

# BUSINESS IN 2024

WEEKLY WEBINAR SERIES



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2025

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# Your Host



## **Gabriel S. Oberfield**

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# TODAY'S AGENDA

**Gabe Oberfield – (12:00PM-12:05PM)**

- Intros / Agenda

**Barbara Lee and Camisha Parkins – (12:05PM-12:15PM)**

- Fostering Faculty Collegiality: Legal and Practical Challenges

**Elizabeth Heifetz – (12:15PM-12:25PM)**

- Immigration Update: Immigration Filing Fees to Increase

**Sanjeeve DeSoyza and Emily Ahlqvist – (12:25PM-12:35PM)**

- Recent Decisions Applying NYS's New Sexual Harassment Standard

**G. Oberfield – (12:35PM-12:45PM)**

- Questions / Wrap Up

# Where We Are on the NYS Budget

- We are awaiting the one-house bills...
- Hot-button issues:
  - Education – and funding relating to school districts with declining enrollment
  - Medicaid reimbursement and healthcare spending, generally



*Credit: Albany.org*



# Changing of the Guard...

- **NYS Assembly:**

- Ken Zebrowski
- Andy Goodell
- Jeffrion Aubry
- Daniel O'Donnell,
- Inez Dickens,
- Marjorie Byrnes,
- Fred Thiele,
- Latoya Joyner (already resigned),
- Joseph Giglio,
- Aileen Gunther and
- Helene Weinstein →
  - News broke yesterday: has represented district for nearly 44 years.

- **State Senate:**

- Neil Breslin,
- Tim Kennedy,
- Kevin Thomas, and
- John Mannion.

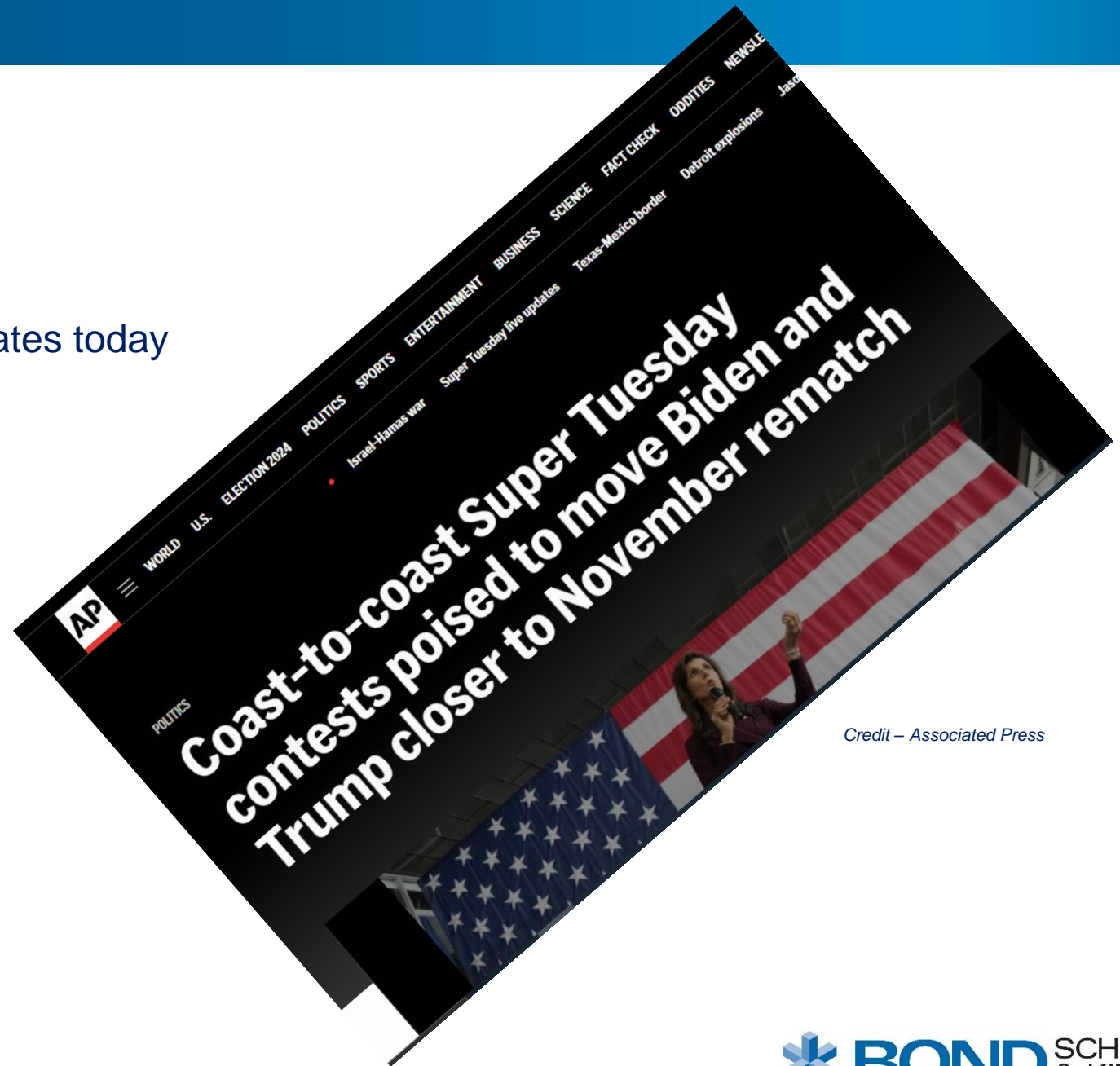


# Super Tuesday

- Federal primaries across the United States today
- Bond will be tracking results –



Credit – The White House



Credit – Associated Press

# Fostering Faculty Collegiality: Legal and Practical Challenges



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# BACKGROUND

- Tenure and academic freedom do not condone non-professional, non-collegial behavior.
- Even at public institutions, not all speech is protected—*Garcetti v. Ceballos*, US Supreme Court (2006)
- AAUP Statements emphasize faculty responsibilities to the institution and to their colleagues.
- Courts have almost unanimously backed institutional responses to non-collegial behavior.



# Recent Case Involving Collegiality: Porter v. NC State Univ.

- Decided: July 2023
- Tenured NC State Professor, Stephen Porter, questioned the addition of a diversity question to student course evaluations during a dept meeting, criticized colleagues on a faculty search committee via a departmentwide email for considering a controversial candidate they accepted as a finalist for an open position, and wrote a blog post about the Association for the Study of Higher Education titled “ASHE Has Become a Woke Joke.” As a result, NC State removed Porter from a Ph.D. program in the department of leadership, policy and human development on grounds that he was insufficiently collegial.
- Porter alleged that university administrators retaliated against his First Amendment rights.

## Porter v. NC State Univ. (cont.)

- The majority clarified the test to be used when faculty claim that they have been punished for otherwise protected speech.
  - First, a court must determine whether the faculty member was speaking about a matter of public concern, or whether the speech at issue was related to the faculty member's job, and thus the individual was speaking as a public employee.
  - "If we determine that [the faculty member] was speaking as a public employee, we must then determine whether his speech related to 'scholarship or teaching,' . . . If it did not, then it is unprotected pursuant to Garcetti."
- The Fourth Circuit affirmed dismissal, finding that the topic of the plaintiff's speech was not a matter of public concern and that his speech as an employee was not related to his scholarship or teaching.
- The Supreme Court declined to hear the case earlier this year, without comment.

# Forms of Discipline Upheld by Courts in Noncollegial Faculty Behavior Cases

## Dismissal of Faculty

- Wozniak v. Adesida, 932 F.3d 1008 (7th Cir. 2019)
- Fagal v. Marywood University, 786 Fed. Appx. 353 (3d Cir. 2019)
- Burton v. Board of Regents of the University of Wisconsin System, 2022 U.S. App. LEXIS 31520 (7th Cir., Nov. 15, 2022)

## Denial of Tenure

- Davis v. Western Carolina University, 695 Fed App'x 686 (4th Cir. 2017)
- Ward v. Midwestern State Univ., 217 F. App'x 325 (5th Cir. 2007)

# Important Takeaways

- Clear consensus among courts: **It is appropriate for colleges and universities to expect faculty to behave in a professional and collegial manner.**
- Academic leaders, including department chairs and deans, should be encouraged to deal promptly and decisively with unprofessional and uncollegial conduct.



# Immigration Update: Immigration Filing Fees to Increase



## Elizabeth A. Heifetz

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# Premium Processing Updates

- Existing premium processing filing fees will increase from:
  - \$2,500 to \$2,805 (Nonimmigrant categories: E-1, E-2, E-3, H-1B, H-3, L-1A, L-1B, LZ, O-1, O-2, P-1, P-1S, P-2, P-2S, P-3, P-3S, Q-1, TN-1, and TN-2. Immigrant Categories: EB1, EB2, and EB3)
  - \$1,750 to \$1,965 (F-1, F-2, M-1, M-2, J-1, J-2, E-1, E-2, E-3, L-2, H-4, O-3, P-4, and R-2)
  - \$1,500 to \$1,685 (H-2B and R-1, Certain F-1 students with categories C03A, C03B, C03C (pre-completion OPT, post-completion OPT and STEM OPT extensions))

The new filing fees are effective for filings postmarked on or after **February 26, 2024**.

Also please note that under most-recent rules, USCIS was required to adjudicate petitions filed through premium processing within 15 calendar days. USCIS announced that it will lengthen premium processing adjudication requirements from 15 calendar days to 15 *business* days.

# Substantial Fee Increases Effective April 1, 2024

- **H-1B Petitions:**
  - Current fee: \$460
  - New fee: **\$780**
  - New nonprofit and small employer fee: **\$460**
- **L-1 Petitions:**
  - Current fee: \$460
  - New fee: **\$1,385**
  - New nonprofit and small employer fee: **\$685**
- **O-1 Petitions:**
  - Current fee: \$460
  - New fee: **\$1,055**
  - New nonprofit and small employer fee: **\$530**

# Substantial Fee Increases Effective April 1, 2024

- **E-1, E-2, E-3, H-3, TN, P, Q, & R Petitions:**
  - Current fee: \$460
  - New fee: **\$1,015**
  - New nonprofit and small employer fee: **\$510**
- **I-485 Adjustment of Status Application:**
  - Current fee: \$1,140 (age 14 or older)
  - New fee: **\$1,440** (age 14 or older)
- **I-90 Application to Replace Permanent Resident Card:**
  - Current fee: \$455
  - New fee: **\$465**
  - New fee if filed online: **\$415**
- **N-400 Naturalization Application:**
  - Current fee: \$640
  - New fee: **\$760**
  - New fee if filed online: **\$710**



# Substantial Fee Increases Effective April 1, 2024

- **N-400 Naturalization Application:**
  - Current fee: \$640
  - New fee: **\$760**
  - New fee if filed online: **\$710**
- **New Asylum Program Fee for I-129 and I-140 Petitions:**
  - New fee: **\$600**
  - New small employer fee: **\$300**
  - New nonprofit employer fee: **\$0**

# Recent Decisions Applying NYS's New Sexual Harassment Standard



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# Your Questions



## **Gabriel S. Oberfield**

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## Fostering Faculty Collegiality: Legal and Practical Challenges

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Camish Parkins, [cparkins@bsk.com](mailto:cparkins@bsk.com) (under the guidance of Barbara Lee)

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## Recent Decisions Applying NYS's New Sexual Harassment Standard

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### **New York Employment Law: The Essential Guide**

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).



# Thank You

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It is not to be considered as legal advice.  
Laws can change often, and information may become outdated.

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