



Representing Wayne State Faculty and Academic Staff

# NEWSBRIEFS

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## What We Do

### Report on Grievances and Contract Implementation

*In any workplace, union or non-union, there are day-to-day issues in which employees and their supervisors contest the terms of their workload, compensation, and treatment. In workplaces where there is no union, these matters are unilaterally decided by management, which may be enlightened, despotic, or somewhere in between. Individual employees seek the best outcome they can manage.*

*In a workplace like WSU, where an overwhelming majority of faculty and academic staff voted for union representation 32 years ago, these issues are subject to a due-process grievance procedure based on the negotiated collective bargaining agreement. What follows is a report on some of the representative cases currently on the union's docket, or recently resolved.*

Often enough, our informal discussions with the Administration can resolve a dispute without a formal grievance, and these kinds of cases are highlighted under “**Contract Compliance Cases.**” It is our experience that most middle managers, and more than a few at the upper reaches of the administrative pyramid, don’t bother to read the collective bargaining agreement and assume they can act unilaterally. In the absence of a concerted training effort by the Administration, it is our job to disabuse these managers of their wayward thinking.

When this educational process fails to resolve a contract violation, we take the case to a formal Step 1

grievance, as described under Article XVII of the collective bargaining agreement (available from the union office or on-line at the web address on

our masthead). Examples of these cases are summarized under the heading “**Selected Grievances.**” If the union and the Administration cannot resolve the issue at Step 1, we may take the case (at considerable expense) to

a Step 2 hearing, where a mutually-acceptable third-party arbitrator makes a binding decision based on the evidence. Between Steps 1 and 2, the union may try to seek a negotiated settlement that is acceptable to both sides.

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Arbitration can be a lengthy as well as expensive process, as indicated by one case we have been pursuing for several years through repeated procedural delays (a case often highlighted in this newsletter): the issue of fractional tenure in the School of Medicine, which will finally go before the arbitrator (we hope!) on October 28.

If you have questions concerning any issue that may be covered by the collective bargaining agreement, contact our office at 577-1750, [aaupaft@wayne.edu](mailto:aaupaft@wayne.edu).

**When in doubt**, call us — there are time limits (usually 60 days) on how long an individual can wait before contesting a known contract violation, so you should ask for help sooner than later. Our Contract Implementation Officers (Barbara Jones, Academic Staff, and Anca Vlasopolos, Faculty) and our Grievance Coordinators (Mary Cay Sengstock, Faculty, and Lothar Spang, Academic Staff) will address your concerns in complete confidentiality. This report is based on their periodic reports to the AAUP-AFT Executive Board.

[**Note:** To protect the confidentiality of the individuals involved, we have withheld names and departments, and assigned random gender pronouns — that is, “he” or “she” is used without reference to the actual persons.]

## Contract Compliance Cases

### 1) Inappropriate Change in Duties.

A full professor in the social sciences was assigned to teach a graduate-level methods course, despite the fact that a) he was not qualified (by his own admission) to teach this subject, and b) there were at least two other faculty members in the department qualified to teach in this area. He was then told that his work was wanting (even though his scholarly productivity is the highest in his department) precisely because he was not qualified to teach this course. He pointed out that using certain tools in one's work and teaching them at the graduate level are two different things. For instance, an English professor composes essays, but does not therefore qualify for teaching composition to graduate students. The dean told him that during the summer he must take classes on his own time in order to teach the course he did not feel qualified to teach in an area that had coverage from other qualified faculty. He then received an

outside grant that bought him a course off in the fall, and he indicated his interest in buying out of the course he didn't feel qualified to teach. The dean refused his request and insisted he teach the class. At this point the union intervened on his behalf and informed the Administration that the dean's actions would be challenged under Article XXIV (“Faculty Professional Duties”) of the collective bargaining agreement. The Administration relented and let him buy out of the course, though they also threatened to revive the issue in the future.

### 2) Refusal to Pay for Teaching Assignments Outside of Load.

A nine-month lecturer in the social sciences was hired with a letter of offer that made no mention of a six-course load or of summer teaching in load. She agreed to teach a summer course in order to supplement her income, but her chair refused to pay her, claiming that she had taught an insufficient number of courses during the year and that she therefore had to teach without pay in the summer. They met, and her chair remained intransigent. The union intervened on her behalf and, after reminding the Administration that Article XX (“Term Appointments”) states under Section 1 that “any special conditions related to the term appointment shall be included in the letter of offer,” the lecturer was paid for her extra work. She and her chair subsequently reached a compromise on future workload, and this understanding was included in her renewal letter.

### 3) Improper Use of Student Evaluations of Teaching (SETs)

A professor in one of the professional colleges had a difficult summer class, taken by some students who had failed this required course during the regular academic year. Complaints from one student reached the associate dean, who (after consulting with the professor) contacted the students to determine which version of the classroom conflict was accurate. On the basis of this inquest,

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the associate dean presented the professor with demands for teaching remediation, which the professor agreed to undertake. She completed the program during the fall semester and taught the course again the following winter. This time— without consultation — the associate dean contacted the students even before SETs were available for the course, again prompting them to voice complaints against the professor. The union intervened to point out the contract violations in regard to prompting student complaints and to using the improperly acquired information for decisions about curriculum and selective salary. In a similar case in which a chair improperly gathered and used student opinions about an instructor, the chair was forced to apologize by the Administration after the union intervened. The union asked for a similar apology in this case, along with a promise that the associate dean would no longer violate the contract. Despite the earlier precedent, the Administration declared itself powerless in forcing this individual to apologize. As of press time, the case is still pending as a formal grievance under Article XXIX (“Student Evaluation of Teaching”) as defined by previous agreements that SET stats go to the department while the actual comments go only to faculty.

### Selected Grievances

#### 1) Wrongful Discharge — I

A faculty member was hired on a 2 1/2 year term contract. His major duties were to develop and present training programs to professionals. He had barely been on payroll six weeks (two of them over the Christmas holidays) when his supervisor began finding fault with his work and claiming it was below standard. He was dismissed after six months. We initiated a grievance under Article VII of the contract, which incorporates the Board of Governor’s statute limiting dismissals before term to cases where there is “adequate cause.” We argued that this faculty member had not been given adequate instruction, training, or time to develop his job, and that his dismissal appeared to be motivated by the supervisor’s interest in promoting a favored assistant. The grievance was

turned down by the Administration at Step 1, and we scheduled to go to arbitration at Step 2. Just before the arbitration hearing, the Administration agreed to a monetary settlement, which the grievant found acceptable. He now has a new job at another university.

#### 2) Wrongful Discharge — II

An academic staff member had been on long-term disability due to a work-related injury. His doctors (who were assigned by the University) told him that he was not authorized to return to work. Nonetheless, the Administration sent him a certified letter ordering him to return to work, though they have no receipt to show that he actually received it. He was subsequently dismissed because of “job abandonment.” We filed a grievance based on the Administration’s failure to abide by the findings of its own doctor, and the documentary evidence that his supervisor had refused to return this employee’s calls on several occasions. The grievance was turned down at Step 1, and Step 2 arbitration is pending. In the meantime, we are trying to work out an agreement through our attorney that the Administration will wait for the outcome of current medical treatments in order to determine his ability to return to work.

#### 3) Improper Conduct of Salary Evaluations

A department chair violated the rules for salary recommendations from the elected departmental Salary Committee. According to Article XII (Section B4) of the contract, the department chair serves as chair of the Salary Committee with vote. That is, the chair has one vote within the committee, but does not have an independent vote, is not supposed to change the scores awarded by the Salary Committee, is not supposed to submit a separate set of scores, and is not supposed to submit an independent evaluation. In violation of this process, the department chair submitted a long and detailed memorandum to the dean and the college Salary Committee indicating that he disagreed with the departmental Salary Committee and that he would have awarded different scores to

the people in question. In all of this, he claimed that he was following the Provost's guidelines. At the Step 2 arbitration hearing, Associate Provost Margaret Winters agreed that the guidelines were misleading; promised that she would clarify them for next year; and promised to include information about this process in a training session with chairs and directors. The chair agreed to write to the department faculty acknowledging that the process had not been correct.

#### **4) Wrongful Discharge — III**

In this case of wrongful discharge, management failed to count correctly the number of years that one of our academic staff had been employed and failed to give the person the final year of his contract. Management wanted the employee and the union to accept the wrongful discharge based on the error of a manager who had already left the university. We took the case to Step 2 arbitration, where management submitted Banner information that was obviously wrong. The arbitrator heard and saw all of this and, we hope, will support our proposed remedy: that this individual be reappointed with Employment Security Status.

#### **5) Failure to Conduct Annual Reviews**

A faculty member was turned down on his first try for promotion and tenure at the university level, after being recommended by his college and departmental committees. Prior to this, he had been informally told by administrators and colleagues that he was doing well in his progress toward tenure, but had never had a formal Annual Review. This could have been the basis for a grievance if he had notified the union in a timely manner, since Article XX (Section C) stipulates that non-tenured faculty will receive a written Annual Review from the department's elected tenure committee to assist them in their progress towards tenure. [Note that the Annual Review for faculty and academic staff who are on term appointments does not apply to those with tenure or Employment Security Status, who are *only* evaluated by the Salary Committee, as per case # 3. The two reviews are for different people and purposes and should not be combined.] He failed to notify the union during the years he

should have been reviewed, and relied on the inaccurate feedback of his colleagues. Since it was too late to file a grievance on this score, we agreed to initiate a grievance that focused on the committee's failure to review all of his materials. We later withdrew the grievance at his request after the provost agreed to meet with him.

#### **6) Failure to Pay for Promotion to a Higher Classification**

A new hire who signed employment paperwork for an academic staff position at pay grade 3 later found out that someone had replaced sheet 1 of her paperwork and changed the position to pay grade 4. Her duties were defined at this higher grade, yet she was still paid at the grade 3 level, the contractual minimum for which is roughly \$3,000 a year lower. The union will file a grievance on her behalf, in which we will seek the higher pay that her duties and (altered) paperwork stipulate, retroactive to the point at which she was hired.

#### **7) Wrongful Discharge — IV**

One of our football coaches was terminated for cause based on an allegation that he had used profanity on the sidelines and that he quarreled with another assistant coach. He was terminated without pay. Two weeks later all the coaches were fired for the losing season, but the other coaches were paid for the balance of their term appointments. The first coach was denied such a settlement, based on the Administration's claim that he was terminated for just cause. We scheduled the case for Step 2 arbitration. Two weeks before the arbitration hearing, the Administration offered a settlement which included back pay for the coach, equal to wages lost between his firing and his acceptance of a new position at another school. The settlement proposal also included the removal of any mention of the termination in the coach's employment file.

## **News Item:**

# **The Administration's Rationale for Delaying Your Raises**

While the collective bargaining agreement stipulates that this year's negotiated salary increase of 3.25% (2% Across-the-Board/ATB and 1.25% to the Selective salary pool in each department) was payable the first day of the Fall semester (that is, checks issued on August 25), the Administration has informed us that it is postponing payment of these raises until September 22, when checks will include the retroactive increase.

The delay, according to Associate Provost Margaret Winters, was necessary "so that the payroll can be accurate and complete – many new faculty are not yet on the roll." When we reminded Dr. Winters that new faculty [and academic staff] are not eligible for this year's raise, she promised to "meet and discuss this when it isn't a crisis." She further stated that "the calendar we use now has been in place for years."

It's anyone's guess why routine matters of payroll administration would represent a "crisis." The simultaneous (and paradoxical) claim that this delay is part of a routine "calendar" simply isn't true: in many past years we have received our scheduled raises on time. The Administration pressed the units last Spring to report selective raises in a timely manner, which makes the current delay all the more puzzling.

We look forward to the promised meeting, when we'll learn the reasons for this latest "emergency."

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