

# AAUP

# NEWS

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## AAUP urges Pres. Wright to reconsider stalled proposal for ULP settlement

The AAUP has urged President Wright to reconsider a proposal to settle issues related to an Unfair Labor Practice (ULP) charge filed by AAUP in July.

The proposed settlement, initially submitted by the AAUP in October, would resolve issues related to adjustments to some faculty salaries which were approved by the College Board of Trustees in June. These salary changes were later rescinded by the Board of Trustees, after AAUP filed an Unfair Labor Practice charge against the administration.

The settlement proposal from AAUP would also establish a method for resolving similar problems in the future.

Chapter President Pam Ecker said a letter signed by all members of the AAUP Executive Committee was sent to President Wright, Executive Vice President Myrtle Dorsey, and Human Resources Director Gene Breyer on Dec. 14.

The letter asked these College leaders to reconsider signing a Memorandum of

Understanding which would formally recognize assurances that AAUP's representatives felt had been made by the administration's representatives.

The administration has not yet responded to the AAUP's letter. (The complete letter appears inside this issue of *AAUP News*.)

"We have been extremely disappointed that the administration still has not responded to our letter, a month after we sent it," Pam said.

"The letter expresses the concerns of the AAUP Executive Committee about how frustrating this process has been," Pam continued.

"We've been trying to resolve this problem since summer, and AAUP's proposed settlement was based on assurances which had been given by the administration's representatives, Dr. Dorsey and Mr. Breyer," Pam said. "The AAUP was not asking the administration to agree to anything that its representatives had not already indicated willingness to do."

"The AAUP made a good-faith offer to fix the salary adjustment

problem for the faculty whose salaries were changed by the Board, and for all faculty who might be affected by similar situations in the future," Pam said. "The AAUP also made significant compromises. The administration's late-November response indicated that they had become *unwilling* to do what they had stated since summer, in many different ways, they were previously *willing* to do."

"That doesn't appear to us to be good-faith bargaining," Pam said. "The Executive Committee appealed to Dr. Wright to address this apparent lack of good-faith effort and, we hope, restart the process of resolving this problem permanently."

Pam said that the problem began in June, when the College's Board of Trustees unilaterally adjusted the salaries of two faculty members in the bargaining unit represented by AAUP.

Because salaries are a mandatory topic of bargaining under Ohio law, AAUP filed a charge of Unfair Labor Practice with the State Employment Relations Board (SERB), alleging

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# Text of letter from the AAUP Executive Committee concerning settlement of ULP issues. (See story on page 1)

American Association of University Professors  
Cincinnati State Technical and Community College Chapter  
3520 Central Parkway  
Cincinnati, OH 45223

December 14, 2001

Dr. Ron D. Wright, President  
Dr. Myrtle Dorsey, Executive Vice President  
Mr. Eugene L. Breyer, Jr., Director, Human Resources  
Cincinnati State Technical and Community College  
3520 Central Parkway  
Cincinnati, OH 45223

Dear Dr. Wright, Dr. Dorsey, and Mr. Breyer:

We are writing to you to give you our perspective on the College's *Counter-Proposal on Salary Adjustments* and to ask you to reconsider the AAUP's proposed settlement and Memorandum of Understanding as submitted in October.

When AAUP learned through the Board of Trustees' Agenda published on June 25, 2001, that there was an intention to raise the salaries of faculty members Connie Rose and Wyatt Cotton, AAUP Grievance Officer John Battistone called Human Resources Director Gene Breyer to seek the rationale for these two actions. In the weeks just prior to that publication, the AAUP had been in informal discussions with Gene Breyer about a third faculty member, Mary Frey, who was seeking a salary adjustment.

In their telephone discussion on June 25, Mr. Battistone asked Mr. Breyer how the College could reconcile these raises in light of the discussion we had had pertaining to Mary Frey's raise, and Mr. Breyer informed him that the College was willing also to give Ms Frey a prospective raise, but would not be willing to give her the retroactive raise the AAUP sought.

The next day, when the Board of Trustees passed the two raises unilaterally without negotiating the issue with the exclusive representative, the AAUP filed a charge of Unfair Labor Practice with the State Employment Relations Board.

In its charge, the AAUP sought from the SERB a remedy with three elements:

1. That the decision to implement those two raises be vacated;
2. That the College be directed to negotiate the issue with the AAUP;
3. That, in the future, the College negotiate with the AAUP prior to implementing any raises.

In its official written response to the Unfair Labor Practice Charge, submitted to the SERB on August 24, 2001, the College proposed a resolution to the charge, in which it made the following commitments:

1. "The College will revoke announcement of these increases. Because the increases were never implemented, the parties will remain at status quo."
2. "Wage increases impacting these employees can be raised by the AAUP at the FACT Committee, as discussed in the AAUP's memorandum..."
3. "The College will also agree that in the future it will not propose the [*sic*] change the compensation of bargaining unit members without first negotiating this with the AAUP."

Since the College had, in essence, provided for the AAUP's requested remedy in its entirety, without the need for a SERB directive, it was entirely predictable that the SERB would dismiss the AAUP's charge.

The College agreed to meet formally with the AAUP to discuss this issue. College representatives were Director of Human Resources Gene Breyer, and Executive Vice President Myrtle Dorsey. AAUP representatives were Grievance Officer John Battistone and Executive

Committee appointees Marcha Hunley and Ken Stoll. The parties met on several occasions to discuss the issues in an attempt to seek a mutually agreeable resolution.

The AAUP's position was that, if there had been inequities in the original salary offer to these employees, then, logically, any adjustment should be retroactive to fully correct the inequities. According to the College's representatives, the primary obstacle to our getting a resolution was the AAUP's insistence on retroactivity in the raises.

In all of the discussion between the parties, it was understood that it was possible that there might not be room for agreement. However, the College representatives assured the AAUP team that if an agreement could be reached, it would include faculty member Mary Frey as part of the mix. In fact, Grievance Officer John Battistone went as far as to seek specific assurance that he could relay the message to Mary Frey that, while there was no guarantee of an agreement, any resolution that could be effected would include her. He made this statement to her because he relied on the assurances of the College representatives that such was the case.

Since it was apparent to the AAUP that the SERB would soon dismiss the ULP charge, and since in its written rationale to the AAUP that these raises were, at least in part, predicated on "possible discrimination liability," the AAUP realized that it may have to seek binding arbitration as the ultimate method for resolving the differences. The AAUP sought data from the College and is in the process of preparing its case for an arbitrator.

However, after considerable discussion, and in an effort to resolve the issue without the need for expensive litigation (which would include issues of possible racial discrimination), the AAUP proposed in October a resolution which we believe meets every one of the administration's interests, based on the College's prior agreements and assurances.

In what we believe is a significant compromise, the AAUP abandoned its insistence on retroactivity in the raises, despite its continued belief that logic and reason would require it. It proposed a memorandum of understanding very loosely based on the University of Cincinnati's "Article 15," contractual provision.

**This proposed MOU gives the College every one of the interests expressed by its representatives, as follows:**

- 1. It allows the College to provide to Connie Rose and to Wyatt Cotton the raises that it originally unilaterally implemented, based on its belief, as stated in writing to the SERB, that, "...the College felt that it was doing what was right";**
- 2. It provides Mary Frey with the prospective raise which the Director of Human Resources assured the AAUP the College had been willing to provide, as long as there was no retroactive component;**
- 3. It provides a mechanism in the future through which the College can provide individual raises or changes in benefits, provided that it first negotiate with the AAUP, an assurance which the College made in writing to the SERB that it was willing and committed to do in the future anyway.**

**In short, the AAUP's proposed MOU asks the College to do nothing that it had not already expressed its willingness to do.**

***Note to readers: AAUP's proposed MOU language for resolving future disputes about compensation adjustments said:***

*In order to match bona fide compensation offers from other institutions or to adjust inequities, the College may wish, from time to time, to make more favorable salary or benefit adjustments for one or more individuals in a bargaining unit represented by the AAUP.*

*Such adjustment shall be made only with the mutual written consent of the College and the AAUP.*

***The administration's counterproposal to this language added components that AAUP's representatives felt had already been identified as unacceptable.***

During the discussion about these issues, the AAUP had made it clear that certain pieces of the UC Article 15 provisions, such as raises for things like “outstanding professional contributions,” were unacceptable, since things like “outstanding professional contributions” are a nebulous concept with no specific criteria attached. At no time during all of our discussions at the table did the College representatives express any kind of interest in making raises based on these criteria.

When the AAUP Executive Committee learned of the College’s rejection of our proposed MOU and its “Counter-Proposal,” we were quite disappointed for reasons which have led us to write this letter to you.

We believed that we had made compromises and proposals which were reasonable and met the College’s needs. We get the feeling that the College had seen that we were being reasonable, but attempted to “squeeze a little more” out of the discussion, a tactic which we feel is destructive to an appropriate bargaining relationship.

In any collective bargaining relationship, the parties know that there will be disputes and disagreements. Hard work and willingness to compromise are necessary to achieve agreements which everyone can live with. It is understood that there will be times when the parties will disagree, despite all efforts to achieve mutually satisfactory resolution of issues.

However, good faith bargaining requires that the parties’ principal representatives be able to trust one another and to rely on each other’s assurances. In 1990, the College and AAUP received a grant from the Federal Mediation and Conciliation Services to participate in training in “mutual gains bargaining.” As part of that training, we learned that the parties in collective bargaining are rarely 100 percent comfortable with an agreement. “Consensus” was defined as both sides being 70 percent comfortable, but 100 percent supportive of an agreement.

We believe we listened in good faith to all of the statements made in discussions with the College’s representatives and made our proposals in an effort to meet the College’s interests. We were certainly not 100 percent comfortable with our agreement to abandon insistence on retroactivity to these raises. Ms Frey is not comfortable with giving up retroactive pay.

To learn after all of these months that the College is now unwilling to do what it stated all along in any number of different ways that it was willing to do gives us cause for concern, especially as we approach a bargaining year.

Past administrations created what we believe was an adversarial, sometimes acrimonious atmosphere, which we think led to the kind of brinksmanship which very nearly caused two faculty strikes.

We were pleased that the last round of negotiations was completed through reasonable give and take, without the need for fact finders and strike notices. Each side compromised, and neither was 100 percent comfortable with the outcome, but we were 100 percent willing to live with and support the agreement. Much progress has been made, we think, in developing a better collective bargaining relationship than we enjoyed under previous administrations.

We would ask that, in that same spirit, you reconsider our Memorandum of Understanding and our settlement proposal to see whether you too might be at least 70 percent comfortable that it meets your needs as expressed, that it provides adequately for the future, and that it is more comfortable than the less attractive alternative of arbitrating.

We hope you will sign the attached MOU. If you cannot, please let us know prior to the Holiday break, so that we may plan for next steps.

Sincerely,

EXECUTIVE COMMITTEE, AAUP

# AAUP has discussions & info sessions for faculty

Cincinnati State AAUP has held a variety of events in Early Fall and Late Fall terms.

At an **AAUP Chapter Meeting** in October, officers were introduced. Those elected this fall are Pam Ecker, President; Paul Davis, Treasurer; and Ken Stoll, Membership Chair.

Newly-appointed Bargaining Council Chair Bob Eveslage explained the process that will be used to prepare for bargaining, and encouraged AAUP members to join committees and participate in other activities that will identify faculty concerns related to negotiating a successor contract.

Some Bargaining Council committees have held meetings already and the rest will get started in January and February, Bob said.

The Bargaining Council committees this year are:

- Compensation and Benefits
- Governance, Accreditation, and Academics
- Selection and Appointment Processes
- Professional Development
- Professional Responsibilities (Workload)
- Technology Issues
- Communication and Information

Bob said that anyone interested in serving on a Bargaining Council committee can get in touch with him or any other member of the AAUP Executive Committee.

Additional discussion of faculty concerns took place in

December at four AAUP-sponsored “**Eat-In and Speak-Out**” sessions. These informal meetings gave faculty members opportunities to discuss a wide range of possible contract issues and topics. Bob said additional events of this type will occur in Winter Term.

In October the AAUP hosted an information session, “**AAUP 101: Everything You Need to Know about Your Contract or at Least Who to Ask.**” All newer faculty members were invited to attend this event to learn and to ask questions about faculty members’ contractual rights and responsibilities.

Chapter President Pam Ecker said this informational program will be offered again for newer faculty members who were unable to attend in October.

## Senate and Union reps invited to College Cabinet

The President of the Faculty Senate and representatives of Cincinnati State’s employee unions (AAUP, SEIU and IUOE) have been invited to attend weekly meetings of the President’s Cabinet. The first meeting of the expanded Cabinet took place Dec. 19.

The other members of the Cabinet include President Wright, all of the Vice Presidents, the Chief Financial Officer, the administrative department Directors, and the academic Deans. The Deans had not previously been considered members of the President’s Cabinet.

According to AAUP President Pam Ecker, she and Faculty Senate President George Armstrong were invited to a meeting with President Wright and a few other administrators on Dec. 12 to learn the rationale for the expanded Cabinet.

Representatives of SEIU and IUOE were also invited but were unable to attend the Dec. 12 meeting.

Pam said that President Wright explained the decision to expand the Cabinet as having emerged from an Administrative Retreat discussion of ways to improve College leadership, decision making, and policy implementation.

“President Wright told us that he viewed the new Cabinet structure as a ‘revolutionary’ change, and that he hoped the new structure would help the College move and grow in a purposeful way,” Pam said.

According to Pam, President Wright said that the activities of the Cabinet include annual planning and making recommendations for policy adoption and implementation.

Pam said President Wright

also explained that in the new leadership model, responsibility for strategic planning, policy establishment, budget approval, and personnel decisions will rest with the College’s Executive Officers, who have fiscal responsibility for the institution. The Executive Officers are President Wright, Vice Presidents Dorsey, Kelz, and Heeston, and Chief Financial Officer Rollins.

“There have been two Cabinet meetings so far, and since the meeting time this term overlaps with my teaching schedule, I haven’t yet been able to attend a complete Cabinet meeting,” Pam said.

“The new Cabinet structure could be an opportunity to help make needed improvements in College communication and problem solving,” Pam added. “I’m certainly looking forward to attending more meetings.”

# ULP unresolved/continued from 1

that the administration's unilateral implementation of these salary changes illegally ignored the AAUP's legal role as exclusive representative of the Faculty.

As part of the charge, AAUP sought three things from the SERB: (1) that the decision to adjust the salaries be vacated; (2) that the SERB direct the administration to negotiate the issue with the AAUP; and (3) that the SERB direct the administration in the future to negotiate with the AAUP prior to adjusting any faculty compensation.

In its response to the SERB, filed in August, the administration said they had already vacated the decision to change the salaries, agreed to negotiate with the AAUP about the issue, and agreed not to change faculty compensation in the future without first negotiating with AAUP.

"Since the administration told the SERB they had agreed to the three things AAUP asked for, we expected that the SERB would dismiss the charge AAUP

had filed. That's what the SERB did in mid-November," Pam said.

According to Pam, the AAUP Executive Committee appointed a bargaining team consisting of John Battistone, Marcha Hunley, and Ken Stoll to meet with the administration's representatives (Dr. Dorsey and Mr. Breyer) to negotiate about these issues.

Several meetings of these representatives took place in late summer and in fall.

"After a number of meetings, the faculty team believed the administration representatives had made some assurances that would lead to a Memorandum of Understanding," Pam said.

"The MOU would provide salary adjustments designed to correct the mistakes and inequities affecting the two faculty members addressed in the Board of Trustees action," Pam said.

"The MOU also would provide appropriate adjustment for one other faculty member in a similar situation who was not included in the Board's June

action, and would provide a mechanism for dealing with similar issues that might arise in the future," Pam added.

According to John Battistone, the AAUP representatives were surprised when, on Nov. 28, instead of signing the proposed MOU, the administration representatives submitted a counterproposal. This counterproposal significantly modified items which had been previously discussed and which AAUP's representatives felt had been close to resolution.

"It seemed as if the administration recognized that we were being reasonable, and responded by then attempting to squeeze a bit more out of us," John said. "We were quite disappointed to see this kind of tactic, especially as we move into a bargaining year."

John said the AAUP is consulting with its attorney about possible actions that could be taken concerning salary adjustments if there is no response to AAUP's letter.

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