

**RESOLUTION OF THE WRIGHT STATE UNIVERSITY BOARD OF TRUSTEES
TO IMPLEMENT TERMS AND CONDITIONS
OF ITS LAST BEST OFFER ON OPEN CONTRACT PROVISIONS,
TO REMAIN IN EFFECT UNTIL JUNE 30, 2020 OR UNTIL SUCH TIME AS A
SUCCESSOR AGREEMENT HAS BEEN REACHED**

RESOLUTION 19-

WHEREAS, Wright State University, a state institution of higher education established and existing under the laws of the State of Ohio (the “University”), has been a party to collective bargaining agreements with Tenure-Eligible and Tenured (“TET”) faculty and Non-Tenure Eligible (“NTE”) faculty who are all represented in a single bargaining unit by the Wright State University Chapter of the American Association of University Professors (“AAUP-WSU” or the “union”), whose most recent labor contracts with the University expired on June 30, 2017;

WHEREAS, the University has been navigating recovery from a serious financial crisis that required it to address a \$30 million structural budget deficit and the exhaustion of \$130 million in reserves which took the University to the brink of State fiscal watch with an SB6 score of 0.8 for fiscal year 2017;

WHEREAS, in implementing drastic remedial budget measures, the University has virtually exhausted one time and recurring budget cuts including, but not limited to, making cuts to, and layoffs of, unclassified and classified non-faculty staff workforces to address its financial shortfalls;

WHEREAS, because of the financial crisis, the University can no longer maintain the status quo in its labor agreements with the faculty union and continue to provide its normal and expected standard of public service; although employees not represented by the AAUP-WSU have already made concessions in their terms and conditions of employment, including concessions in health insurance, there have been no similar concessions made by AAUP-WSU faculty members as their collective bargaining agreement has remained unchanged through the financial crisis;

WHEREAS, negotiations for a successor agreement began in January of 2017 but during the course of negotiations the financial crisis engulfed the University leading to unprecedented change; this financial crisis and change put a temporary halt to negotiations as the University looked to stabilize its economic status and leadership positions as in March 2017, University President Hopkins stepped down; Interim President McCray was brought in from outside the University to serve until June 2017; and current President Schrader was brought in from outside the University and began her leadership in July 2017 - to put the leadership change into perspective – there have only been seven University Presidents since 1966;

WHEREAS, the University has been negotiating in good faith with the union for a successor agreement over the course of almost two years which includes over 20 bargaining sessions; an additional series of bargaining sessions with a federal mediator; additional mediation sessions with an independent, mutually-agreed upon, experienced SERB Fact-Finder; a statutory mandated Fact-Finding hearing process; and at least two post Fact-Finding hearing negotiation sessions including discussions in which two Trustees and the President participated with union officers;

WHEREAS, prior to and during labor negotiations the University chose not to unilaterally open and modify its labor agreement with the AAUP-WSU due to “exigent circumstances” although it had the right to do so under well-established case law from SERB, (In Re: *City of Toledo*, SERB 2011-001 (April 28, 2011) where SERB held that the City did not commit an unfair labor practice by unilaterally modifying the labor contract due to dire financial conditions creating exigent circumstances that were unforeseen at the time of the negotiations);

WHEREAS, instead, the University went to the bargaining table in good faith and tried to work through its financial issues with AAUP-WSU through the Administration’s proposed modified interest-based bargaining where the University sought to engage in big picture discussions about potential solutions to the financial crisis and the budget deficit, but the union refused and insisted on an exchange of traditional bargaining proposals; the University ultimately went along with the union’s approach and presented financial proposals intended to help improve its sustainability, but AAUP-WSU continuously rejected the University’s financial proposals;

WHEREAS, unable to reach agreement on various open issues at the bargaining table, the parties proceeded to the statutory-mandated Fact-Finding process;

WHEREAS, the Fact-Finding hearing for this matter took place on April 3, April 4, May 23, and May 24, 2018 at the University’s Dayton Campus where the University and the AAUP-WSU presented arguments, as well as witnesses, exhibits, and other evidence, to Fact-Finder David Stanton;

WHEREAS, after bargaining yet again to impasse with the union during the Fact-Finding Mediation process, the University set out its last, best offers on the open contract issues to Fact-Finder Stanton during the Fact-Finding hearing and more specifically presented its last, best offers in its post-hearing brief on **July 12, 2018**;

WHEREAS, after the briefing process concluded, but before a decision was issued, the parties attempted one last time to further reach agreement on open issues by meeting to negotiate several key provisions of the contract which culminated in the University submitting a final proposal on October 9, 2018 offering to withdraw all proposed new language on Retrenchment (layoffs), which the union had indicated was the most important issue that it had opposed, in return for the union accepting a uniform campus-wide healthcare insurance plan that all other University employees have, in order to lower

the University's cost and increase its ability to negotiate lower healthcare rates with providers in this untenable environment of rapidly increasing healthcare costs;

WHEREAS, this final attempt by the University to close the differences between the parties on key provisions was soundly and completely rejected by the union and the union indicated it was not willing to accept a uniform campus-wide healthcare insurance plan, the most critical issue to the University, which placed the University unable to move further due to its financial condition;

WHEREAS, after again failing to reach any agreement, the parties received the Fact-Finder award where Mr. Stanton found the University's financial situation has been unprecedented in the history of any State of Ohio institution of higher education, which forced the University to engage in drastic remedial budget measures;

WHEREAS, after the Fact-Finder issued his report and recommendation, the University Board of Trustees, in an effort to bring the matter to a final resolution even though it did not receive all the relief that it was seeking, voted unanimously to adopt the Fact-Finder's report, while the union reported over 97% of its voters rejected the report; therefore the parties yet again failed to reach any agreement to bring the matter to a close;

WHEREAS, the union's rejection of the Fact-Finder's report, and rejection of the University's final proposals on **October 9, 2018** addressing Retrenchment and uniform healthcare and on **July 12, 2018** addressing all other open items confirms the University and union have reached ultimate impasse in negotiations as reaching an agreement acceptable to both parties has become futile; the University can go no further without harming its students and its viability as this process prolongs disruption and unrest in the campus community;

WHEREAS, having exhausted the dispute resolution procedures as we understand it, and being able to move no further due to the University's financial condition, with the passage of this resolution, the University Board of Trustees has elected to move forward with implementing the terms and conditions of its final proposals on **October 9, 2018** addressing Retrenchment and uniform healthcare and on **July 12, 2018** addressing *all other* open items (**collectively its "Final Offers on Open Items"**) in order to allow the University to continue its central mission of serving its students without distractions or disruptions to their education;

WHEREAS, the University intends to implement ***EXHIBIT A ATTACHED TO THIS RESOLUTION WHICH SETS OUT*** its Final Offers on Open Items along with all Tentatively Agreed Upon items that were previously reached by the parties during the negotiation process, under which the faculty union members will operate until June 30, 2020 or until a successor agreement has been reached with the union;

WHEREAS, **EXHIBIT A ATTACHED TO THIS RESOLUTION** includes but is not limited to the following terms and conditions, as generally summarized by way of example as follows:

- **Tentative Agreements (TAs)** The Articles and Appendices that have been tentatively agreed upon by the parties throughout the negotiation process;
- **Medical, Dental and Vision Insurance (Article 26)** A 'uniform approach' across the campus - medical (with prescription), dental and vision insurance will be provided to BUFMs on the same terms and conditions as other university employees (i.e. unified, consistent plan designs and premium structures based upon elections); with a 'guardrail' to ensure fair treatment that when health insurance changes University-wide then the AAUP-WSU member's will also change, but the change has to be consistent with similarly-situated employees;
- **Retrenchment (Article 17)** Maintains *status quo* current contract language on retrenchment and leaves the provisions unchanged;
- **Summer Teaching/Faculty Responsibilities (Article 7, portions of 23.6 and Appendix H)** Provides more efficient and practical method to assign summer teaching to drive revenue; the University will place decisions regarding the assignment of summer teaching of classes under the supervision of the Deans and Chairs in the Colleges and Schools where summer classes are taught;
- **Merit Pay/Annual Evaluation (NTE Article 11.6 to 11.6.2 and 23.1, TET Article 11.7 to 11.7.2 and 23.1)** Keeps a merit system available to reward performers within the faculty; awards are based upon Dean/Chair discretion in the distribution of merit pay (if merit pay is available); does away with a formula approach that shares merit pay;
- **Continuing Appointment and Promotion (Portions of Article 13.1 to 13.3)** Keeps a system in place that awards a non-tenure track faculty member with a continuing, automatic renewal contract; the University will extend the time for non-tenure eligible faculty to qualify for continuing contracts from six to nine years with a requirement that non-tenure eligible faculty achieve the status of Senior Lecturer or Clinical Assistant Professor to receive continuing contracts; all non-tenure eligible faculty currently employed who have reached the continuing contract status as of the date of this resolution will be grandfathered and not impacted;
- **Workload (Article 19.1)** Clarifies that "workload" must be only governed by University policy as required by State law; University policy as being determinative of workloads, not the contract or "MOUs" that tie the University's hands regarding management rights of staffing and

assignment; replaced by a workload policy formulated by the Provost in conjunction with the Faculty Senate, which shall be consistent with the workload specified for our current Carnegie Classification;

- **Compensation (Article 23)** In light of the University's current financial situation, salary increases will not be awarded; however, promotion pay increases stay intact and remain the same for any BUFM who are promoted;
- **Minimum Salaries (Article 24)** No increase in the minimum salaries from the 2016-2017 level listed in the current CBA (maintain current levels);
- **Cost Savings Days (Appx. I)** Includes option to implement "cost savings day" but can only be triggered where criteria is directly tied to a limited 'window' of time measured by the University's SB6 score (a score below 2.40 two years in a row to invoke process); "Guardrail" put in place where BUFMs may only be required to take cost-savings days on the same basis as other employees as provided in policy, and other employees must be furloughed before or at same time as BUFM; in the event that furloughs are necessary, for Spring and Fall of 2019 and Spring of 2020, the Board of Trustees advises that Cost Savings Days be limited to a maximum of two days per semester; and
- **Retirement Incentive Program (Appx. J)** Voluntary option for BUFMs who elect to retire (and participate in this program) will be assigned a minimum number of teaching hours for three academic years following retirement and will be paid 1/36th of their base salary per credit hour taught; guaranteed right to teach but at a lower rate of pay post retirement;

NOW THEREFORE, BE IT RESOLVED, that the Wright State University Board of Trustees implements the terms and conditions of the labor contract as set forth in the accompanying Exhibit A, to be effective immediately and remain in effect until June 30, 2020 or until such time as a successor agreement has been reached with the union.

I offer this Motion:
Is there a Second:
Roll Call Vote: