



Representing Wayne State Faculty and Academic Staff

# NEWSBRIEFS

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## Administration Concedes on Tenure Court Case

### Arbitrator's Ruling Favoring Union is Accepted

#### Negotiations on Settlement to Proceed

Charles Parrish, President

In a welcome reversal of policy, the Administration has agreed to accept the decision of a neutral arbitrator concerning partial tenure in the School of Medicine (SOM). Arbitrator June Miller-Weisberger had ruled last March in favor of the Union's contention that the Administration had improperly given 25% fractional tenure appointments to PhD faculty members in the SOM when the contract language negotiated in 1992 was intended solely for clinicians. Miller-Weisberger had ordered the Administration to meet with the AAUP-AFT "to determine what is an appropriate remedy (or remedies) for this contract violation."

The Administration initially decided not to abide by the decision, forcing the Union to go before a judge and seek a court order to implement the arbitrator's ruling. The Union filed suit in the Michigan Court of Claims in October of 2005 and a hearing on the issue was scheduled before Judge Joyce Draganchuk for January 11, 2006.

With the Administration's decision to abide by the arbitrator's ruling, the hearing has been cancelled.

We hope to negotiate a remedy as soon as possible. In this regard, it is worth noting that Miller-Weisberger's ruling included a proviso that if the two sides could not agree on a solution, she would retain jurisdiction in the case and impose her own remedy.

#### "A Plague on the Courts"

We were astonished when the Administration initially decided not to implement the arbitrator's decision. This is a very

unusual policy in collective bargaining, where the two sides agree to submit disputes over interpretation of the collective bargaining agreement to a mutually acceptable arbitrator for a binding decision favoring one side or the other. The courts are most reluctant to review such cases, and for obvious reasons: the losers would have no incentive to take an arbitrator's decision seriously if they could simply ignore it and force the matter into the courts. The courts, in turn, would be swamped with cases as the losing party sought a second hearing, rendering private arbitration meaningless.

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### Administration Concedes on Tenure Case

For this reason, the Michigan Court of Appeals has characterized such challenges to arbitration awards "a plague on both state and federal courts." Generally, courts refuse to review arbitration decisions unless there is overwhelming evidence that the arbitrator has exceeded the authority conferred upon her/him by the collective bargaining agreement.

Because of the implications of this action by the Administration, I made contact through one of our parent organizations, the American Federation of Teachers, with the AFL-CIO in Detroit and Michigan. This was an important issue to the labor movement because the case could potentially have made its way to the Michigan Supreme Court, which is very conservative and oriented towards the defense of management power over the rights of employees. If the conservative justices had upheld the decision by the WSU Administration not to implement an arbitrator's decision, it could have opened the floodgates for other public employers to act in the same way. This would be a huge setback for public employee unions and for the tradition of amicable collective bargaining in Michigan.

The strong expressions of concern by Metro AFL-CIO President Don Boggs and Michigan AFL-CIO President Mark Gaffney to the leadership of the University helped to convince the Administration to reconsider its earlier decision and to accept the arbitrator's ruling.

### Reading Chicken Entrails

I have yet to understand the rationale of the Administration for its initial refusal to implement the decision. I have heard arguments that were based on money. Evidently it has been policy in the clinical departments to pay the salaries of basic scientists from different sources depending on their level of tenure. For example, if a basic scientist had 25% tenure, or was on a 25% tenure track, 25% of his or her salary was paid from the General Fund of the department. The other 75% of salary was paid from soft money (practice plan income or some other source).

One argument that went the rounds in the SOM was that if partial tenure was increased from 25% to 50%, millions of dollars would have to be repaid

by the General Fund to the practice plans because the latter had been paying the difference beyond 25% of salary. Our position is that this was a policy that has nothing to do with tenure. If the Administration wants to give money to the practice plans, that is up to them. Tenure means that, *no matter what the source of revenue*, the Administration is obligated to protect a specified portion of salary.

A related confusion on the Administration's side is the claim that they will have to increase the amount of General Fund money paid to tenured or tenure-track faculty members up to the percentage of tenure that they hold, or are candidates to hold. Again, what percentage of the current salary of a faculty member in this category is paid from soft money is not of concern to us. What is of concern is that the Administration must recognize its legal obligation to pay a tenured faculty member's salary from *some* source. We have told the Administration:

**"We do not care from where the funds come to pay our tenured faculty members, as long as they are paid their salaries. What we would object to is if the SOM shifts the source of a tenured faculty member's salary to soft money and then, when the source runs out, tries to fire the faculty member because the money is no longer there. Tenure means that the Administration must, in such an event, find some other source of funds in order to discharge its legal obligation to the tenured faculty member."**

This issue is not really about money. Not a single dollar more will be paid to anybody as a result of this settlement. The Administration may have to review its *policies* with respect to where the funds come from to pay the salaries of the faculty members involved, but that is not our concern. Our concern is only that the partial tenure issue be settled in conformance with the arbitrator's ruling and that we not again face such partial-tenure issues in the SOM.

## Adamany Testifies in Probe of Classroom Bias

*Legislative review of what faculty say in the classroom is a growing trend around the country. The potential danger to Academic Freedom should be obvious.*

*Reprinted below is an article from the Philadelphia Inquirer describing the first state legislative hearings in the country to probe alleged classroom bias in public higher education. The article has special interest for Wayne State faculty and academic staff given the prominent role of David Adamany, past President of WSU and currently President of Temple University.*

**“Hearing Into Bias Falls  
Short Of Billing:  
The Probe Of Professors  
Said To Inject Politics Into  
Classes  
At PA Public Colleges Drew  
Just One Student Speaker.”**

By Patrick Kerkstra, *Philadelphia Inquirer* Staff Writer  
January 10, 2006

Yesterday’s hearing on academic freedom at Pennsylvania’s public universities was hyped by conservative activists as an “historic moment,” in which school administrators would finally be “called to account” in front of state legislators for allowing student “indoctrination and abuse” by leftist professors. But the hearing at Temple University did not live up to that billing.

A professor scheduled to testify about alleged rampant liberal bias at Temple canceled. The sole student to appear before the legislative committee acknowledged he had never filed a formal grievance.

And Temple president David Adamany testified that in fact no student had made an official classroom bias complaint in at least five years, despite well-developed policies and procedures for doing so.

“If there are students out there who feel their rights are being abridged, they need to speak up,” said Rep. Gib Armstrong (R., Lancaster). Armstrong is the conservative lawmaker who called for hearings and got them approved by the Pennsylvania House.

Pennsylvania is the only state in the nation to have held academic freedom hearings, but lawmakers in 19 other states have proposed some form of legislation designed to address alleged professorial bias. The hearings at Temple are the second of four scheduled by the state House Select Committee on Academic Freedom in Higher Education.

Many academics have condemned the movement, and Pennsylvania’s hearings in particular, as a new form of McCarthyism that leaves professors with the impression the government is monitoring their lectures.

“Just as in the 1950s, right-wing forces are attempting to impose political tests on the faculty,” Rachel DuPlessis, a Temple English professor, testified.

Lawmakers first heard from Adamany yesterday. Unlike many of his presidential counterparts, Adamany said he welcomed the hearing. He defended

Temple’s record, acknowledging only that the university could do more to “make sure that students know of their rights to appeal” when politics leaks inappropriately into classroom discussions.

Temple senior Logan Fisher, vice chairman of the School’s College Republicans chapter, offered several vivid examples of what he considered classroom bias, alleging that a few professors vulgarly insulted President Bush in their lectures. Fisher also said a professor told him, “You’re going to have a rough semester in this class,” after Fisher disagreed with him over a foreign policy question. Fisher also said he had spoken with many students who had similar experiences.

Asked why he and the other students never filed a formal complaint, Fisher said they feared retribution and felt their grievance would be ignored.

*“Many academics have condemned the movement... as a new form of McCarthyism that leaves professors with the impression the government is monitoring their lectures”*

# Federal Budget Battle: A Question of Values

The federal budget and tax cuts will top the agenda when Congress gets back to work in February. The first items of business will most likely include budget reconciliation bills that cut funding from student loans, Medicaid and other vital domestic programs while preserving tax cuts for the wealthiest Americans.

A committee is still working to iron out differences in the House and Senate versions of the tax-cut bill. On the spending side, much of the heat likely will focus on the House of Representatives and its bill to cut domestic spending. The bill passed narrowly in mid-December—but only after fierce floor fights that saw every Democrat and some moderate Republicans vote against the plan. The bill must come up for a second House vote, since the Senate made some minor amendments to its version.

For working families, the program cuts pending in Congress only add to the pain of budget decisions made at the end of 2005. Two appropriations bills signed into law on Dec. 30 put education and other vital domestic programs in the crosshairs. With no Democrat willing to support the plan, the key to the battle may rest with moderate Republicans, many of whom have publicly expressed misgivings about a fiscal plan that hurt low- and middle-income Americans while lavishing scarce resources on the wealthy.

From: *Inside AFT*, 6 January 2006

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**Adamany Testifies in Probe**

Democrats seemed convinced that the threat to student academic freedom had been overblown. Rep. Dan Frankel (D., Allegheny) said that “for us to pretend there is widespread abuse going on is problematic.”

Rep. Dan Surra (D., Elk) called the hearings a “colossal waste of time and taxpayer money.”

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