



Rutgers Council of AAUP Chapters

American Association of University Professors • American Federation of Teachers

Rutgers AAUP-AFT

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ARTICLE IX FILING FORM

Date Filed: June 16, 2010

THE UNION WAIVES STEP ONE AND REQUESTS THAT THIS GRIEVANCE BE EXPEDITED TO BINDING ARBITRATION.

Category 1

Category 2

Categories 1 and 2

Mediation Requested Yes No

Step One Meeting Requested Yes No

This grievance is filed by:

Individual Bargaining Unit Member(s)

The AAUP-AFT

Jointly by the AAUP-AFT and the Unit Member(s)

Grievant's Name(s): The Rutgers Council of AAUP Chapters, AFT

Address for Mail c/o AAUP-AFT

TO: Sean Spinello, Assistant Vice President for Academic Affairs

FROM: Adrienne Eaton, President, Rutgers AAUP-AFT

DATE: June 16, 2010

RE: Article IX, Category One Grievance of the Rutgers Council of AAUP Chapters, American Association of University Professors, American Federation of Teachers, AFL-CIO

We hereby file this Article IX, Category One Grievance charging violation of the August 7, 2009 Memorandum of Agreement (MOA) between Rutgers, the State University of New Jersey (University) and the Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO (AAUP-AFT) (Attachment A). Section D of the MOA provides, in part, that, "The terms of this MOA and any dispute arising under this MOA, involving the application or interpretation of the terms of this MOA, are subject to the grievance/arbitration provisions of the 2007-2011 collective negotiations agreement as Category One."

The AAUP-AFT requests that this matter be expedited to binding arbitration (Step Two) and waives Step One of the grievance process. If denied, we request the grievance be heard on an accelerated schedule and that a Step One decision issue within 15 working days of the filing of this statement [Article IX.D.7].

Violation of Section A of the MOA - Non Payment of Salary Increases

The AAUP-AFT entered into the MOA to, in part, defer salary increases negotiated as part of the parties' July 1, 2007 – June 30, 2011 Collective Agreement. Section A of the MOA provides the following:

- 1. The 2.75% regular salary increase set forth in the Faculty Compensation Program for 2009-2010 (set forth in Article VIII of the parties' collective negotiations agreement) will be deferred in its implementation until January 1, 2010.*
- 2. The salary increases from the 2.75% pool for enhanced salary increases set forth in the Faculty Compensation Program for 2009-2010 (set forth in Article VIII of the parties' collective negotiations agreement) will be deferred in their implementation until July 1, 2010. Notwithstanding the deferral in implementation, faculty members shall be informed within thirty (30) days of the signing of this agreement about the amount of any enhanced salary increase awarded to them.*
- 3. The 2.75% regular salary increase set forth in the Faculty Compensation Program for 2010-2011 (set forth in Article VIII of the parties' collective negotiations agreement) will be deferred in its implementation as follows: 1.375% of this increase will be deferred in its implementation until January 1, 2011; and the additional 1.375% of this salary increase will be deferred in its implementation until June 30, 2011.*
- 4. The salary increases from the 2.75% pool for enhanced salary increases set forth in the Faculty Compensation Program for 2010-2011 (set forth in Article VIII of the parties' collective negotiations agreement) will be deferred in their implementation as follows:*

1.375% of this salary increase will be deferred in its implementation until January 1, 2011; and the additional 1.375% of this salary increase will be deferred in its implementation until June 30, 2011. Notwithstanding the deferral in implementation, faculty members shall be informed by July 1, 2010 about the amount of any enhanced salary increase awarded to them.

5. Salary increases set forth in the Faculty Compensation Program for FY2009-2010, as described in paragraphs A.1. and A.2. above, will be calculated on the salary base as of June 30, 2009. Salary increases set forth in the Faculty Compensation Program for FY 2010-2011, as described in paragraphs A.3. and A.4. above, will be calculated on the salary base effective after the increases set forth in paragraphs A.1. and A.2., above, have been made.

6. The deferrals of implementation agreed upon and specified above will retain the 50/50 split in percentage of salary increases awarded as regular and enhanced portions of the Faculty Compensation Program as set forth in the parties' 2007-2011 collective negotiations agreement.

Facts Regarding Violation of Section A of the MOA:

On June 10, 2010, the University informed the AAUP-AFT that it would not pay the deferred increases due to be paid on July 1, 2010 and Executive Vice President Philip Furmanski informed the University Community that the University would "not be implementing any further salary increases so that we can begin discussions with our unions and non-aligned groups concerning the extreme fiscal crisis facing the university." (Attachment B).

Violation of Section C of the MOA - Committee on Budget and Finance

Section C of the MOA provides as follows:

1. In order to increase transparency and accountability with regard to the university budget and finances, a Committee shall be established by the University, to include representatives from university administration and from the AAUP-AFT. The union shall select its representatives to the Committee. The Committee will be chaired by the University President, or designee.

The Committee shall meet at least once a semester during the term of this agreement (i.e., between the date of ratification and June 30, 2011) to review the university budget including the use of the federal stimulus funds received by the institution as part of the FY 2010 state appropriation and the savings achieved through this Memorandum of Agreement. The Committee shall have the opportunity to discuss this information and can provide recommendations as to the use of these funds. The Committee shall issue an annual report each June to the University community that shall be considered by the administration and the Board of Governors in determining the next fiscal year's budget.

Facts Regarding Violation of Section C of the MOA:

The University has violated Section C of the MOA as follows:

1. The Committee required by Section C was not properly constituted until April of 2010.;
2. The University did not disclose to the Committee information with respect to the use of federal stimulus funds;
3. The University did not disclose to the Committee the savings achieved through the MOA;
4. The Committee was not afforded the opportunity to provide the University with recommendations with respect to the use of federal stimulus funds or the use of savings achieved through the MOA; and
5. To date, the Committee has not issued an annual report to the University to be considered by the administration and Board of Governors in determining the next fiscal year's budget.

Although a "University Committee on Budget and Finance" was convened by the University President in 2009 (Attachment C), as indicated above, the committee required by the MOA was not properly constituted until April 2010. The President of the AAUP-AFT, Adrienne Eaton, in an email dated January 27, 2010 to Executive Vice President Philip Furmanski, set forth the various ways in which the University has violated section C of the MOA:

You may remember that in our last small group meeting with you and your team we discussed the need for a somewhat different budget committee than the big meeting with Powerpoints held last semester. I've cut and pasted the language from the MOA to refresh your memory (and mine) as to what is called for. I'd highlight a number of things: 1. You're supposed to tell us how you're using the savings achieved through the MOA. I'm sure that Nancy is correct, that those savings stayed in the units. And in that case, we need to know what units did with the money. We fully understand that many units may have put the savings into their reserves for use next year - in fact, that's highly desirable, but we need to know. Of course, we also realize that if we receive further cuts this year, units may use the money to cover costs for this year. [. . .] You're supposed to tell us what you're doing with the stimulus money you receive - as of last month, there was nothing to tell b/c you hadn't gotten yet. Has that changed? Has the state been making the payments that are due to the university? 3. The committee is supposed to have input on what is being done with the savings. 4. This committee is supposed to issue a report - perhaps we should discuss what that might look like. Anyway, we'd like to schedule a meeting that better fits with the requirements of the MOA. Let me know what would work for you and whoever you want to bring along. (Attachment D)

A reconstituted Budget Committee met on April 19, 2010 with representatives of the AAUP-AFT together with Executive Vice President Phil Furmanski, and Vice President for University Budgeting Nancy Winterbauer. The information required by the MOA was not provided at this meeting and has not been provided to date.

Remedy Requested:

The University will pay the salary increases due to be paid from the 2.75% pool for enhanced salary increases on July 1, 2010 pursuant to Section A(2) of the MOA and the University will adhere to the terms of Section C of the MOA.