



Representing Wayne State Faculty and Academic Staff

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Tentative Agreement Reached: Members to Vote On Contract Extension

After prolonged negotiations, the AAUP-AFT and the Administration have reached a tentative agreement on a one-year extension of the 2002-2005 Collective Bargaining Agreement. The union's Executive Board has voted unanimously to recommend ratification of the agreement, which will be discussed at the upcoming **membership meeting at noon on Wednesday, April 6**, in room 277 of the Student Center Building. The membership will vote on the matter in a subsequent mail ballot.

Given the uncertain economic and budgetary environment that the university faces, the one-year extension is a positive step. The three-year agreement that expires this summer was "back-loaded" with higher salary increases in the third year, and it is this last year of the current agreement that will be extended if the membership ratifies the tentative agreement. As in the current year, the total salary would rise by 3.25%, with 2% across-the-board and 1.25% for the selective salary pool (the latter distributed, as always, based on the recommendations of the elected salary committee in each department/school/college, as amended by the higher administration). The promotion component remains at approximately .25%.

While there are advantages to extending the contract's highest salary increases into a fourth year, there are also drawbacks to postponing full negotia-

tions on non-salary issues that are important to both sides. To address the most urgent of these, discussions will continue in three areas:

1) If and when the membership ratifies the tentative agreement, the union and the Administration will form a joint committee to study healthcare issues and, specifically, options regarding retiree health benefits.

2) A second joint committee will work on the anomalies that have been encountered during the life

of the present Agreement in Article 24, "Faculty Professional Duties." As with the healthcare committee, the Article 24 committee will examine options that might be considered when the full negotiations for a new

Agreement reconvene in 2006.

3) As per the Arbitrator's ruling in favor of the union on fractional tenure in the School of Medicine (see the related article in this issue), the two sides will soon begin negotiations for a settlement of the outstanding issues concerning tenure in the School of Medicine. If the two sides cannot reach agreement on how to remedy the Administration's violation of the contract, the Arbitrator has stipulated that she will retain jurisdiction to decide the issue.

Except for the agreed upon salary improvements, the terms of the present Agreement will remain in force for the next year.

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Union Wins Arbitration Defending Tenure: Legally Binding Decision Ends Abuse of Partial Tenure in the School of Medicine

Charles Parrish, President

It took two and a half years and \$14,000 to argue the case through the grievance-arbitration procedure of our collective bargaining agreement, but the union has finally prevailed in its challenge to the Administration's abuse of partial tenure in the School of Medicine. On March 1, the neutral arbitrator who heard the case ruled in the union's favor, stating unequivocally that the Administration "violated the parties' collective bargaining agreement when it awarded 25% fractional tenure appointments to PhD faculty members in clinical departments."

While this case, in the narrow sense, only applies to a specific category of faculty in the School of Medicine, it has profound implications for the wider defense of tenure across the University. Administrators have been pushing for a dramatic expansion of fractional tenure in recent years, and the union's victory in this case puts a halt to that process.

We filed the grievance in 2002 when we learned that the School of Medicine (SOM) had been appointing basic scientists (researchers with PhDs rather than MDs) in its clinical departments with only 25% tenure. The Administration claimed that a "Letter of Agreement" signed by the union during 1992 negotiations allowed such appointments; the union insisted that the Letter only allowed the appointment of clinicians (MDs) at 25% tenure, and did not permit such fractional tenure for PhDs.

The arbitrator has ordered the Administration to meet with the union and negotiate "an appropriate remedy for this contract violation." The union has proposed that such a remedy meet three criteria: 1) any PhD faculty

without clinical qualifications who currently holds a 25% tenure appointment be advanced to at least 50% tenure (more about that below); 2) any adversely affected faculty be made whole for any salary or benefit loss; and 3) the AAUP-AFT be compensated for all costs and attorney fees in this matter, other than the Arbitrator and court reporter fees. Significantly, the arbitrator stated that she retains jurisdiction to resolve any disputes which may arise on these matters.

"Just two months before the arbitration, Dr. Thorderson was visited in Mississippi by Robert Vercruyse, the outside counsel the Administration hired to represent it, and Dr. Margaret Winters, the Associate Provost for Academic Personnel. Following the visit, Dr. Thorderson emailed Dr. Rillema to say that he was reversing his position and he now agreed with the Administration... "

The Struggle to Defend Tenure

The union views tenure as having two components that protect the academic freedom of a faculty member: first, employment protection that prohibits the firing of a faculty member without proof of a serious breach of institutional rules or a violation of the law; and, second, economic protection that guarantees sufficient compensation to make that employment protection meaningful.

For more than a decade, Administrators in the SOM have attempted to nullify the second of these components. This was made explicit in March of 1992 when Dean Robert Sokol took a proposal to the SOM Senate that all new tenure-track appointments, in basic-science departments as well as clinical, be limited to a 25% guarantee of salary. I attended that meeting as President of the union and pointed out that whatever the Senate decided, it

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would be no more than advisory and that any such proposal would have to be brought to the negotiating table. The Senate subsequently voted to exclude the basic-science departments from Sokol's SOM-wide proposal, and the entire faculty voted in favor of this proposition, as amended.

In the subsequent contract negotiations that year, Dr. Richard Thorderson, representing the Administration, drafted a "Letter of Agreement" that embodied the proposal endorsed by the SOM faculty. It stated that 25% tenure would be allowed "in the clinical departments" of the SOM. The rationale for this was complex, but amounted to this: the Administration wanted to better integrate its faculty clinicians into the academic— particularly research— activities of the SOM by having them go through the rigors of the tenure process; at the same time, the Administration could afford to attract more clinicians by offering a salary guarantee of only 25%, and this fractional protection was deemed sufficient for MDs whose considerable earning power in the medical marketplace made them less dependent on their WSU salary.

The union accepted this rationale because it applied only to the unique position of physicians whose primary assignment is to provide clinical services to patients through the practice plans associated with clinical departments. Indeed, during the 1992 negotiations, the Administration stated in its August 24 issue of the *Monitor* that the Letter "would apply to clinical faculty only, and it reflects the unusual situation of clinical faculty who may have appointments in hospitals as well as in the University and may also be participating in a practice plan." In its August 27 issue, the *Monitor* further stated that "the Wayne State medical faculty have voted overwhelmingly to allow a clinical faculty member to hold appointment with tenure of 25% or more" and that the proposal endorsed by the medical faculty did "not involve the basic science faculty who do not derive income from medical practice."

The Current Case

When Professor James Rillema learned of a proposed 25% tenure appointment for a basic scientist in July, 2002, he informed the union and called Dr. Thorderson, who had retired in Mississippi, asking him for his understanding of the Letter of Agreement. Dr. Thorderson, both by telephone and subsequent email, told him that his understanding was the same as that of Dr.

Rillema: that the 25% tenure applied only to clinical faculty members. Dr. Rillema also called the Vice President for Research, Dr. John Oliver, who initially agreed with Thorderson's recollection. Oliver, however, later called Dr. Rillema to reverse his position.

Some two years later, and just two months before the arbitration, Dr. Thorderson was visited in Mississippi by Robert Vercruyse, the outside counsel the Administration hired to represent it, and Dr. Margaret Winters, the Associate Provost for Academic Personnel. Following the visit, Dr. Thorderson emailed Dr. Rillema to say that he was reversing his position and he now agreed with the Administration that the Letter of Agreement was intended to cover basic scientists in clinical departments.

The arbitrator found Thorderson's late change of heart far less credible than the evidence provided by the Administration's own published statements in the 1992 *Monitor*. "No exhibit or testimony in this record indicates that the University ever attempted to correct these statements even though they directly contradict the position that it has subsequently taken, and these misleading statements must have influenced the AAUP bargaining team and members in approving the 1992-94 collective bargaining.... The failure of Dr. Thorderson or any other University witness to explain satisfactorily this language published at a crucial time...raises serious questions about the University's arguments on the merits of this case."

The arbitrator therefore ruled that the Administration was contradicting its assurances in 1992 and was violating the contract by appointing scientists in clinical departments at 25% tenure.

The Future of Tenure

For the School of Medicine, the importance of the arbitrator's ruling in favor of the union should not be underestimated.

Any medical school must balance opposing concerns if it aspires to national recognition. First and foremost, it must do quality research. This means that its basic-science researchers must be able to compete for grants at the level demanded by the National Institute of Health. The Wayne State SOM has raised its research rankings over the years, but there is much

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room for improvement. An important question is whether the SOM can continue to attract nationally recognized researchers by offering fractional tenure that (at 25%) provides no real guarantee of a sustainable salary. Medical researchers are no different from academics appointed to positions on the main campus: in the Department of Chemistry or Biology, for example, few would see 25% tenure as a compelling offer.

Despite the national trends and the continued need for the improvement of the research profile of SOM, its administration has been attacking tenure in the basic-science departments since Dean Sokol's initial proposal was defeated in 1992. The more recent dean, John Crissman, launched an attack on tenure in the basic-science departments by announcing that he intended to only allow new appointments in the basic-science departments as joint appointments with clinical departments at 25% tenure in the latter units. In the last collective bargaining agreement, the Administration proposed that it have the discretion to make new appointments in the basic-science departments at 50%. The final agreement, reluctantly accepted by the union, was that such appointments only be made if the faculty voted on each such appointment at that tenure level. Rolling back this 50% provision will be a union priority in the next negotiations.

It is the union's intention to contribute in whatever way it can to the goal of improving the national standing of the SOM. We believe that this can best be done through providing a high-quality academic environment that will attract high-quality researchers. We believe that a meaningful system of tenure that assures academic freedom in the SOM is an important part of the process. The arbitrator's welcome decision is an important step in the right direction, and it strengthens the union's hand in future negotiations over the meaning of tenure.

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