ARTICLE 9 FILING FORM

Date Filed: July 7, 2020

An Accelerated Schedule is Requested

___X___Category 1

_____Category 2

_____Categories 1 and 2

Mediation Requested  _____Yes  __X___No

Step One Meeting Requested  _____Yes  __X___No

This grievance is filed by:

_____Individual Bargaining Unit Member(s)

___X__The AAUP-AFT

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

Address for Mail  c/o AAUP-AFT

Staff Member Assigned: BJ Walker, Sr. Staff Rep.
We hereby file this Article 9, Category One Grievance of the University and AAUP-AFT Collective Agreement alleging that the University violated Article 8, Salary Provisions, Faculty Compensation Program (herein FCP) and Health Insurance Benefits; Part Five: Out-of-Cycle Salary Adjustments, Section B.1-9, by failing to take timely and necessary steps required to appropriately implement the contractual terms and benefits of the Program. The relevant terms of the program are as follows:

PART FIVE: OUT-OF-CYCLE SALARY ADJUSTMENTS

B. The University may increase the salary of a member or members of the negotiations unit in order to make equity adjustments based on factors such as external market salary benchmarks within relevant markets, the faculty member’s individual benchmarking information, including, but not limited to, teaching, service and research achievements, and other relevant accomplishments, compared to relevant peers and with the recognition that Rutgers prohibits discrimination based on any legally protected classifications, including, but not limited to, gender and race. “Relevant peers” may include faculty at other Rutgers campuses.

1. A faculty member requesting an equity adjustment shall submit a written request with supporting documentation to the Dean and to Compensation Services.

2. The Dean shall submit to Compensation Services and to the faculty member written comments in response to the request of an equity adjustment.

3. Compensation Services shall review the faculty member’s request for an equity adjustment and supporting documentation, the Dean’s written comments, and shall collect and review any other information it deems relevant to its inquiry.

4. Within ninety (90) working days from the submission of a request for an equity adjustment by a faculty member, Compensation Services shall communicate the results of its review and the basis for the results in writing to the faculty member and the respective Chancellor. If for any reason the review cannot be completed within this timeframe, Compensation Services shall notify the faculty member. If Compensation Services recommends an equity adjustment, it shall recommend the amount of the compensation increase.

5. The faculty member may submit a written response regarding the results provided by Compensation Services to the Chancellor.
6. In all instances, the amount of an increase, if any, will be determined by the respective Chancellor, or designee, in consultation with the Dean and Compensation Services, and the resulting salary must be consistent with the factors set forth in B. above. The Chancellor, or designee, shall be responsible for approving such increase, if any, and for communicating such decision to the negotiations unit member.

7. The faculty member may appeal a decision of the Chancellor to the Senior Vice President for Academic Affairs. The decision of the Senior Vice President for Academic Affairs shall be provided to the faculty member and the AAUP-AFT. The decision of the Senior Vice President for Academic Affairs shall not be grievable; however, this shall not preclude a faculty member from filing an Article 9 grievance based on an alleged violation of Article 4 of this Agreement following the final decision of the SVPAA. The time for filing such a grievance under Article 4 shall begin to run upon receipt of the decision of the Senior Vice President for Academic Affairs.

8. The faculty member may be accompanied by an AAUP-AFT representative for purposes of any meetings with Compensation Services for purposes of this Part Five, section B. equity review process.

9. The University commits to funding equity increases approved by the Chancellor, or, if applicable, the Senior Vice President for Academic Affairs.

Background and Facts:

1. During negotiations for the parties’ 2018-22 collective agreement, one of the Union’s key goals was to address inequities in faculty salaries, especially those based on race and gender. This was accomplished through successful negotiations and creation of an equity program made part of existing “Out-of-Cycle” salary adjustment provisions contained in Article 8.

The importance of the program was conveyed to members immediately prior to the May 2, 2019 contract ratification vote:

For the first time in our almost 50-year history, our union has made it possible for women and faculty of color to obtain pay equity. In short, we won provisions for equal pay for equal work, including for faculty in Camden and Newark earning less than comparable New Brunswick scholars. Faculty will apply through an expanded out-of-cycle process, backed up with an appeal process and the University’s commitment to pay raises from central funds.

2. The Union appointed a Faculty Equity Committee, co-directed by Professors Dana Britton and Cynthia Daniels, and including ten faculty members from across the University to assist with the program. The committee scheduled and held Information Sessions for faculty on each of the three main campuses (New Brunswick, Newark and Camden) beginning in September 2019 and continues today to provide guidance to individuals on their equity submissions.

3. The Union and the University administration’s Equity team held its first meeting on September 6, 2019. The parties discussed how Compensation Services would process applications and the Union conveyed its desire to work collaboratively with the University,
providing technical and other assistance from members of the faculty who could offer data and other expertise.

4. Another meeting was held between the Union and University administration Equity teams on October 23, 2019. The Union shared templates and salary comparator sheets created to assist applicants and the University, with the goal of having materials uniformly presented. A follow up email was sent by the co-directors to the University’s team on October 25, 2019. [Appendix A]

5. Beginning in September 2020 faculty began submitting requests for equity adjustments. Requests for equity adjustments continued to be submitted during the following months.

Notwithstanding the contractual requirement that “within ninety (90) working days from submission of a request for an equity adjustment Compensation Services shall communicate the results of its review and the basis for the results in writing to the faculty member and the respective Chancellor,” as of February 25, 2020, Compensation Services had not issued a single decision.

6. On February 25, 2020, Union President Todd Wolfson wrote to Paula Hak, Assistant Vice President for Academic Affairs:

   We write with growing alarm at the lack of information coming from the University's Office of Compensation Services (CS) and, it's been reported, a failure to respond to inquiries regarding the status of pending applications.

   Though there is a meeting between the Union and administration's Equity teams scheduled in early March to discuss implementation of the program, we request answers to the following questions immediately:

   1. Has CS communicated the results of reviews and the bases for those results in writing? If yes, please provide the names of those faculty members and the dates of the results.

   2. Has CS notified any faculty members that its review cannot be completed with the contractual 90 working day timeframe? If yes, please provide copies of those communications.

   The above is needed to determine if the University is in violation of the provisions of Article 8, Part Five, section B.4. We're aware that many 90-working-day deadlines have now passed and are unaware of any decisions or notices that would show the University to be in compliance with these provisions.

   Please note that the Union's leaders of the Equity Program (Professors Daniels and Briton) have repeatedly offered their time and assistance to CS with regard to discussing the processing of applications as well as their particular expertise in salary data analysis, identification of national comparators, and other resources/experience they could bring to the table. These requests have been met with silence.
We look forward to a response to the above at your earliest convenience.

[Appendix B]

7. On February 28, 2020, the following message was sent to Barbara Lee, Senior Vice President for Academic Affairs, and Karen Stubaus, Vice President for Academic Affairs:

Hi Barbara and Karen,

I hope you both are doing well. We are looking forward to the meeting on Monday morning. There are two things we wanted to flag prior to our meeting.

First, we ask that copies of all applications and deans' responses be available, as well as an overall accounting of where things are in the pay equity process. We will likewise share the information we have related to applications/timelines.

Second, we wanted to bring to your attention an email that Arlene Padillo in compensation services is sending to faculty who are anticipating a response from CS. The message is as follows:

—

Subject line: "Faculty Equity Review Pulse Check",

Dear X,

Please be advised that we are in the process of evaluating your pay equity review request, and anticipate completion of the process and notification to you prior to the end of the academic year. This is a new process and we ask for your patience as we are committed to evaluating all pay equity review requests in a comprehensive and thorough manner.

Thank you again for your patience and understanding.

Regards,

Arlene

Arlene Padilla,

Director, Compensation

—

Thanks and we look forward to talking on Monday.

Todd

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Todd Wolfson, Associate Professor
Department of Journalism and Media Studies
Rutgers University

President, Rutgers AAUP-AFT

[Attachment C]
6. On March 1, Todd Wolfson received a response to his February 25 message to Paula Hak referenced in point 5, above, noting, in part:

   Please be advised that, currently, Comp Services continues with its review of salary equity requests submitted by faculty members. Recently, CS sent individual emails to the 132 faculty members with pending requests advising that the process for evaluating the requests continues and that completion is anticipated prior to the end of the academic year. Each email to each individual faculty member specifically stated the following:

   “Please be advised that we are in the process of evaluating your pay equity review request, and anticipate completion of the process and notification to you prior to the end of the academic year. This is a new process and we ask for your patience as we are committed to evaluating all pay equity review requests in a comprehensive and thorough manner.” [Appendix D]

7. It’s unclear what the “end of the academic year” referenced by the Office of Compensation Services was meant to convey, i.e., May 31 (commencement) or June 30. In either case, the University failed to also meet this self-determined and extended deadline.

As of the date of this filing it is five months beyond the date when the earliest responses to equity applications were contractually due.

8. The Union continued to provide assistance and to track faculty applications and deadlines based on available information. At the meeting requested by the Union and held with the administration’s team on March 2, 2020, the Union presented a list of all cases known by the Union to have been submitted to Compensation Services (as of February 28), including whether deans’s responses had issued and, also, indicating the 90 working-day deadline for responses.

9. As of the date of the March meeting there were 71 applications known to the Union. Of the 71 applications, there were 17 already beyond the contractual 90 working-day deadline for review by Compensation Services.

   Not one of the 71 cases identified in March have received reviews from Compensation Services and all are beyond the contractual 90 working-day deadline. [See Attachment E]

10. It was after the March meeting that the administration’s team first mentioned that “regression analyses” would be used to evaluate applications.

11. Between the dates of March 11 and May 6, the co-directors of the Union’s Equity Committee repeatedly attempted to schedule a meeting with key members of the administration’s equity team, i.e., Vivian Fernandez (Senior Vice President Human Resources and Organizational Efficiency) and Arlene Padilla (Director of Compensation). After several dates were scheduled and then canceled by the administration, a date of May 12 was finally confirmed and a brief meeting was held.
At this meeting the administration conveyed the University’s commitment to the Program and agreed to meet with co-directors Dana Britton and Cynthia Daniels in a “working meeting” where specific applications would be reviewed and discussed. [see Appendix F]

12. In preparation for this meeting, Professors Britton and Daniels prepared summaries of 14 cases. A 51-page document provided relevant excerpts from the applications and reviews of each case and presented a way in which the administration might approach all reviews consistently and taking into account relevant and appropriate factors. The following was message was sent in advance of the meeting:

From: Cynthia Daniels <crd@polisci.rutgers.edu>
Sent: Monday, June 15, 2020 6:18 PM
To: Vivian Fernandez <fernandv@hr.rutgers.edu>
Cc: Arlene Padilla <ap1605@hr.rutgers.edu>; Laura Ann Gallo <lg730@hr.rutgers.edu>; Dana Britton <dana.britton@rutgers.edu>
Subject: Re: Faculty Pay Equity Meeting and Process

Dear Vivian, Arlene and Laura Ann,

In preparation for our meeting this Wednesday, Dana and I have developed the attached documents, included here in one PDF file. These include:

--A spreadsheet of the 14 cases we have identified for review
   All of these cases were submitted in the fall and received positive evaluations by their Dean.

--A Template Form for Faculty Equity applications
   This form provides a guide to relevant factors in Faculty Equity claims.

--Completed Template Forms for each of the 14 cases

Dana and I have excerpted all information from the applicant's narrative and supporting documents into the Template Form to provide a condensed summary of all relevant factors in each case. These function as a 'short form' (2-4 page) summary of of equity factors and relevant comparators.

We hope these documents will be helpful in expediting case resolutions. We look forward to having a very productive meeting and working together to move these cases and the Faculty Equity Program forward.

Best Wishes,
Cyndi
[Appendix G]

13. The working meeting was held on June 17. In preparation for this meeting, the Union developed case templates that provided key information to help guide a holistic evaluation of candidates. The cases were reviewed and discussed. During this discussion it became clear that: 1)
the administration was proceeding with a regression analysis of individual cases; 2) consultation with deans extended beyond the advisory role already fulfilled in the 14 cases summarized for the meeting; and, 3) the administration had determined that all applications submitted during the fiscal year would be decided in one group despite the contractual and individual 90 working-day timeline from date-of-submission requirement.

Discussion:

The Union has pressed the administration at every turn to accept assistance in determining best approaches to implementing the Equity Program under Article 8 — a program the faculty rightly expect to be managed through timely and appropriate consideration of faculty work and in the context of the goal of equity.

The expertise and assistance offered by the co-directors of the Union’s Equity Committee, Professors Daniels and Britton, was significant and aimed at assisting administrators with little to no experience in assessing the nature of the work of faculty or in understanding the complexities associated with fairly determining where in fact, in an academic environment, salary inequities exist. This available expertise included, for example, describing and explaining the wide variety of citation indices that provide metrics on academic productivity; the differences in publication productivity even within subspecialties in individual departments; the differences in the outcome of the retention process for white male scholars versus others; the differences in the outcomes of negotiations at time of hire; the undervaluing of service; and, a host of other factors likely to influence faculty compensation.

Compensation Services repeatedly reaffirmed the need to evaluate cases on their individual merits and in the context of qualitative factors. Thus it came as a surprise when the Union learned that Compensation Services had retained an outside law firm to run regression analysis. Regression analysis of compensation is, by its nature, a blunt instrument that tends to reaffirm existing hierarchies of compensation and status and perpetuates pay inequities based on race, gender, nationality and other factors.

Moreover, the process of using such analyses renders the Equity Process moot as designed by contract. If faculty salaries are justified on the basis of quantitative data available to the University, there is no reason for individuals to state their cases based on their own analysis of qualitative and quantitative factors. In fact, as has been conveyed to the administration many times, justifying salaries based on superficial measures of scholarly productivity, impact, and funding disproportionately undercounts the contributions of women faculty and all faculty of color. Efforts like building new academic programs, recruiting and mentoring students of color, leading initiatives to build bridges between students and underserved communities, and simply being present on committees to represent diverse interests are all crucial to the mission of the University, yet almost never rewarded and almost impossible to quantify. Moreover, a long line of research documents that women faculty, in particular, tend not to play the “game” of seeking outside offers to increase their salaries – at least in part because research also shows they will be less likely to receive lucrative retention offers if they do.

In short, the University and the Union agreed to a faculty-driven, holistic process that would by its nature help to remediate systemic pay inequities by race and gender. Relying on a regression
analysis to address pay inequities abrogates the contractual process and will result in decisions that permit long-standing and systemic pay inequities to continue.

In addition, administrative delays associated with processing applications have been egregious. To be clear, the delays were egregious even pre-pandemic. Misinformation and a lack of information and transparency about the University’s approach to the program has been widespread – from deans inaccurately informing faculty that the University would not fund equity increases from a centralized pool of funds (thus leaving the burden on individual departmental budgets) to, more recently, suggesting that the program has been frozen.

In sum, the University is violating the negotiated out-of-cycle pay equity adjustment program in two fundamental ways:

First, the University has not adhered to the contractual requirement that within 90 working days from submission of a request for an equity adjustment, Compensation Services shall communicate the results of the review to the faulty member and the respective Chancellor. While the parties provided Compensation Services with some leeway beyond the 90-day timeframe, Compensation services has yet to issue a single decision, even with respect to equity adjustment requests submitted prior to the end of December 2020 – which are the overwhelming majority of requests. Nor is there any legitimate reason for this extraordinary delay. Not only have faculty submitted comprehensive equity applications in compliance with contractual guidelines, but the AAUP-AFT, through Professors Britton and Daniels – the co-directors of the Union’s Equity Committee – has offered assistance and expertise to Compensation Services. Accordingly, this egregious delay in processing pay equity adjustment requests constitutes a repudiation of the 90 working day contractual timeframe.

Second, the University is subverting the negotiated pay equity process which is based on a qualitative review of individual applications. Indeed, during negotiations, the University eschewed Union-proposed solutions that addressed systemic pay equity issues broadly and that were not individually-based. The use of a regression analysis as the basis – or even one of the bases – for reviewing individual pay equity request is inconsistent with the letter and spirit of the negotiated pay equity procedure. Further, the University’s decision to address all pay equity adjustment requests as a “group,” and not individually, also violates the parties’ negotiated procedure.

Remedy Requested:

1. The process for Equity considerations shall proceed without delay and as negotiated. Individual reviews shall be completed by Compensation Services within the contractual 90 working-day period.

2. Deans shall serve an advisory role in evaluating the merits of cases.

3. Compensation Services will evaluate cases with due consideration of individual narratives and of the qualitative factors that have produced systemic pay inequities.

4. Equity increases shall be retroactive to the date of application.
Barbara and Vivian -

I want to add my thanks for a productive meeting on Wednesday and for your commitment to work with us to make this process successful. I was extremely gratified to see President Barchi's statement yesterday.

So now we move to the hard work of implementing our shared commitment. In that spirit, I have attached the materials from one of the first cases to pass through the Dean's level. The faculty member is [redacted], from Political Science/SAS New Brunswick. She has allowed us to use her narrative as a sort of test case for understanding how the process of determining adjustments will work.

I have attached her narrative (though please note that she wrote this before we established our template, so it's not quite in that format), the letter she received from Dean Peter March, and my notes on her case and the Dean's decision. Professor [redacted] believes, and I agree, that the Dean's proposed adjustment is far too small to address the inequity in her case.

Using these materials, we would like to work with you to clarify three things. One, what is the role of the Deans to be? We understood from our meeting that the Deans were to provide a scholarly assessment, rather than recommend the amount of the adjustment, yet that is not what Dean March understands his role to be. Second, what will be the key factors used to adjudicate the existence of inequity? Certainly publication records and impact should matter, given the nature of most faculty positions. But what other factors will "count" among the many that faculty might identify? Knowing this will help us to work with faculty to craft the most effective cases. Third, how will the size of equity adjustments be determined? If this is not the role of the Deans, how will UCS make this determination?

Please see my attached notes on [redacted]'s case, which include a quantitative analysis of the basic numerical data she supplied in her narrative. I realize that this will not always be possible, but the "apples to apples" nature of this case allowed me to do so and hence this is a good test case from which to begin.

We do not intend this to be confrontational, but rather believe it is an opportunity to use an actual case to work with you to shape the practices needed to implement a fair and equitable process.

Thanks so much, and let us know how you would like to proceed.

Dana Britton and Cynthia Daniels
Faculty co-directors
From: Todd Wolfson <wolfsont@gmail.com>
Date: Tue, Feb 25, 2020 at 1:32 PM
Subject: Equity Program
To: Paula Hak <paula.hak@rutgers.edu>
Cc: BJ Walker <bjwalker@rutgersaaup.org>, Patrick Nowlan <pnowlan@rutgersaaup.org>

Dear Paula,

We write with growing alarm at the lack of information coming from the University's Office of Compensation Services (CS) and, it's been reported, a failure to respond to inquiries regarding the status of pending applications.

Though there is a meeting between the Union and administration's Equity teams scheduled in early March to discuss implementation of the program, we request answers to the following questions immediately:

1. Has CS communicated the results of reviews and the bases for those results in writing? If yes, please provide the names of those faculty members and the dates of the results.

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We look forward to a response to the above at your earliest convenience.

best,

Todd

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Todd Wolfson, Associate Professor
Department of Journalism and Media Studies
Rutgers University

President, Rutgers AAUP-AFT

Co-director, MIC Center
Hi Barbara and Karen,

I hope you both are doing well. We are looking forward to the meeting on Monday morning. There are two things we wanted to flag prior to our meeting.

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Thank you again for your patience and understanding.

Regards,

Arlene

Arlene Padilla,

Director, Compensation

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Thanks and we look forward to talking on Monday.

Todd

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Todd Wolfson, Associate Professor
Department of Journalism and Media Studies
Rutgers University
President, Rutgers AAUP-AFT

Co-director, MIC Center

Co-founder and Board President, Media Mobilizing Project
From: Paula Hak <paula.hak@rutgers.edu>
Date: Sun, Mar 1, 2020 at 7:21 PM
Subject: RE: Equity Program
To: Todd Wolfson <wolfsont@gmail.com>
Cc: BJ Walker <bjwalker@rutgersaaup.org>, Patrick Nowlan <pnowlan@rutgersaaup.org>, Barbara Lee <barbalee@oq.rutgers.edu>

Dear Todd,

Thanks for your patience. Please be advised that, currently, Comp Services continues with its review of salary equity requests submitted by faculty members. Recently, CS sent individual emails to the 132 faculty members with pending requests advising that the process for evaluating the requests continues and that completion is anticipated prior to the end of the academic year. Each email to each individual faculty member specifically stated the following:

“Please be advised that we are in the process of evaluating your pay equity review request, and anticipate completion of the process and notification to you prior to the end of the academic year. This is a new process and we ask for your patience as we are committed to evaluating all pay equity review requests in a comprehensive and thorough manner.”

The email sent was identical for all faculty members. I understand you may be aware of this email that previously went out this week. As a result, I am not sure if you still need copies of the emails that were sent or a list of recipients. If you do, please let me know and I will refer your request to CS.

Thanks,
Paula
From: Vivian Fernandez <fernandv@hr.rutgers.edu>

Sent: Friday, May 29, 2020 6:54 AM

To: Dana Britton <dana.britton@rutgers.edu>; Cynthia Daniels <crd@polisci.rutgers.edu>
Cc: wolfsont@gmail.com <wolfsont@gmail.com>; Arlene Padilla <ap1605@hr.rutgers.edu>

Subject: Faculty Pay Equity Meeting and Process

Good Morning,

I am following up to confirm that we still have a shared understanding of the expected outcomes for our June 17th meeting. As we discussed on May 12th, the university is committed to a fair and equitable review of all submissions, and to complete our review and assessment of the packages as soon as possible. We are grateful for your support and all the time and effort you’ve already dedicated to this process, especially in the development of a form that provides structure and standardizes the submission of equity review packages, as well as your support of individual faculty members in preparation and submission of pay equity review requests. We value your expertise and your willingness to work collaboratively to advance the process. Based on our discussion at our meeting of May 12th, and the subsequent email exchanges on May 13th and 15th, June 17th meeting will be a working session to review approximately a dozen cases that will allow us to gain insight that will inform a path forward in support of bringing resolution to pending cases as soon as possible.

Regards,

Vivian
Dear Vivian, Arlene and Laura Ann,

In preparation for our meeting this Wednesday, Dana and I have developed the attached documents, included here in one PDF file. These include:

--A spreadsheet of the 14 cases we have identified for review

   All of these cases were submitted in the fall and received positive evaluations by their Dean.

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Best Wishes,
Cyndi