFWF passed a resolution permitting the PSC to appoint two PSC members to be additional members of the Executive Committee of the CUFWF, one of whom was also to serve as a member of the Steering Committee. In addition, in recognition of the fact that the funds of the CUFWF then resulted from negotiations between the PSC and the Board of Higher Education, the name of the Fund's Trustee body was resolved to be changed to a title agreeable to the PSC and BHE with the approval of the Fund's Steering Committee – either the "PSC/CUNY Faculty Welfare Trustees" or the "CUNY/PSC Faculty Welfare Trustees."

On June 15, 1978, the PSC and Naphtaly Levy of the PSC-BHE Welfare Trustees (as the body is denominated in the agreement) executed an agreement whereby the number of Trustees was to remain the same but they were to be selected by Union members only. There were three management members of the Executive Committee who were to remain as Trustees (presumably by position rather than specific individuals although the agreement does not spell that out). It is unclear what authority Levy had to execute the agreement because the Board of Trustees had to vote on it eight days later. The Board of Trustees met on June 23, 1978 and approved implementation of the agreement, modifying the term "Union members" eligible to be Trustees to "include retired members, associate members and other dues paying members" and making some other minor changes.

The PSC/BHE Board of Trustees met on September 22, 1978. Professor Ralph Ledley, Chairman of the Board of Trustees, reported that because of the change in the "relations with" the PSC and the resultant change in the Fund's "relations with" the BHE, the Trustees had started to draft new by-laws and a new Trust indenture in consultation with the Fund's attorney. Irwin Polishook, as president of the PSC, reported that the Union wanted to be able to provide benefits through the Fund by delivering one million dollars a year to the Fund to purchase additional benefits, eliminate the deficit, and replenish reserves. The Trustees passed a resolution providing for cancellation of the June 19, 1967 agreement between the BHE and the "City University Faculty Fund" as of September 1, 1978, in compliance with the collective bargaining agreement between the PSC and the BHE providing for a reconstitution of the Fund which was to be negotiated between the PSC and the Fund Trustees.

On May 27, 1980, the "Tripartite Agreement" was negotiated between the University, the PSC and the PSC-CUNY Welfare Fund restructuring the Fund and its name appears for the first time as the PSC-CUNY Welfare Fund. This agreement was signed by David Allen (then Chairman of the Fund), Irwin Polishook for the PSC and Ira Bloom for CUNY. Trustees had to be union members elected by union members at elections held the same time as Chapter elections, except the three management members of the Executive Committee. The 1980 Tripartite agreement does not refer to management trustees.

The original Trust Indenture was amended on February 27, 1981, and revised bylaws were approved on the same date.

In 1986 the Tripartite Agreement was amended again and eliminated the 35 elected voting trustees replacing them with 10 appointed voting trustees. The President of the PSC and the Vice Chancellor for Faculty and Staff Relations were voting trustees ex officio. The remaining eight voting trustees were designated by the PSC. The fact that the University had a designated trustee made the Fund unique among the City's supplemental welfare funds in that management was given not only a presence on the Board of Trustees of the Fund but carried a vote. The Fund Administrator was made a non-voting trustee, as was the Treasurer of the PSC and a Retiree Designee appointed by the President of the PSC. In 1991 a second voting trustee position for a designee of the Vice Chancellor was added. The first reading and required affirmative vote was taken on March 12, 1991, and the second amending vote took place on May 10, 1991.

The University, pursuant to the retroactive terms of a May 25, 1984 agreement, first contributed on behalf of retirees in 1982. According to David Allen, when the University first contributed on behalf of retirees it made out the check to PSC and the Union endorsed it over to the Fund. For the post-1982 retirees, it contributed at the same level as actives less \$50.00. The University contributed \$85/year for the 1970-82 group. Pre-1970 retirees did not and still do

not have contributions made on their behalf. The dollar difference between what the '70-'82 group and the active employees were funded at in 1982 has remained unchanged. This is also true for the post-'82 and actives groups which retain a \$50.00 differential.

All pre-1970 retirees who met the "Rule of 80" were eligible for Group 80 benefit package. Retirees who retired between 1970 and 1982 receive one of two levels of benefits. If they met the "Rule of 80," they received a Group 80 package of benefits. If they retired without meeting the "Rule of 80," they were known as the "Group 70" retirees and receive the Group 70 benefit package which is a smaller package of benefits. Those who retired after September 1, 1982 receive the Group 82 package of benefits, which is the best retirees' package of benefits.

The retirees have always been members of the Fund and its predecessors and received benefits without reference to the level of funding paid to the Fund on their behalf. No additional funding is made on behalf of spouses and dependent children of active members and retirees who nevertheless receive benefits. The benefit levels for retirees have generally exceeded the funding levels for them. The Fund has always spent more for retirees as a group in relation to the income received on their behalf than was true for active employees.

In September of 1993, in response to concern over the fact that retirees had been granted benefits since the 1960's but no reference to them was made in contribution agreements, the University and PSC executed a "Clarification Agreement" approving and adopting retroactively the practice of combining and commingling contributions received on behalf of both active and groups of active employees (*vide* adjuncts) and retirees or groups of retirees (pre-'70, '70-'82, and post- 82 cohorts).

This is a selective extraction of a legal history of the PSC-CUNY Welfare Fund prepared for the Administrative Committee of the Board of Trustees in September, 2002, by Neil Lipton, General Counsel to the PSC-CUNY Welfare Fund. Research included review of all available and relevant documents as well as interviews with David Allen, chairman emeritus of the Trustees and Norma Frey who was General Administrator at that time.