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To: State College Day Faculty and Librarians
From: C. J. O'Donnell, MSCA President
Dan Shartin, MSCA Bargaining Committee Chair
RE.: Contract Negotiations Update
Date: September 19, 2008

Welcome to a new academic year. Although we had hoped to be able to reach a tentative agreement on a new contract during the summer, we were unable to do so. Right before our update was to have been mailed, we received word that Governor Patrick had released the long awaited "parameters," which delayed this update from being sent.

The Parameters

On September 5th we learned that the Board of Higher Education (BHE) had received parameters from the governor. It is our understanding that the parameters below apply to all statewide unions, not just to the MSCA and other higher education unions.

- **2.5% across the board increase effective January 1, 2009** (2.0% increase with an additional 0.5% for units, such as ours, without steps).
- **2.5% across the board increase effective January 1, 2010** (2.0% increase with an additional 0.5% for units without steps).
- **2.5% across the board increase effective January 1, 2011** (2.0% increase with an additional 0.5% for units without steps).
- **No additional funds** (i.e., no increase in Health and Welfare trust).
- The unions have until January 1, 2009 to reach an agreement **or the first salary increase will be effective on the date an agreement is reached, not January 1, 2009.**

Parameters *do not* constitute an economic offer; offers must be made at the negotiating table.

Our last salary increase was on July 1, 2007. The next expected increase would be July 1, 2008. Instead, these parameters call for **six months of no salary increase** this year and delays subsequent increases by six months as well.

These parameters are unsatisfactory. Nonetheless, we believe that without the MSCA's having taken the lead in filing an unfair labor practice charge (see summary below) – subsequently joined by ten other MTA-affiliated unions – parameters would not have been released in September. The release of parameters at least opens the door for comprehensive negotiations.

In March the MSCA and the BHE agreed that we would have a mutual exchange of comprehensive proposals, including an economic offer. We have sent a letter to the BHE's chief negotiator indicating that we expect that this mutual exchange will take place at our next negotiating session that will be held on September 24th... two hundred thirty-three (233) days after negotiations began and eighty-six (86) days after the expiration of the contract.

Summary of Negotiations

Although the contract expired on June 30th, all provisions remain in full force and effect.

The parties met twelve times between February 4th and August 27th.

The BHE, the employer of record for collective bargaining purposes for state college employees, refused to make an economic offer to the MSCA or the other unions it bargains with, until the governor released parameters. **For the first time ever, all three unions representing state college employees have expired contracts.** The state colleges are not being singled out. The governor delayed the release of parameters for all statewide unions currently in negotiations.

The BHE has, however, authorized a 4% pool of money – to be expended from campus budgets – to be used for salary increases for non-unit managers retroactive to July 1, 2008. The BHE has also authorized a 4.17% “inflationary adjustment” for state college presidents, with up to an additional 3% merit increase; again, retroactive to July 1, 2008; and again, expended from campus budgets.

As a result of the BHE's refusal to bargain salary increases for MSCA day faculty and librarians – as we believe the law requires – the MSCA filed an unfair labor practice charge with the Division of Labor Relations on August 4th. Due to the Division's backlog, the charge will not be investigated until December 15th. As noted above, ten other MTA-affiliated unions filed similar charges.

Meanwhile, the MSCA Board of Directors approved a contract action plan at a special meeting on August 18th. The plan includes an event at the first regular meeting of the BHE scheduled to begin at 10:00 a.m. on October 2nd at Quinsigamond Community College in Worcester. Your chapter president will work with you on how your chapter will implement the action plan.

We ask that you participate, whenever possible, in the activities within the contract action plan. Depending on how negotiations transpire in September, MSCA day faculty and librarians who are available on October 2nd may be called upon to greet BHE members at Quinsigamond Community College as they enter the Harrington Learning Center that morning.

A more detailed history of negotiations this summer is included in this mailing.

Bargaining History this Round

The enclosed letter provides a summary of the main points of the bargaining history. The following outline provides a more detailed account.

I. The structure of state college faculty-librarian negotiations

- A. The Board of Higher Education (BHE) is our employer of record for collective bargaining purposes, not Governor Patrick or the Secretary of Administration and Finance (A&F), Leslie Kirwan.
- B. The collective bargaining law requires employers to bargain in good faith with their unions—and that includes bargaining over economic matters.
- C. However, instead of bargaining with the MSCA over economic matters, the BHE has allowed Governor Patrick and Secretary Kirwan to hold up the negotiations.
- D. The BHE has preconditioned its economic offer on receiving permission from the governor. The governor had been preconditioning his permission on a collective bargaining reserve from the Legislature. The Legislature did not establish such a reserve beyond what was required to fund a previously negotiated contract.
- E. Governor Patrick has thwarted the bargaining process by requiring the Legislature to fund contracts that haven't even been negotiated. That is not the sequence established by the collective bargaining law. The law provides that contracts are negotiated first, and *then* the Legislature funds them.
- F. Even though Governor Patrick has authorized parameters, he waited over two months after the expiration date of our contract to do so and has incorporated six months without an increase.

II. Events preceding this round of negotiations

- A. In November of 2007 Secretary Kirwan notified the BHE that so-called “parameters” (i.e., financial offers pre-approved by A&F) would be provided to management’s bargaining representatives by January 22, 2008.
- B. Around that time the BHE provided Kirwan with information about how state college faculty salaries compared to those at peer institutions and how relatively low state college faculty salaries adversely affected hiring.

III. Contract negotiations since February 2008

- A. The MSCA and the BHE began negotiations on February 4th and met twelve (12) times up until August 27th.

- B. A&F did not provide parameters on January 22nd. Parameters were provided the first week in September, although we had heard repeatedly since February that parameters would be coming in a few weeks, or in a month or so.
- C. The MSCA initially received no explanation for these delays until April when we were told that the administration was waiting for the April revenue numbers.
- D. In April, BHE Chairman Fred Clark spoke with Governor Patrick about the problem of low state college faculty salaries. Patrick referred Clark to Secretary Kirwan. In May, Clark met with Kirwan and provided further information about the salary situation. Kirwan said she would respond to Clark about this information. To date Kirwan has not responded to Clark about the data provided.
- E. The April revenue numbers were strong, but A&F still provided no parameters. May numbers were not as strong, but were once again ahead of benchmarks.
- F. On June 20th, Kirwan met with statewide union representatives. She explained that there was no collective bargaining reserve for FY 2009. The unions were briefed on the budget and the fiscal problems confronting the Commonwealth. When pressed for a date for parameters Kirwan said they were shooting for July.
- G. The MSCA and BHE did not meet from May 22nd to July 23rd since no economic offer was on the table. The MSCA had previously sought to have a mutual exchange of comprehensive proposals with the BHE. In March the BHE agreed to such an exchange. At that time the parties believed that the release of parameters was imminent. Given the long delay, in mid-June the MSCA took the position that the parties should negotiate items that could be addressed in the absence of an economic offer. The BHE agreed and negotiations resumed on July 23rd.
- H. On July 18th, Kirwan again met with statewide union representatives. At that meeting she said that the governor had requested a \$61.8 million collective bargaining reserve in a supplemental budget. She asked the unions to support the creation of this reserve and said that the administration would be prepared to talk about parameters if the reserve were to be enacted. Kirwan added that there could be parameters by August or by Labor Day.
 - 1. MSCA President C. J. O'Donnell sent a letter to all House members asking that they include the reserve in the supplemental budget.
 - 2. The Legislature included a reserve of only \$20 million. That amount was sufficient only to fund an agreement for personal care attendants. For all statewide unions in bargaining at that time, it was estimated that a 2% salary increase effective July 1, 2008 would cost \$80 million.
- I. At a bargaining session on July 23rd, the MSCA announced that waiting for parameters from A&F was no longer acceptable and that the BHE had to make a

good faith economic offer. The BHE's chief negotiator said that he did not have the authority to make a financial offer and that the BHE would not make such an offer until A&F authorized them to do so.

- J. Based on the BHE's refusal to negotiate over economic matters and its failure to send to the table representatives with the authority to bargain over economic matter, the MSCA filed an unfair labor practice charge on August 4th.
 - 1. Ten other MTA-affiliated higher education unions that were in bargaining at that time also filed unfair labor practice charges either against the BHE or the UMass Board of Trustees (the employer of record for collective bargaining purposes for UMass employees).
 - 2. On August 25th the unions put out a press release announcing the filing of the charges. The following day newspapers reported that A&F said they would authorize parameters within two or three weeks.
- K. On August 22nd, the state college presidents spoke to the Secretary of Education, Paul Reville, about the delay in parameters. He indicated that the problem was the Legislature's failure to create a sufficient collective bargaining reserve.

IV. What now?

- A. Massachusetts public employees do not have a legal right to strike.
- B. Public higher education employees do not have a right to binding arbitration to settle contract negotiations.
- C. At this time the MSCA is not proposing job actions in the form of "work-to-rule."
- D. In the past we have been able to achieve a certain level of success in contract negotiations despite often aggressive hostility from the employer. We have prevailed through statewide collective action that does not violate the law such as:
 - 1. Messages to the state college presidents, trustees, the BHE, the governor, etc. Recent examples are:
 - a. MTA President Anne Wass and Executive Director David Borer wrote to Secretary Kirwan about higher education bargaining.
 - b. MTA's Division of Governmental Services sent letters to the Legislature asking them to contact the Patrick administration and make a fair economic offer to higher education faculty and staff.
 - c. The MSCA Bargaining Committee delivered Labor Day messages to Governor Patrick and BHE Chairman Fred Clark.

2. Protest activities, such as leafleting and demonstrating at BHE meetings. Recent examples are:
 - a. MSCA members picketed and leafleted outside Governor Patrick's speech to the Greater Boston Chamber of Commerce on May 1st.
 - b. MSCA members distributed cards at commencement ceremonies at the state colleges in the spring.
 - c. MSCA members attended the governor's "town hall" meetings wearing stickers demanding "Equitable Pay." Governor Patrick recognizes these stickers from having seen them at a number of events, including the June 2nd demonstration at Framingham State.

3. Maintaining a united front, e.g., keeping our disagreements among ourselves within the MSCA, offering suggestions to your campus representative to the Bargaining Team and participating in campus-wide and statewide activities whenever possible.

College	Bargaining Team	Alternate
Bridgewater	Glenn Pavlicek	Jean Stonehouse
Fitchburg	Ann Mrvica	Michael Turk
Framingham	Sue Dargan	Robert Donohue
Mass. Art	Sam Schlosberg	Nancy Cusack
MCLA	Deb Foss	
Maritime Academy	Joe Murphy	Jerry Concannon
Salem	Amy Everitt	Margaret Vaughan
Westfield	Cheryl Stanley	Gary Merlo
Worcester	Dan Shartin	Anne Falke

4. Staying informed about the issues at the table.

5. Using campus events to remind the college presidents and the trustees of the injustice of the governor's and the BHE's attitude and tactics towards negotiations.

SAVE THE DATE!

**First Regular Meeting of the
Board of Higher Education**

**Quinsigamond Community College
Worcester, Massachusetts**

October 2, 2008