June 6, 2017

To all BUFMs:

In January 2017, negotiations toward a new CBA began fruitfully. AAUP-WSU and the administration agreed in writing on ground rules to govern negotiations, exchanged proposals on non-economic CBA articles, began discussing them, exchanged counter-proposals on some of these, and even tentatively agreed on four such articles. Given the tenor of negotiations, we had good reason to believe that the parties would reach agreement on all non-economic articles, and we were looking forward to the exchange of economic articles on April 7 as specified in the ground rules.

But suddenly, negotiations effectively ground to a halt. Indeed, in the past two months, there has been essentially no progress. During that time, the administration has replaced its chief negotiator with a labor attorney — and yet has refused to make counter-proposals on non-economic CBA articles, has not responded to our counter-proposals, and been unwilling to put economic articles on the table at all.

The reasons given by the administration for this halt are not credible, and we have no reason to expect progress anytime reasonably soon. Thus, we have asked our chapter attorney to initiate the fact-finding process specified by state law.

Shortly, we will explain what fact-finding is all about and where it may lead us. But right now, we need Bargaining Unit Faculty to continue taking visible action. Your next opportunity is to attend the Board of Trustees budget meeting on Thursday, June 8 at 8:30am in the Student Union’s Apollo Room. Wear an AAUP-WSU t-shirt! About additional actions, please stay tuned.

For more details about this matter, please see below the attached.

Thank you for your attention to this message, and thank you for supporting AAUP-WSU.

Best regards,
Marty
Marty Kich, President, AAUP-WSU

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**What’s Up with CBA Negotiations?**

Below you will find additional details as promised in our June 6, 2017 e-mail to all BUFMs (see inset).

On January 13, 2017, the Chief Negotiators for the administration (Dr. Steven J. Berberich, Associate Provost) and AAUP-WSU (Dr. Adrian M. Corbett) signed **Ground Rules** to govern the negotiations toward a new CBA. Item 4 specifies, “On April 7, the parties will exchange Articles 23, 24, 26, 31, and Appendix E”. These are the so-called economic articles, i.e., those with substantial budgetary impact such as the articles on salary and benefits. As we stated in our June
6 e-mail, negotiations proceed fruitfully on non-economic articles, even concluding with tentative agreement on four of them.

**April 7: admin misses deadline**

But on March 21, the administration notified us that it was unilaterally suspending negotiations until Dr. Curtis L. McCray (the WSU Interim President who had been appointed the previous week) was up to speed on the budget. Shortly thereafter, we learned that the administration had hired a new Chief Negotiator: Mr. Daniel J. Guttman, a labor attorney and partner with a national law firm, Baker & Hostetler LLP. The parties met on April 7, and AAUP-WSU was ready to exchange economic articles as specified by the ground rules, but the administration had none. Subsequently, Mr. Guttman informed us that the administration would be ready to resume negotiations on Friday, May 26, explaining that he too needed time to get up to speed.

**May 23: yet another delay**

Then, on May 23, the administration or the BoT apparently changed its mind yet again. Mr. Guttman informed us that the administration would not be ready after all on May 26 for negotiations, and he indicated that negotiations might even be delayed beyond the July 1 arrival of the new President, Dr. Cheryl B. Schrader (the implication being that she too would need time to get up to speed). On May 24, we wrote Dr. McCray, Mr. Guttman, and Dr. Berberich saying, “…we do not agree to these delays in negotiations …”. In the letter we called for the administration to return to substantive negotiations by June 2nd and thus demonstrate its willingness to engage in good faith bargaining.

**May 31st: AAUP sends counterproposals to admin**

We sent Mr. Guttman counterproposals on two non-economic articles by 1 pm on May 31st (thus honoring the 48-hour advance notice required by our ground rules) and again encouraged a return to negotiations on June 2nd, extending the deadline for receipt of any counterproposals from the administration to midnight. After 10 pm, we received a letter from Mr. Guttman, saying that they would meet with us on June 2nd at 3 pm to discuss an early retirement incentive. The text of this early retirement incentive was neither included nor attached.

**June 2: more of the same from admin**

The parties did meet on June 2. (The administration brought three lawyers to that meeting: Mr. Guttman, another attorney from Baker & Hostetler LLP, and one of WSU’s two Assistant General Counsels.) However, aside from a brief conversation regarding the two counter-proposals we sent on May 31st, the administration was unwilling / unable to negotiate about any matter, save only a retirement incentive. The administration had previously sent us an early retirement “supposal” (informal, non-binding proposal), but not until this meeting did the administration clarify that it was asking to incorporate this matter into the CBA. Repeatedly, the administration’s negotiating team stated that it was not then authorized to resume negotiations about any other CBA matters and needed instructions / directives from those to whom it reports. For this, the administration team blamed the changeovers in the WSU Presidency and WSU’s fiscal mess.
Admin excuses not credible

But more than a year ago, the Board of Trustees (BoT) and administration knew that former President David Hopkins was expected to remain in office only through June 30, 2017 and that the presidential search process begun in May 2016 was not guaranteed to succeed. So, changes and uncertainty regarding the office of President are hardly new news.

Likewise, the BoT and administration have known for a long time of the fiscal crisis (though they inaccurately blamed revenue shortfalls until somewhat recently, when they finally agreed with our long-held position that overspending and mismanagement were the real culprits). In fact, in a letter to BUFMs on April 4, 2016 – over one year ago – we wrote

“…these budget issues cannot have come as a sudden surprise to anyone charged with managing the university…”.

Just nine days later, on April 13, 2016, we wrote to the BoT, stating that

[WSU has] “…experienced negative operating cash flows for the past three years. … Three consecutive years of negative operating cash flows is prima facie evidence that the administration is incompetent and that the Board of Trustees has abdicated its fiduciary responsibility.”

In the same letter, we provided a list of nine ways to reduce spending while protecting the college budgets (for, as we wrote, “instruction and research sustain the core mission of the university and are the primary source of its operating revenue.”)

So, for nearly three months, the administration negotiated with us in a productive manner about the new CBA and, to repeat, had committed in writing to exchange economic articles on April 7. But today, two months after that date, the administration has not even given us its opening position on those articles. Further, thus far it has been unwilling to return to substantive negotiations over anything else (except an early retirement incentive). The excuses – presidential turnover and budget problems – have both been known for a long time, and thus those excuses are just not credible and border on the absurd. That is especially so in light of the administration’s miraculous willingness to negotiate about a retirement incentive, which certainly has some economic implications, but nothing else – not even totally non-economic articles.

What now?

It is still our hope that the administration will resume immediately good-faith negotiations toward a successor CBA. In that regard, the ball has been in their court for two months. However, as we stated in our June 6 e-mail, we have asked our chapter attorney to initiate the fact-finding process specified in state law. Our objective is to obtain a fair, reasonable CBA for the Bargaining Unit Faculty by any means necessary. But no matter what our attorney, Negotiating Team, and Executive Committee do, we won’t get a fair, reasonable CBA without continued visible, active support of BUFMs. Your next opportunity to act is to attend the Board of Trustees budget meeting on Thursday, June 8 at 8:30am in the Student Union’s Apollo Room. Wear an AAUP-WSU t-shirt!

About additional actions, please stay tuned.