

AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS

COUNCIL OF CHAPTERS

WINTER 2010

NEWSLETTER

VOLUME XXXII, No. 1

2010 AAUP Annual Update

AAUP Working for You

During this past year of fiscal constraints and economic uncertainty, the AAUP has worked hard on your behalf. The following is a brief overview of issues we have or are working on and the results:

AAUP Accomplishments

1. AAUP Prevents UMDNJ from Unilaterally Modifying Your Salary

As a result of an AAUP challenge, in September 2009, the Public Employees Relations Commission (PERC) ruled in favor of the AAUP, finding that UMDNJ violated the law when it unilaterally reduced clinical components (patient service and faculty practice) of faculty salaries. PERC ordered UMDNJ to negotiate over such reductions. As a result of this decision:

- a. UMDNJ is prohibited from unilaterally modifying your salary without negotiation with the AAUP;
- b. The AAUP was successful in restoring monies lost for faculty who had their clinical components reduced and reaching agreement on their clinical components prospectively;
- c. AAUP now receives notices of any proposed modifications to faculty clinical components and the reasons for the modification. Over time, this reporting will establish standards for modifying clinical components;
- d. Faculty are now advised that they have the right to negotiate over any modification to their clinical component before any modification is implemented.

This important ruling protects clinical faculty salaries as well as signals to UMDNJ that it cannot modify any term or condition of employment without negotiating with the AAUP.

2. AAUP Successfully Challenges UMDNJ's Investigatory Procedure for Lack of Due Process

As a result of an AAUP challenge, in December 2009, the Public Employment Relations Commission (PERC) issued a legal decision requiring UMDNJ to negotiate with the AAUP over procedural due process protections, including the right to notice of allegations; an opportunity to respond to allegations; and a written determination of the investigatory results prior to the imposition of discipline. PERC's decision set aside the University's implementation of an investigatory procedure that failed to provide appropriate procedural and substantive due process protections (such as notice of allegations, timely disposition of charges, and notice of disposition). Negotiations with the University are ongoing. In the interim AAUP continues to work with the leadership of the faculty organizations at the various schools on this important issue. If you have any questions about this matter, please contact the AAUP office at 973-972-5875, 732-235-4196, or council@aaupumdnj.org.

3. AAUP Successfully Challenges Five Faculty Terminations

Over the course of this past year, AAUP has vigorously challenged University decisions where faculty have been denied due process. In each of five instances where faculty were denied due process and disciplined, AAUP's challenge resulted in the withdrawal of all charges and a resolution to the faculty member's satisfaction.

4. AAUP Grievance Results in University Expending Additional \$178,454 in Faculty Merit Increases

As a result of an AAUP audit of the FY09 merit increases and a grievance alleging the University failed to expend all the monies it was required to do so under the AAUP con-

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tract for the FY09 merit increases, UMDNJ expended an additional \$178,454 on faculty merit Increases. Consequently twenty-five faculty members received additional merit increases for FY09 retroactive to the December 28, 2008 merit increase effective date.

5. AAUP Protects Its Right to Negotiate on Your Behalf and to Obtain Information Necessary to Enforce the Terms of the AAUP Contract

As a result of an AAUP challenge to UMDNJ refusing to provide the AAUP with information it needed to monitor the University's compliance with the AAUP contract and the University entering into individual agreements with faculty whereby they waived contractual benefits and rights, on August 26, 2010 the University agreed to settle the matter as follows:

- a. UMDNJ agreed to negotiate with the AAUP over the 2008 reduction made in the faculty practice component of a RWJMS faculty member retroactive to 2008.
- b. UMDNJ would provide the AAUP with a list of those members of the AAUP's bargaining unit who have received notices of non-renewal and upon request, provide the non-renewal and appointment letters of the persons on such lists.
- c. UMDNJ agreed that it will not enter into individual agreements with members of the AAUP bargaining unit in which a unit member agrees to waive or modify any right or benefit of the collective negotiations agreement between UMDNJ and the AAUP without first advising the AAUP of proposals for such waivers or modifications and affording to the AAUP the opportunity to negotiate and be a party as to such agreements.

As a result of this settlement, faculty are in a better position to understand what they are agreeing to and know that they can seek advice from the AAUP before entering into any individual agreements with the University.

New Challenges: Legislated Changes to Health and Pension Benefits

The State of New Jersey recently enacted changes to the State Health Benefits Plan (SHBP) and to the Alternate Benefits Plan

(ABP). The net effect of these legislated changes is a reduction in your compensation and benefits.

Changes to Your Health Benefits

As of May 21, 2010 the eligibility requirement for new hires increased from .5% FTE to .87% FTE. Faculty and librarians employed at .5% FTE or above prior to May 21, 2010 remain eligible as long as they maintain their FTE at .5% or above.

The legislation also requires a minimum contribution of 1.5% of salary for all participants regardless of the medical plan chosen or level of coverage. The 1.5% contribution will be calculated on total pensionable income. Unlike other employee groups who have been contributing 1.5% for the past year or more, the implementation date for the 1.5% contribution for faculty and librarians represented by the AAUP bargaining unit will be July 1, 2011. This delay in contributions resulted from a strategic decision by the AAUP to extend our current contract, which maintained health insurance benefits without contributions through its expiration (June 30, 2011).

Changes to Your Pension Benefits

The pension legislation establishes a \$141,000 salary cap on the 8% State contribution you receive. The \$141,000 salary cap is based on a calendar year (January to December). As a result, any faculty member or librarian whose pensionable income exceeds \$141,000 for 2010 will not receive further State contributions through December 31, 2010. Faculty and Librarians hired after July 1, 1996 may contribute on a post-tax basis above \$245,000 to a UMDNJ pension plan and UMDNJ will continue to contribute 8% of such post-tax contributions above \$245,000.

This legislation does not impact the level of life insurance or long-term disability coverage provided to you under the Alternate Benefits Plan (ABP).

AAUP's Efforts to Mitigate Against These Legislated Changes

AAUP is working with other New Jersey AAUP Chapters to develop a solution to the \$141,000 ABP cap. On September 16, 2010, AAUP's Leadership met with Assemblywoman Pamela Rosen Lampitt, Chairwoman of the Assembly Education Committee to discuss this issue and potential solutions. As a result

AAUP UMDNJ Newsletter

The *Newsletter* is published by the UMDNJ Council of AAUP Chapters.

AAUP offices are located in ADMC 1426, NJMS and RWJMSRT, Room N-B08. To telephone the office, call 973-972-5875 or 732-235-4196.

of the meeting, AAUP-UMDNJ is joining forces with AAUP's New Jersey State Conference and the American Federation of Teachers (AFT) to prepare a position paper focusing on issues having a negative impact on the quality of higher education in New Jersey.

On October 18, 2010, AAUP's leadership met with State Senators Teresa Ruiz and Jim Whelan, the Chair and Vice-Chair of the Senate Education Committee. It is the AAUP's hope that these conversations will educate the Legislature on the impact these changes have on UMDNJ's ability to recruit and retain faculty. AAUP recommends the Legislature consider exempting higher education participants from the \$141,000 cap.

We will keep you posted on any developments and progress made on this important issue. In the interim, it is important that you take an active role in communicating with your local assemblypersons and senators—in particular the members of the Senate and Assembly Education Committees—about the negative impact of this legislation on the University and you. You can view the letter the AAUP sent to the members of the Senate and Assembly Higher Education Committees and the names and addresses of the members of the State and Assembly Higher Education Committees at <http://aaupumdnj.org/ABP081010.htm>.

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Faculty Performance Evaluations Primer

Article VIII, Section B., 7 of the AAUP-UMDNJ contract requires the University to complete your performance evaluations by the first working day in September of each year. Furthermore, your Chair is required to meet with you to discuss your evaluation by September 15. Where there is a disagreement between a faculty member and the Chair as to an evaluation, the faculty member may invite another faculty member to be present as an advisor.

If a faculty member receives an overall unsatisfactory evaluation, the faculty member has the right to appeal within 30 days of receiving an unsatisfactory evaluation or September 30, 2010 (whichever is later). The appeal process is outlined in Article VIII, Section 8. A of the AAUP contract.

The University has promulgated a Procedure for Evaluating Faculty. The following is a summary of the procedure. The complete version can be viewed at www.aaupumdnj.org:

The Faculty Performance Evaluation Process Consists of Five Steps

1. A Faculty member submits to their Chair a completed Faculty Data Form, an updated C.V., and proposed goals and objectives for the next evaluation period.
2. The Chair completes the Faculty Evaluation Form; writing comments on the quality of performance; and assigns a rating (Exemplary, Satisfactory, Unsatisfactory) to each area of responsibility and to the overall performance.
3. The faculty member and Chair jointly establish goals and objectives for the next annual evaluation period.
4. The Chair provides the proposed evaluation to the faculty member in advance of the face-to-face review meeting.
5. The Chair meets with the faculty member to discuss the proposed evaluation and to agree upon weightings of areas of responsibility and goals and objectives.

If you have any questions about the evaluation process, please contact the AAUP office at 973-972-5875 or 732-235-4196 or council@aaupumdnj.org.

Editorial: The Fallacy of Requiring Extramural Funding to Avoid “Unsatisfactory” Evaluations

By a UMDNJ Tenured Professor

As of December 31, 2009, the American Association of Medical Colleges (AAMC) estimates there were a total of 128,650 medical school faculty in U.S. medical schools. During the same time frame, the National Institutes of Health (NIH) reports awarding a total of 12,387 competing NIH grants out of 53,128 applications (for a success rate of -23%), and a total of 27,410 research grants which includes non-competing continuation years.

The data from NIH include non-medical school applicants as well.

Even if **ALL** the NIH grants were to medical school faculty, and even if there were a maximum of **ONE** grant per faculty member, this would translate to approximately 20% of all medical school faculty having an NIH grant. (Since we know that many of those grants were to non-medical school faculty, and that a number of researchers have more than one grant, the real number is going to be significantly lower than 20%).

So are the other more than 80% of medical school faculty “unsatisfactory”? Is NIH or other major funding a realistic and fair requirement for a faculty member to avoid an “unsatisfactory” evaluation? Certainly, if a faculty member obtains significant extramural funding, that would be a valid criterion for an “outstanding” rating. But the absence of such funding should not trigger an “unsatisfactory” rating in and of itself. To make such a requirement is unfair and out-of-touch with reality.

Full AAUP Membership Is Crucial to Our Success

We urge you to become a FULL member of AAUP. A robust AAUP membership strengthens our message to the University administration, particularly as we prepare to negotiate a new contract.

The difference between full membership and the representation fee is just \$3.90 more per pay period. To join, fill out the attached Authorization Form and return to the AAUP's Newark office (fax: 973.972.0776).

AAUP Supports Newark Concert Series

AAUP is pleased to announce its support for the 2010-2011 Newark Concert Series. The Concert Series are scheduled for January 26, March 7, March 18, and April 14. We look forward to seeing you there.

New AAUP Office at SOM

To better serve our membership at SOM, AAUP has secured office space on the SOM-Stratford campus. The office is located in Room 3219 of the Doctor's Pavilion. Bob Witkowski, AAUP Labor Relations Representative will be available at this location on Tuesdays and Thursdays.

Demand and Return Policy

The following is the procedure adopted on June 23, 1987 by the Council of AAUP Chapters of the University of Medicine and Dentistry of New Jersey (hereafter "Council") to comply with the requirements of section 2C of Chapter 477, Laws of 1980. Please retain it for your records. It is published annually.

The representation fee amounts to 85 percent of member dues. The amount of representation fee that goes to the Council is equal to the percentage of member dues kept by the Council for Council expenses. The remainder goes to the national AAUP to cover national expenses related to collective bargaining. The Council budget includes only expenses allowable for charge to representation fee payers. This was also the case for last year's budget.

Any person who makes fee payments in lieu of dues who objects to a specific expenditure which the individual believes to be in aid of activities or causes of a partisan political or ideological nature, only incidentally related to the terms and conditions of employment or applied toward the cost of benefits available only to members of the association, shall file written notice of an objection by certified mail to the Representation Fee Review Committee (hereafter "committee") in care of the Executive Director of the AAUP.

Following the filing of such notice, the proportion of the objector's representation fee which is allocated to the expense in question will be placed in an escrow account established by the Council for this purpose pending resolution of the objection.

Objections to expenditures made in any fiscal year must be raised by October 1st of the following year. Individuals not represented by the AAUP at the beginning of the fiscal year may raise such objections within ninety (90) days of the date such representation commences.

An objection may be renewed for each year by written notification as noted above. At least annually, the association shall cause notice of its demand and return system, including the dates for notice of objection, to be printed in its newsletter.

The committee shall be composed of three (3) members of the faculty of UMDNJ chosen by the Council. When the Executive Director receives an objection, it shall be promptly submitted to the committee, which shall consider the objection for timeliness of submission and on the merits. An objector may, at the time of filing the objection, request that an oral fact-finding hearing on the objection be held.

If the AAUP contests the objection, it shall respond to the objection in writing within fifteen (15) working days of its transmittal to the committee. A copy of the AAUP's response shall be served on the individual making the objection. The objector then may, within fifteen (15) working days of his or her receipt of the AAUP submission, respond to the information provided by the AAUP. Upon its receipt of the AAUP response, if any, the committee shall determine whether additional information is necessary to complete the record. It may, in its absolute discretion, seek additional information from the objector or the AAUP or hold a fact-finding hearing on the request of either party.

When the committee is satisfied that it has received full submissions from all parties, it shall close the record. The committee shall rule on the objection, in writing, within fifteen (15) working days after the record is closed, and forward its determination to the objector and to the AAUP.

The burden of proof throughout the proceedings shall be on the AAUP. If the objector is dissatisfied with the decision of the committee, he or she may appeal to the State Representation Fee Review Board pursuant to Chapter 477 of the Laws of 1980.

An objector may bypass this procedure and appeal directly to the State Representation Fee Review Board.

Council of AAUP Chapters FY11 Budget

	FY10	FY10	FY11
	Proposed	Actual	Proposed
REVENUES			
Dues	\$394,160	\$495,814	\$548,236
Representation Fees	\$291,310	\$314,612	\$363,147
Interest	\$11,062	\$8,688	\$5,059
Grants	\$0	\$1,906	\$0
Other		\$220	\$6,394
Total Revenues	\$696,532	\$821,240	\$922,836
EXPENSES			
Payroll	\$314,252	\$313,194	\$317,892
Payroll Taxes	\$33,977	\$33,867	\$35,431
Health Insurance/Life/ADD	\$151,314	\$153,766	\$160,657
Pension	\$24,572	\$25,056	\$25,431
Pension Oversight	\$2,500	\$4,168	\$3,334
National AAUP Dues & Rep Fees	\$163,454	\$170,294	\$154,148
State Conference Dues	\$1,076	\$1,633	\$2,000
CBC Dues	\$7,270	\$6,158	\$7,500
Legal Fees	\$170,000	\$169,552	\$170,000
Arbitration/Mediation	\$10,000	\$6,472	\$10,000
Gender Equity Study	\$8,300	\$1,906	\$6,394
PR & Advertising Expenses/Lobbying	\$5,000	\$0	\$5,000
Accounting & Audit	\$11,800	\$18,200	\$15,000
Outside Services	\$7,015	\$6,985	\$7,500
Office Liability Insurance	\$12,700	\$1,772	\$1,900
Office Rent	\$17,399	\$17,205	\$10,800
Dues & Publications	\$850	\$986	\$1,000
Travel & Conferences	\$13,000	\$3,690	\$5,000
Membership Development Activities	\$8,500	\$10,211	\$12,000
Chapter and Membership Mtg.	\$7,400	\$6,835	\$7,500
Awards Dinner	\$2,100	\$2,257	\$2,500
Lecture	\$10,000	\$0	\$10,000
Dues Refunds	\$500	\$413	\$500
Postage & Xerox	\$1,700	\$901	\$1,500
Printing & Stationary	\$3,000	\$572	\$2,500
Telephone	\$4,300	\$5,169	\$5,500
Office Supplies & Services	\$3,200	\$3,935	\$4,200
Office Equipment	\$3,000	\$321	\$4,500
Repairs & Maintenance	\$1,000	\$140	\$1,000
Chapter Rebates	\$3,000	\$3,000	\$3,000
Miscellaneous	\$400	\$379	\$400
Total Expenses	\$1,002,579	\$969,036	\$994,087
EXCESS OF ACTUAL REVENUE OVER ACTUAL EXPENSES	<u>-\$306,047</u>	<u>-\$147,796</u>	<u>-\$71,251</u>

Please join! We urge you to become a voting member of the AAUP. WE NEED YOUR SUPPORT!

If you are paying \$22.10 per pay period, you are paying a representation fee, not AAUP dues. AAUP dues are \$26.00 per pay period for (only \$3.90 more per pay period for full membership) 26 pay periods per year.

Dues include local, state and national AAUP membership fees. Members can vote in chapter elections and on contract ratification. Members also learn about **AAUP member benefits** through **Academe**, the AAUP's national magazine.

To join the AAUP, just fill out this authorization form and return it to us at the address below.

UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY
AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS (AAUP)
PAYROLL DEDUCTION AUTHORIZATION

Please print clearly:

NAME _____

ADDRESS _____

HOME PHONE _____ OFFICE PHONE _____

ACADEMIC RANK _____ DEGREE _____

SCHOOL _____ DEPARTMENT _____

CAMPUS ADDRESS _____

PERCENTAGE OF FULL TIME EMPLOYED BY UMDNJ _____ SEX: M F

UMDNJ I.D. NUMBER _____ DATE HIRED _____

EMAIL ADDRESS _____ BIRTH DATE _____

(All of the above information will remain in the strictest confidence unless we are otherwise instructed by you.)

I hereby authorize my AAUP Chapter to have deducted from my earnings twenty dollars (\$20.00) dues per pay period, which includes national, state and local AAUP membership dues.

This authorization shall remain in effect unless terminated by me upon written notice of withdrawal or by termination of my employment. The filing of notice of withdrawal shall be effective to halt deductions as of the July 1st or January 1st next succeeding the date on which the notice of withdrawal was filed.

While contributions or gifts to the UMDNJ Council of AAUP Chapters are not tax deductible as charitable contributions for federal income tax purposes, they may be tax deductible under other provisions of the Internal Revenue Code.

SIGNED _____ DATE _____

PLEASE RETURN TO:

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