



Representing Wayne State Faculty and Academic Staff

# NEWSBRIEFS

Office: 577-1750 Fax: 313-577-8159

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[aaupaft@wayne.edu](mailto:aaupaft@wayne.edu)

[http://mywebpages.comcast.net/aaup\\_aft/](http://mywebpages.comcast.net/aaup_aft/)

## “Public Goods” Are Not Free

### Final Round for Implementing “Fair Share” Begins This Month

*“Public Goods: Goods which, because they cannot be withheld from one individual without withholding them from all, must be supplied communally. For example, it would not be possible to exclude any one individual from ‘consuming’ national defense, or street lighting, or general police protection.”*

*Penguin Dictionary of Economics*

We should add another “public good” to that list: the collective bargaining agreement protecting faculty and academic staff at Wayne State University.

Like national defense or general police protection, the contract negotiated by the American Association of University Professors – American Federation of Teachers (AAUP-AFT) covers everyone, establishing the right to due process, equal treatment, fair salaries, and academic freedom. This “public good” cannot be withheld from one individual without compromising its protection of all faculty and academic staff.

Public goods require public support. If someone were to argue that, having no need to call the police or fire department over the past year, s/he should therefore be able to choose not to pay for these public services, we would reject this argument as selfish and shortsighted.

A current example illustrates the case. To challenge the Administration’s abuse of partial tenure in the School of Medicine, the AAUP-AFT took the

dispute before a mutually acceptable outside arbitrator. The collective bargaining agreement calls for this form of dispute resolution when an alleged contract violation cannot be resolved by negotiation. Arbitration is fact-driven and fair, but it is also expensive: we spent \$14,000 in direct costs on this single case— legal fees, travel costs, transcripts and depositions, among other things. The considerable staff time and related overhead costs devoted to the case over two years added still more.

Now, as reported in last month’s newsletter, the Administration will force us to go to court to enforce the arbitrator’s decision, which supported our position. The additional time and expense will be considerable, but investment in this “public good” will strengthen tenure and academic freedom across the university— for members and non-members alike.

### Fair Share Fee for a Public Good

Since collective bargaining protects everyone, the cost of this public good should be distrib-

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## The Supremes Favor Fair Share

**The U.S. Supreme Court** has upheld the legality of a Fair Share (“union shop”) fee by linking it to the union’s duty to represent all employees:

*“A union–shop arrangement has been thought to distribute fairly the cost of these [representational] activities among those who benefit, and it counteracts the incentive that employees might otherwise have to become ‘free riders’— to refuse to contribute to the union while obtaining benefits of union representation that necessarily accrue to all employees.”*

uted equitably. That is why the union pressed for a “Fair Share” provision in the contract negotiations of 2002. Previously, AAUP-AFT members shouldered the entire burden of representation, paying the tab for non-members who benefited from collective bargaining but, as free riders, paid nothing. After years of rejecting our proposal, the Administration agreed to include a Fair Share provision in the 2002 contract, and the Board of Governors ratified the agreement.

We are now in the fourth and final round of the staged implementation of Fair Share, which began with new hires and now ends with non-members who were hired before Sept. 1, 1995.

We get lots of questions about the particulars...

### ***Why doesn't the union just refuse to represent non-members?***

By Michigan law, the AAUP-AFT is obligated to represent *all* faculty and academic staff. *We have no choice*: we are legally bound to represent everyone, members and non-members alike. Our principles hold us to this same standard in any case: we view collective bargaining as a “public good” which cannot be withheld from a portion of the community, any more than “clean air” can be distributed only to those who support environmental protection.

### ***Can't the Academic Senate protect us?***

The Academic Senate is a valuable forum for collegial debate and shared governance in academic matters, and many of the union’s active members and elected leaders have also been elected to Senate leadership. They will be the first to tell you that, in most cases, the Senate’s role is primarily advisory. Anyone with a few years’ experience at WSU also knows that some administrators ignore the Senate when it suits them. Moreover, the Senate plays no role in negotiating minimum salaries, raises, benefits, and the terms and conditions of employment. Ultimately, it is the legally binding language in the AAUP-AFT collective bargaining agreement that establishes and protects the Senate’s role in shared governance.

### ***Can someone be forced to become a union member?***

No. We urge all faculty and academic staff to become full members and pay full dues, thereby gaining the right to cast their ballots in union elections and to vote in contract ratifications. In the first three rounds of Fair Share implementation, two-thirds of the eligible non-members opted for full membership. Those who decline to

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join are required to either pay a Fair Share fee that covers the cost of union representation (at 90% of full dues), or they can contribute to a scholarship or research fund designated by the Provost's office (at the same cost as dues for those hired before Sept. 1, 1995). Failure to choose one of these options will result in a two-day layoff and a corresponding loss of pay.

### ***What are union dues?***

We have lowered dues twice in the last four years. They are currently calculated at 0.009 of salary (less than 1%), assessed on gross pay up to a cap of \$99,879 for twelve-month employees and \$83,232 for nine-month employees. From the minimum to the maximum salary paid to full-time faculty and academic staff at Wayne, dues average between \$4.50 and \$17.30 a week.

### ***Would non-members pay the Fair Share fee even if they don't call on the union for representation?***

Even those who have no reason to call for the union's *direct* representation at any one moment are still being represented—in the formal negotiations, the informal discussions, the committee meetings, the grievance hearings, and the arbitration cases that codify and protect due process and fair treatment at WSU. "Policing the contract" is a lot like "general police protection": if it is effective and impartial, it is also invisible, since violations of the contract are discouraged and fair practices are reinforced.

### ***As white-collar professionals, don't academic staff and faculty have less need for union representation?***

Unfortunately, our professional status doesn't protect us from the unprofessional conduct that occurs in any large bureaucracy. Except for superstar professors with na-

tional reputations, most of us lack the individual leverage to protect against administrators who either get it wrong, or who willfully discriminate. This is especially true for those who work on term contracts that can be non-renewed without reason. Many white-collar workers, including teachers, nurses, airline pilots, actors, journalists, screenwriters, and, most recently, a growing number of doctors and engineers working in large bureaucracies have discovered they need collective organization to protect professional standards.

### ***Is it legal to require a Fair Share fee?***

Yes. The Michigan legislature amended the Public Employment Relations Act in 1973 to make Fair Share fees a legal option in public-sector collective bargain-

ing. The legislature's specific intent was to insure, as the law states, that "employees in the bargaining unit... share fairly in the financial support of their exclusive bargaining representative." The U.S. Supreme Court subsequently upheld the constitutionality of these Fair Share provisions (see accompanying box).

### ***Would I be financing the union's political agenda?***

No. By law, a Fair Share fee can only cover expenditures related to collective bargaining and representation, including educational materials and lobbying directed towards these ends. Direct support for candidates cannot come out of the Fair share fee, nor can it come out of members' dues, for that matter. The union raises funds for these political purposes out of voluntary contributions.

***"We view collective bargaining as a 'public good' which cannot be withheld from a portion of the community, any more than 'clean air' can be distributed only to those who support environmental protection."***

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***Is it democratic?***

Yes. In 1972, faculty and academic staff voted by an overwhelming majority to establish collective bargaining at Wayne State. Under the election proceedings of the Michigan Employment Relations Commission, 85% of those voting and 66% of the total eligible to vote cast a ballot in favor of union representation.

***What are the advantages of full membership?***

Only dues-paying members are eligible to vote in union elections for new leadership and to ratify revisions to the collective bargaining agreement. Full members also receive non-contractual perks. These include: 1) automatic coverage by the AFT's occupational liability insurance for claims up to \$1 million related to professional activities; 2) eligibility for low-cost "Medigap" health insurance coverage, and 3) a wide range of discounted prices for everything from legal services to home mortgages to restaurant dining.

**Wayne State University Chapter**

**AAUP-AFT**

5440 Cass, Suite 103  
Detroit, MI 48202-3680

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