



NEWSBRIEFS

Representing
**Wayne State University
Faculty and Academic
Staff**

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OFFICE: 313.577.1750 ♦ FAX: 313.577.8159 ♦ EMAIL: office@aaupaft.org ♦ WEB: www.aaupaft.org

Unfair Labor Practice Charge Filed Against the School of Medicine and the University Physicians Group

Charles J. Parrish, President

On August 4th the Union went before the Honorable Doyle O'Connor, an Administrative Law Judge for the Michigan Employment Relations Commission (MERC), asking that MERC recognize that the University Physicians Group (UPG) is an integral part of Wayne State University's School of Medicine (SOM), and is therefore covered by our Collective Bargaining Agreement.

The principal employees of the UPG and SOM are one and the same: the clinical faculty who train WSU's medical students and generate revenue for the SOM by providing clinical services to the Detroit Medical Center. The current fiction maintained by SOM administrators is that the simultaneous and overlapping roles of faculty clinicians, serving both the SOM and the UPG's "practice plans," are entirely separate.

At issue is the Union's filing of an Unfair Labor Practice charge against the SOM Administration protesting the disciplining of a WSU faculty member by the UPG. The SOM Administration argued that the UPG is not part of the University and its employees are therefore not protected by the Collective Bargaining Agreement between the Union and the University Administration. We are insisting on the obvious: that the UPG is part of WSU-SOM and

any faculty member who is disciplined by the UPG has recourse to the protections of the Collective Bargaining Agreement.

SOM Control of the UPG is Complete

The fiction that the SOM does not control the UPG falls somewhere between absurd and irresponsible. In the 1960s, medical schools got only about 5% of their revenue from providing clinical services. Today, that figure is closer to 65%, and at WSU it is reliably estimated at about 75% of the SOM's comprehensive budget. Over the past fifty years, medical schools, including ours, have hired clinical faculty members for the purposes

of providing revenue and training residents. Unless clinical faculty members participate in these practice plans, schools of medicine could not be guaranteed to receive the major portion of their revenue. This is true at WSU as well.

Other medical schools manage the work of their clinical faculty in much the same way as that of their regular faculty members. At Wayne State University, the SOM leadership has maintained that not only are the UPG practice plans not covered by the Collective Bargaining Agree-

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ment, but that the plans themselves do not even have to answer to the WSU Board of Governors. They argue that they were established as non-profit organizations under the provisions of section 501.C(3) of the Internal Revenue Service, and this makes them independent of the authority of the University. Over the years the Board of Governors has not been provided with financial data or other operating information on the UPG's practice plans, nor has it received such data on the other practice plans operating under SOM leadership (such as that of the Departments of Pediatrics and Emergency Medicine, which did not join the UPG when it was formed).

The UPG is governed by a board of directors that is ostensibly self-selecting and self-perpetuating. However, all but four of its 25 members are appointed by the Wayne State University Board of Governors. UPG rules dictate that all clinical department chairpersons become members of the UPG Board *ex officio* on appointment to their WSU positions, and that the Board will be led by whoever is Dean of the SOM. The several other members of the Board include one basic science department chair and a handful of outside members chosen by the Board. It is symbolic that neither the appointment of these outside members, nor even their identity, has been formally reported to the WSU Board of Governors when they were made.

The formation of the UPG was followed by a second 501.C(3) organization, the Fund for Medical Education and Research (FMRE), to allocate the "dean's tax" money coming from the practice plan revenues. A percentage (usually from 5 to 20%) of the revenues from practice plans controlled by particular schools of medicine are allocated to those schools as the dean's tax. These funds are used for various purposes as determined by the dean and the FMRE Board. The FMRE Board is similar in composition to that of the UPG. Again, the SOM Administration has maintained that the WSU Board of Governors has no legal right to the financial reports of either the FMRE or the UPG.

Since 2008, a principal responsibility of SOM Vice Dean for Finance, Kenneth Lee, has been to implement an integrated SOM-UPG budget. Dean Lee was honored recently by *Crain's Detroit Business* as its Health Finance Officer of the year. His role in integrating the SOM and UPG budgets was cited as a major basis for this honor. Beyond the integration of their budgets there is considerable evidence of the organizational integration of the UPG and the SOM, from common use of WSU-SOM facilities, to web sites and logos, employees, etc. This evidence will be presented to Judge O'Connor in the hearings on the Union's Unfair Labor Practice charge that are set for next March.

What Rights Does a WSU Faculty Member Have Working in the UPG?

In the case we have taken before MERC, a faculty clinician had an interaction with a SOM administrator (who incidentally did not identify himself), who reported the incident to the department chair. The chair then issued a written reprimand. When notified that he should appear before a UPG administrator to discuss the matter, the faculty member was told that he could not have anyone accompany him to the meeting. Under our Collective Bargaining Agreement, faculty and academic staff have the right in such disciplinary meetings to be accompanied by a Union representative. In this case, the faculty member was told that not only could he not have a Union representative in the meeting, but that he could not have anyone come with him, not even his lawyer. The faculty member came to the Union and the Unfair Labor Practice charge was filed against the SOM and the UPG.

Issues Beyond Grievances

There are a number of other bargaining issues that will be affected by Judge O'Connor's decision. The Union's position is that the UPG is so completely controlled by the SOM that any distinction between the two is completely artificial and that legally the UPG is an alter ego of the SOM. As such, the SOM-UPG is bound under relevant Michigan labor law to recognize the right of the Union to bargain conditions of

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employment for faculty and academic staff working for that entity. The issues that would have to be resolved through such bargaining include:

- **Faculty Rights:** Under the present interpretation by the UPG and the SOM, clinical faculty members working in the UPG have none of the rights to fair treatment that are guaranteed to them under our Collective Bargaining Agreement. If Judge O'Connor rules in favor of the Union's position, these would immediately apply to their employment in the UPG, pending any appeal of the decision.
- **Governance:** What role should the faculty members in the UPG play in the governance structure of the UPG? Should there be personnel committees and committees for promotion and tenure recommendations, as provided for in the current Collective Bargaining Agreement?
- **Payment Mechanisms:** How should the value of work units, on which payment of clinical faculty members depends, be set? Should there be elected salary committees to participate in the process of setting their value, as provided for in the current Collective Bargaining Agreement? At present, the value of these work units is set by the chair of each area without input from the faculty.
- **Work Rules:** The work assignments and scheduling in the UPG differ from those that apply to other faculty members in the SOM and the University in general. Patients must be met at appointed times, procedures performed on time, etc. These must be governed by rules. The processes for setting these work rules should be decided upon in a consultative manner between the SOM-UPG Administration and the faculty.

These are just four areas in which collective bargaining could improve the professional autonomy of clinical faculty members whose work lives are almost entirely within the UPG. A favorable ruling from Judge O'Connor would impose new responsibilities on the Union and the UPG faculty members to work out reasonable proposals on the foregoing and other issues. The Union leadership hopes that, working together, we can improve the working environment of the faculty members in the UPG and ensure that their individual rights will be protected.

AAUP-AFT Introduces Council Representatives

Given the extraordinary challenges currently facing higher education, Michigan public employees and their unions, we are building a campus-wide network of faculty and academic staff to effectively address our concerns before the WSU Administration and in Lansing.

The Union is seeking members to serve as representatives to the AAUP-AFT Local 6075 Council. The Council makes recommendations to the Executive Board, assists with the contract negotiation process, serves as a resource in his/her department or unit, and welcomes new members.

The current Council Representatives are: **Alia Allen** (Psychology); **Linda Beale** (Law School); **Stephanie Brock** (Chemistry); **Kevin Carroll** (College of Education); **Rita Casey** (Psychology); **Kristen Chinery**, *Council Chair* (Reuther Archives); **Chardin Claybourne** (Academic Success Center); **Sharon Elliott** (College of Education); **Ewa Golebiowska** (Political Science); **Li Hsieh** (Communication Disorders); **Awanda Jeffries** (TRIO/Upward Bound); **Barbara Jones** (Financial Aid); **Pramod Khosla**, *Council Secretary* (Nutrition and Food Science); **Helene Krouse** (Nursing); **Janine Lanza** (History); **Steve Lerner** (SOM-Internal Medicine); **Kristen Malecki** (Music); **Santanu Mitra** (Accounting); **Hayg Oshagan** (Communication); **Pete Roberts** (Kinesiology); **Bill Slater** (Educational Outreach); and **Ricardo Villarosa** (Law).

If you are interested in becoming a Council Representative, or would like to learn more about the role of a Council Rep, please join us for an informational meeting on **Tuesday, December 6th**, at **12:30 p.m.**, in the **Community Room** of the **Undergraduate Library**. Lunch will be served. Please RSVP to the Chair, Kristen Chinery, at ac9538@wayne.edu, so that we may get an accurate count for lunch. We hope you can join us!

Correction

Charles J. Parrish, *President*

Professor Judith Whittum-Hudson, President of the School of Medicine Senate, has sent me a message on behalf of the Executive Committee asking me to correct a statement made in the April/May Newsletter. I do so by presenting the following statement contained in their message:

... in this article there are statements which are inaccurate. They are related to the statement that SOM [School of Medicine] faculty were asked by the SOM administration to relinquish the 2% ATB [Across the Board] salary raises. We would like to inform you that a "volunteer" action for donating our 2% ATB raises was initiated by the faculty representatives at the level of the Executive Committee and the Budget Advisory Committee of the School of Medicine Faculty Senate. Once all members of these committees had agreed, our decision was then reported to Dean Parisi. While the Dean appreciated our desire to help toward the 10% budget cut for the SOM with our voluntary elimination of the 2% ATB raise, she immediately dismissed this offer.

May I apologize for getting this wrong. I would also like to take the occasion to point out that the budget of the SOM is the least transparent of any of WSU's schools and colleges. The Union is presently involved in the adjudication of an Unfair Labor Practice charge that was filed against the University and the University Physicians Group in which we maintain that they are, in fact, one entity under relevant Michigan labor law. It is pointed out in the front page article that Vice Dean for Finance Kenneth Lee cites the integration of the budgets of the two organizations in 2008 as one of his accomplishments. Thus, when there is talk about the SOM's General Fund budget being cut by 10%, it would be useful to consider that such a cut is probably in the range of less than 3% of the combined budget of the SOM and the UPG. I am not sure that either the SOM Budget Committee or the Executive Committee considered this in their deliberations.

Wayne State University Chapter, AAUP-AFT Local 6075
5057 Woodward Avenue, Suite 3301, Detroit, MI 48202-4050

Visit our website at www.aaupaft.org for an electronic copy of this newsletter.

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