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SEPT. 5, 2023

Bargaining Update

Dear Faculty Colleagues,

We are writing to inform you about recent events in the collective bargaining process. On August 31, Vice Provost for Faculty Affairs Matt Kinservik emailed a bargaining update to deans, chairs, and directors that then was forwarded to a number of faculty, including several members of our leadership team. We were surprised and disappointed to discover therein that the Vice Provost portrayed the AAUP-UD's recent request for mediation in an unfavorable light and indicated that the administration has authorized an interim raise to "honor" the current agreement, when in fact this unilateral action violates it. We hope to correct the record below.

In his update, Vice Provost Kinservik said that "we will be processing salary increases and promotional increments as of 9/1, using the FY 23 rates." (In fact, we have learned that the administration began distributing these raises to faculty on 12-month contracts as of July 1.) Because salary increases due to promotion (promotional increments) were not end-dated in the current Collective Bargaining Agreement (CBA), the administration appears to be free to make those increases, which almost certainly will change once an agreement on a new CBA is reached. However, the CBA specifies annual raises for faculty salary only through FY 23, which has now passed. The unilateral decision by the administration to issue interim annual raises without even informing—let alone negotiating with—the AAUP-UD is a fundamental violation of labor law and undermines the integrity of the negotiation process. Although these raises would provide some immediate benefit to faculty, they would reduce the urgency on the part of the administration to address the AAUP-UD's proposed raises, which are significantly higher than the FY 23 ones, because even modest raises might temporarily appease faculty. Instead, we need to come to a speedy and fair agreement on more substantial (and deserved) raises and other important unresolved issues.

A longer-term consequence of the administration adjusting salaries outside the framework of collective bargaining is that it may set a precedent for them to do so in the future, perhaps to the detriment of faculty. To maintain the integrity of the bargaining

process and of the faculty contract, the AAUP-UD must insist that all parties to collective bargaining follow all the rules all the time. If the administration had discussed their contemplated action with us earlier this summer, then we would have given it due consideration.

Another questionable assertion made by the Vice Provost in his update was that our request for mediation, which we sent to Delaware's Public Employment Relations Board (PERB) and forwarded to the administration's bargaining team on August 18, "is almost certain to delay the process." We strongly disagree with this. The very point of mediation is to hasten the bargaining process by bringing the parties together for up to three negotiation sessions moderated by a third party mediator whose wisdom and experience can help guide us to resolution. Moreover, mediation sessions often are scheduled within several weeks of requests for them. Simply put, with the introduction of a mediator, we hope to conclude this process by the end of October, assuming that the administration shows greater willingness to reconsider some of their positions rather than allowing negotiations to drag on for another entire academic year as they did in 2016-17. Mediation can be requested to the PERB up to 90 days before the expiration of a contract, which would have been at the beginning of April. We negotiated throughout most of the summer in hopes of coming to an agreement on a new contract before September 1. We requested mediation when it was clear to the Bargaining Team and the Steering Committee in August that we were at an impasse on multiple important issues including salary increases.

Up to this point, the administration seems to have become entrenched in certain positions. For example, they have rejected our proposals for the AAUP-UD to have direct dialogue with the Board of Trustees, despite the fact that we have tried to change the mechanism of this dialogue to alleviate the administration's stated concerns. Similarly, they have rejected our proposals to give the AAUP-UD a voice in the selection process of higher-level administrators. This is even after we withdrew our request for membership on search committees and asked simply for a role in meeting with finalists and expressing our opinions to members of the search committee and to university leadership, which has been the recent practice. In perhaps the most disappointing instance of the administration's lack of flexibility, they have thus far raised their proposed annual salary increases by very little over their initial amount, whereas we have been more flexible.

Besides the administration's hesitation or unwillingness to negotiate certain matters, the slow pace of their responses to many of our proposals has also hindered the negotiation process and convinced us that entering mediation is a necessity for securing a timely and favorable contract. For example, the administration took approximately two months to respond to some of our proposals, and they took approximately one month to respond to our initial proposal on faculty salary raises and on the transparency of the salary disparity and adjustment process. To complicate matters, the administration has been unclear in several of its responses. For instance, they deleted second- and third-year raises to minimum salaries in one written counter-offer, only to tell us at the bargaining table later that they had mistakenly deleted them. For these and other reasons, we

believe that we must enter mediation to hasten and increase our chances of coming to an agreement on annual raises and other important issues.

A final point made by the Vice Provost in his recent update to which we would like to respond is that we blind-sided the administration with our request for mediation. For quite some time, the administration has been aware of our intention to go to mediation if we could not resolve our issues in a timely fashion. In fact, Vice Provost Kinservik noted in an email to us on May 5 that he had seen our recent update to bargaining unit members in which we stated that we would enter mediation should an impasse occur. At that time, the Vice Provost questioned whether our team believed that we were at an impasse, to which we responded that we did not believe we were at an impasse then and hoped that we could settle our disagreements at the bargaining table. Certainly, the administration's bargaining team could have anticipated that several months later, with little movement in crucial areas and an expired contract (for over a month and a half), we might shift course and seek help using a mechanism afforded to us by labor law. In upcoming days, you likely will hear of the administration withdrawing their authorization of interim annual raises and perhaps even pointing to us as the responsible party. You may also continue to hear that the AAUP-UD has not been fair or forthcoming in its recent actions. If that ends up being the case, then please keep in mind what we have said above and do not allow the administration to undermine our unity at this critical time. We will continue to work diligently on your behalf to secure a favorable contract and keep you updated as events unfold. In the meantime, please feel free to contact us with any questions or concerns at admin@aaupud.org.

In solidarity,



Deni S. Galileo
President, AAUP-UD

*American Association of University Professors
University of Delaware Chapter
011F Hullihen Hall
University of Delaware
Newark, DE 19716 302-831-2292 | aaupud.org |
admin@aaupud.org
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