



Sarah Nathan, MTA

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## Division of Labor Relations Issues Two-Count Complaint Against BHE

**MSCA Charges BHE Failed to Bargain in Good Faith**

By C.J. O'Donnell, MSCA president

On Feb. 12 the Massachusetts Division of Labor Relations issued a complaint in the case MSCA filed against the Board of Higher Education on Aug. 4 (see the Jan./Feb. 2009 issue of *MSCA Perspective*; "MSCA, MSP Charge State with Bad Faith Bargaining"). The issuance of a complaint means that the DLR has made a determination that there is probable cause to believe that the collective bargaining law has been violated.

An in-person investigation conference was held at the DLR in Boston on Dec. 15. MTA consultant **Donna Sirutis** presented MSCA's case. As a person with personal knowledge of the events related to the charges, I was in attendance to assist with the presentation of MSCA's case. Attorneys **James Cox** and **Mark Peters**, Rubin and Rudman LLP, presented the case for the BHE.

The issued complaint has two counts. The first count alleges that "the Board has refused to bargain in good faith by failing to give its negotiating team authority to offer economic proposals." The second count alleges that "the Board has refused to bargain in good faith by conditioning bargaining over economic proposals on A&F's [Executive Office of Administration and Finance] authorization of those proposals."

The next step will be a pre-hearing conference that is scheduled for Apr. 8. At this hearing the parties will address a number of procedural issues such as a list of possible witnesses, joint exhibits and preliminary motions. **Kendrah Davis**, Esq. has been assigned by the DLR as the investigator for this case. MTA has assigned attorney **Sandra Quinn** to represent MSCA. Quinn has extensive experience in public higher education litigation and has represented MSCA in several cases.

## Obama Presidency May Signal New Hope for Repeal of Social Security Offsets

*Ed. note: This article is revised from one that appeared in the February/March 2009 issue of MTA Today and is reprinted with permission.*

Is the tide turning in favor of repeal of the Government Pension Offset and the Windfall Elimination Provision?

This fall, in a letter addressing NEA members, then-presidential candidate **Barack Obama** wrote: "Nobody should be penalized for serving our children, and that's why I support repealing the GPO/WEP and will work to do so as President..."

"I believe that we have a responsibility to take care of workers who have devoted their lives to public service and that we shouldn't discourage young people from working in these essential jobs at a time when so many teachers are at or near retirement age, and we're struggling to replace them." To read the full text of Obama's letter, please visit <[www.nea.org/retired](http://www.nea.org/retired)>.

This unprecedented level of commitment from Pres. Obama comes at the close of a successful year in the fight to repeal the GPO and the WEP.

"Last year, we secured a record number of co-sponsors who signed on to support the repeal of the GPO and WEP," says **Carrie Lewis** of NEA's Government Relations department, who is the resident expert on the repeal effort. "What we have now that we didn't have before is a supportive White House. This is the best opportunity we've ever had to change this unfair law."

NEA leaders and staff approached the authors of the Democratic and Republican platforms, securing the addition of the following language in the Democratic Party Platform: "We will end the penalty within the current Social Security system for public service that exists in several states."

NEA members passed three new business items related to repeal of the GPO and WEP at last summer's Representative Assembly in Washington, D.C., calling for devoting resources to a media campaign, data gathering, lobbying efforts and coverage in NEA publications.

Although full repeal is a top priority and one that NEA staff worked on with the Obama transition team, it's still an uphill battle, cautions Lewis.

"The cost of full repeal is more than \$80 billion over 10 years," she says. "Many members of Congress want to look at GPO/WEP repeal only as part of full-scale

reform of Social Security." Lewis continues, "There is a lot of energy and support around this."

### Social Security Fairness Act Reintroduced

Representatives **Howard Berman** (D-Calif.) and **Buck McKeon** (R-Calif.) have reintroduced the Social Security Fairness Act, which would repeal the Government Pension Offset and the Windfall Elimination Provision. The new bill number is H. R. 235, which has 251 co-sponsors at press time.

The previous bill expired at the end of the last Congress. When the new Congress convened, the House sponsors immediately reintroduced the bill, demonstrating their strong support and desire to send a message about its importance to congressional colleagues. Sen. **Dianne Feinstein** (D-Calif.) has introduced an identical bill, S. 484, in the Senate, which has 19 co-sponsors at press time.

All members of the Massachusetts congressional delegation have co-sponsored this legislation in the past and are co-sponsors of the new bills. The GPO reduces the Social Security spousal or survivor benefits of educators and other public employees in certain states by an amount equal to two-thirds of their public pensions. The WEP affects people who have worked in jobs not covered by Social Security and in jobs in which they have earned Social Security benefits.

Individually and in combination, the GPO and the WEP heavily penalize teachers, higher education faculty and staff and other education professionals in Massachusetts and 14 other states in which public employees are not part of the Social Security system. The two provisions have an impact on the recruitment and retention of teachers at a time when both are crucial for public education.

To join the MTA Social Security e-Alert system and receive regular updates on the campaign to repeal the GPO and the WEP, please send your name, complete address, MTA ID number, current or former local association affiliation and home e-mail address to **Jo Ann Fitzgerald**, MTA retired members service specialist, at <[j Fitzgerald@massteacher.org](mailto:j Fitzgerald@massteacher.org)>.

MTA members can support the repeal issue by telling members of Congress how they have been affected by the GPO and the WEP. Stories can be shared through <[www.nea.org/lac](http://www.nea.org/lac)>, the NEA Legislative Action Center.



## Federal Budget Issues Dominate 2009 NCHE Conference in Portland

Patricia V. Markunas, Editor

Nearly 400 higher education union leaders and members of the rank and file participated in the 2009 conference sponsored by the National Council on Higher Education (NCHE), held in Portland, Oregon over the last weekend in March. NCHE is the formal higher education caucus within the National Education Association and has sponsored this conference as well as joint conferences with the higher education division of the American Federation of Labor (AFL) for nearly 30 years.

The dominant issue was the enactment of the

American Recovery and Reinvestment Act (ARRA), generally known as the stimulus package. The ARRA includes the biggest federal investment in education in US history, with nearly 30% of the \$787 billion dedicated to education programs at the federal and state levels, including substantial moneys for higher education.

This achievement resulted from incredible efforts by our NEA lobbyists, who worked non-stop to chase the ever-moving target of ARRA's provisions, as well as significant grassroots support. Nancy O'Brien, an NEA lobbyist for higher education issues who presented seven sessions at the conference, reported that NEA tracked 56,000 email messages to Congress, 5,000 emails to state legislators, 15,000 telephone calls to Congress and nearly 300 personal visits to Capitol Hill by NEA staff, officers and Board members.

Moneys will be allocated to states based on the percentage of the state population between 5 and 24 years of age (the school-aged and traditional college-aged populations) as well as the state's overall population. States must use educational funds to restore funding levels for both public K-12 education and public higher education at least to state appropriation levels that existed in FY 2006. Determination of FY 2006 state support for higher education cannot include capital projects, research and development funding, revenue from student tuition and fees or financial aid for students attending public colleges and universities.

This restoration of funding must also be equitable across these two divisions. If cuts to public higher education budgets are more severe than those to K-12, then proportionately more ARRA money must go to public higher education.

Institutions of public higher education may use ARRA funds for educational and general expenditures, to



NCHE president James Rice (Quinsigamond Community College) chairs the annual NCHE business meeting. Rice was elected for his second term as president at this meeting. Seated is Christine Dombhoff (Youngstown State University), who was elected for a second term as NCHE treasurer.

mitigate tuition and fee increases, and for the modernization, renovation and repair of facilities. Moneys may not be used for new construction or to renovate/repair stadiums or religious facilities. Moneys can be spent from now until September 30, 2011.

(The Massachusetts Budget & Policy Center has posted detailed information about ARRA, including the funding that Massachusetts will receive, whether the funding will help close the state's budget gap, and what Massachusetts must do to receive the funds. The link is <[www.mass-budget.org](http://www.mass-budget.org)>.)

Other conference sessions that I attended included bargaining strategies for contingent faculty (defined as non-tenure-track faculty whether full-time or part-time), generational issues for the higher education workforce, faculty governance and distance education, and a plenary address by Dennis Van Roekel, NEA president.



NCHE vice president Catherine Boudreau (Massasoit Community College) and MTA director of higher education Arthur Pippo join me at the 2009 NCHE conference. Boudreau was elected to her first full term as NCHE vice president; she is the past president of MTA.

## FMLA Amended for Families of Military Service Personnel

Effective January 16, 2009, the provisions of the Family and Medical Leave Act (FMLA) of 1993 have been revised and amended to include coverage for certain types of leaves of absence that may be related to immediate family members serving or having served in the Armed Forces. Please take note of these new provisions.

- Eligible employees covered under the FMLA who have a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their FMLA 12-week entitlement to address certain qualifying exigencies.
- These qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
- The FMLA includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single 12-month period. A covered service member is defined as a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy, or is in outpatient status; or is on the temporary disability retired list.

In order to be entitled for coverage under the FMLA, employees should meet the following requirements:

- have worked for at least one (1) year with the College, and
- have worked at least 1,250 hours over the previous twelve (12) months from the date the FMLA leave is requested.

If you have questions about this leave policy, please contact your campus human resources office.

### MSCA Perspective

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National Education Association:  
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### MSCA Board Meetings

Regular meetings of the MSCA Board of Directors begin at 10:00 a.m. and usually adjourn before 3:00 p.m. Meetings are open to all MSCA members in good standing — full-time, part-time and DGCE. Time is set aside on the agenda each month for visiting speakers. If you are an MSCA member and wish to address the board on an issue of concern, please contact the MSCA president's office <[msca@comcast.net](mailto:msca@comcast.net)> to request a place on the agenda or with any other question about board meetings.

April 24  
Worcester State College  
Student Center – Foster Room

April 25  
Worcester State College  
Delegate Assembly  
ST 102 Multi Media, ST Lobby

May 1-2  
MTA Annual Meeting  
Hynes Auditorium/Boston

June 5  
Bridgewater State College  
East Campus Commons – Room 113

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### Fiscal 2010 Budget Proposal to the Delegate Assembly: Recommendation of the MSCA Board of Directors

	Fiscal 2009 Budget	Fiscal 2010 Budget Proposal
<b>9010 Office Maintenance</b>		
Telephone	3,000	3,000
Supplies	12,750	15,000
Postage	15,000	12,000
Insurance	4,000	2,000
Printing	5,000	5,000
Archives	2,000	2,000
Moving Expenses	500	0
	<u>42,250</u>	<u>39,000</u>
<b>9020 Administrative Salaries*/Payroll Taxes</b>		
President	17,871	17,871
Vice President	8,194	8,194
Secretary	8,194	8,194
Treasurer	13,367	13,367
Grievance Chair	10,933	10,933
Negotiations Chair Day	7,173	7,173
Negotiations Chair DGCE	2,836	2,836
Editor	7,646	7,646
Webmaster	3,442	3,442
Archivist	0	1,500
Salary Database Supervisor	8,194	8,194
Chapter Officers' Stipends	0	8,000
Secretarial Services	160,148	165,000
Taxes	36,000	36,000
	<u>284,000</u>	<u>298,352</u>
<b>9023 Professional Services</b>	<u>1,500</u>	<u>0</u>
Archivist stipend moved to 9020	1,500	0
<b>9030 Board of Directors/Delegate Assembly</b>	<u>25,000</u>	<u>26,000</u>
Meetings	25,000	26,000
<b>9040 Negotiations/Labor Management</b>		
Sessions	20,000	20,000
Employee Relations Committee	5,000	5,000
	<u>25,000</u>	<u>25,000</u>
<b>9044 Data Base</b>		
Data Base Supplies/Meetings	1,500	1,000
	<u>1,500</u>	<u>1,000</u>
<b>9046 Committee on Librarians</b>	<u>1,000</u>	<u>1,000</u>
<b>9050 Contract Administration/Grievance</b>		
Committee Expenses	7,200	9,000
Arbitrators'/Mediators' Fees	17,000	16,000
Stenographers' Fees	3,700	1,000
	<u>27,900</u>	<u>26,000</u>
<b>9060 Legislative</b>		
Committee Expenses	1,100	1,100
Voter Voice/PHENOM	3,200	3,200
	<u>4,300</u>	<u>4,300</u>
<b>9065 Affirmative Action Committee</b>	<u>500</u>	<u>500</u>
<b>9070 Communications</b>		
Publication & Mailings 7 Issues	17,050	15,000
Related Expenses	2,950	1,000
	<u>20,000</u>	<u>16,000</u>
<b>9080 Conventions/Workshops</b>		
MTA, NEA-RA, NCHE/Membership	25,000	33,000
<b>9085 Elections</b>	<u>500</u>	<u>8,000</u>
<b>9090 Auditor's Fee</b>	<u>7,000</u>	<u>7,500</u>
<b>9100 Discretionary Fund</b>	<u>400</u>	<u>400</u>
<b>9110 Local Support</b>	<u>18,000</u>	<u>19,000</u>
<b>9600 E-mail</b>	<u>1,500</u>	<u>1,500</u>
<b>TOTAL</b>	<u>\$485,350</u>	<u>\$506,552</u>

\*Salary adjustments for officers and chairs to take effect upon the funding of a successor agreement for the day unit. 2008-2009 assumed a 3% raise which did not occur. We are holding those amounts for 2009-2010. Chapter Officer Stipends to be paid by the State and reimbursed by the Chapters. These are voted by the local chapters.

### Anticipated Income Worksheet

Proposed Dues Structure				
	Members	Current Dues	Proposed Dues	Total
Full Time	1,560	\$200	\$200	\$312,000
Part Time				
9-11 Credits	220	\$100	\$100	\$22,000
3-8 Credits	1000	\$40	\$40	\$40,000
1-2 Credits	60	\$10	\$10	\$600
<b>Total Dues Income</b>				<u>\$374,600</u>
Total Projected Members	2,840			
<b>2009-2010 Projected Income</b>				
Dues Income		\$374,600		
Local Support Reimbursement from MTA		\$40,000		
Secretarial Reimbursement from Chapters		\$76,000		
Local Officer Stipend Reimbursement from Chapters		\$8,000		
Data Base Reimbursement from MTA		\$9,300		
<b>Total Projected Income</b>		<u>\$507,900</u>		



## E-Mails Are Forever

E-mail Has Been Around Long Enough That You'd Think We Would Have Learned How To Handle It By Now

by Gary A. Olson

*Ed. note: Gary Olson, an administrator at Illinois State University, writes a regular column for the Chronicle of Higher Education entitled "Heads Up." The MSCA Perspective does not usually publish items written by administrators, but both MSCA President C. J. O'Donnell and I felt that this article was especially well-written on an important topic for all MSCA faculty and librarians, whose emails on college servers may be subject to public record laws in Massachusetts. Dean Olson expresses his own personal opinion and experiences in this column, which is reprinted with his express written consent.*

A noted scholar contacted me last month and asked me to write a column about e-mail etiquette. She was troubled by the "lack of respect" and "sometimes outright hostility" that some of her colleagues routinely conveyed in messages. E-mail, she said, seems to "give folks license to be rude and downright nasty."

Coincidentally, a department chairman had written with a similar request a few weeks earlier. He had found himself embroiled in a departmental squabble after offending some of his colleagues with an e-mail message in which he unintentionally sounded imperious and bossy. "I was simply trying to explain a new university policy," he said. "I didn't mean to sound like a dictator."

E-mail has been around long enough that you'd think we would have learned how to handle it by now. But I've heard plenty of similar complaints lately from other victims of e-mail hostility or misunderstanding. At professional conferences, deans and other administrators spend an increasing amount of time discussing the topic of problematic e-mail practices. By all accounts, the problem is only getting worse.

Administrators and faculty members use e-mail in a number of inappropriate ways. Some employ the "cc" function as a weapon. A faculty member becomes angry with a colleague and complains to that colleague in an e-mail message, but rather than resolve the matter privately, the sender will "cc" the recipient's supervisor and perhaps even the supervisor's supervisor. A private exchange that might have generated mutual understanding instead draws management into the dispute.

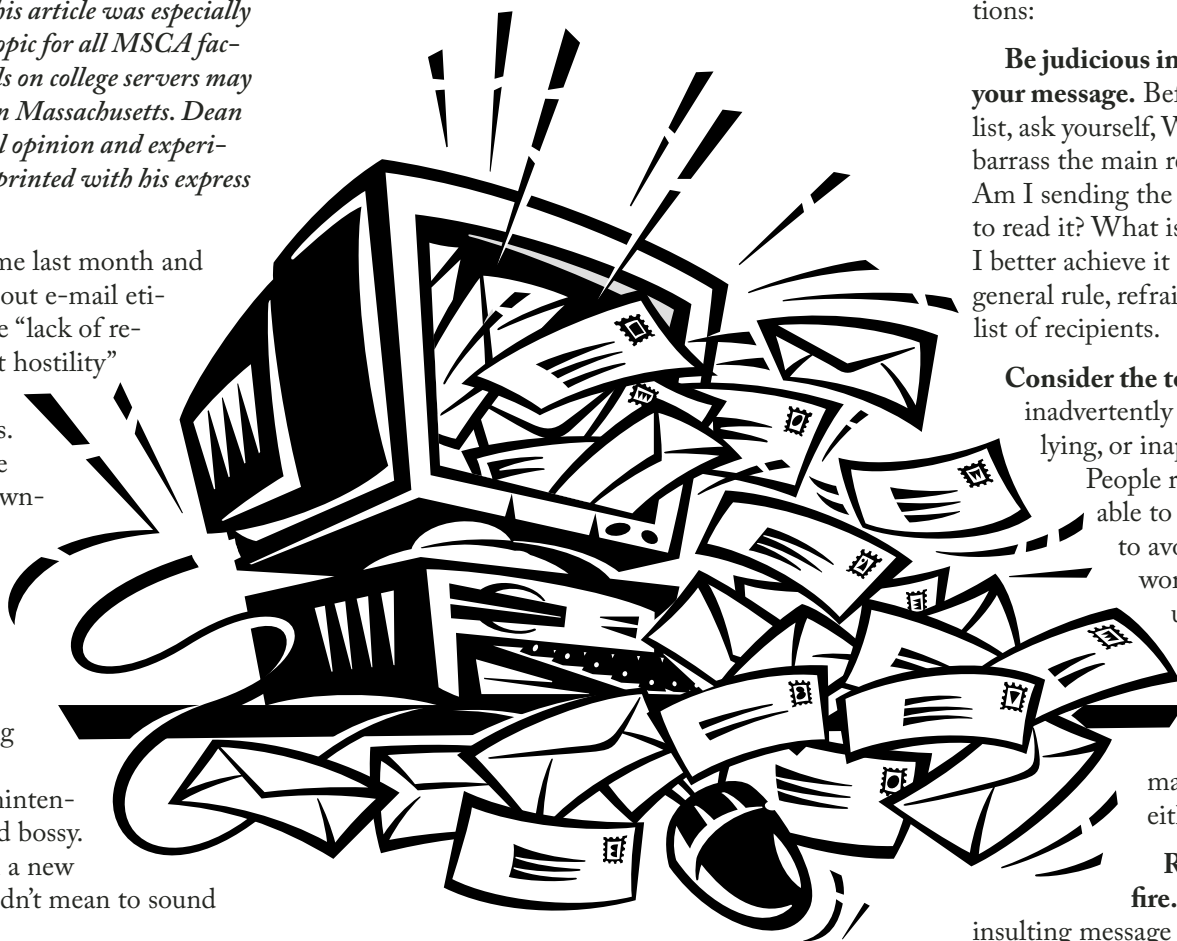
Some academics have made a habit of firing off angry e-mail messages to a host of recipients. I know an engineering professor who periodically becomes frustrated by some new university policy and responds by sending a heated e-mail message to the university's president, selected trustees, the provost, his dean, and every faculty member in his large department, excoriating "the university" for adopting the policy in question.

Dispatching a message to such a broad group of recipients is not only a breach of protocol (which dictates that you typically communicate to the next level above you), but it is invariably counterproductive: Your objective was to encourage people to take action, but the likely result is that you have succeeded in casting yourself as a crank or a troublemaker — someone not to be taken seriously.

Other academics are utterly abusive in e-mail messages. It is difficult to imagine the senders uttering the same incendiary words in a face-to-face encounter. I've seen colleagues use e-mail to accuse each other of stealing research ideas, of being "stupid" and therefore not deserving of their doctorate, of being "a disgrace to the professoriate," and of "destroying the department." A colleague of mine refers to such unrestrained verbal onslaughts as "assault by e-mail."

The most generous explanations for that behavior

are that the sender fired off the message in the heat of anger or was simply unaware of how insulting it would sound. Regardless of the rationalization, there is no excuse for abusive language in the workplace — none.



**Some people make the mistake of committing sensitive information to an e-mail message, forgetting that, once composed, it becomes a permanent record that can be shared with anyone and everyone. I know of a professor serving on a tenure committee who made the mistake of explaining to his colleague in an e-mail message why the committee had voted against her tenure... [B]y revealing the decision-making process in writing, he ... gave his colleague and her lawyer a document that later became the centerpiece of a successful lawsuit.**

That said, it is true that you have little control over how recipients perceive the tone of your message, even a routine one.

A senior scholar in the humanities said she was puzzled when some of her doctoral students would send messages asking if she was angry or upset with them. "It took me a while to realize that they were responding to the pithiness of my own e-mails," she explained. "I use e-mail as infrequently as possible and only to transact business, so I am not chatty or especially warm." Her students confused brevity with disapproval — a perception that was undoubtedly magnified by the anxiety that dissertators experience. She began to make a special effort to make her messages less chilly.

Some people make the mistake of committing sensitive information to an e-mail message, forgetting that, once composed, it becomes a permanent record that can be shared with anyone and everyone. I know of a professor serving on a tenure committee who made the mistake of explaining to his colleague in an e-mail message why the committee had voted against her tenure. Obviously, it is unethical to discuss such personnel issues outside of the committee to begin with, but by revealing the decision-making

process in writing, he inadvertently gave his colleague and her lawyer a document that later became the centerpiece of a successful lawsuit.

Here are some best practices to help faculty members and administrators avoid such unhappy situations:

**Be judicious in deciding who should receive your message.** Before adding any names to the "cc" list, ask yourself, Will adding someone to the list embarrass the main recipient or cause other difficulties? Am I sending the message only to those who need to read it? What is my real purpose here, and can I better achieve it in person, or on the phone? As a general rule, refrain from sending messages to a long list of recipients.

**Consider the tone of your messages.** Do you inadvertently sound condescending, angry, bullying, or inappropriate in any way?

People reading a message are not always able to "hear" tonal subtleties, so it is best to avoid sarcasm, irony, and satire in workplace e-mail messages. Similarly, using all uppercase may come across as shouting. Long-winded, rambling messages may sound argumentative, whiny, or even bad-tempered, while brief ones may seem cold and unfriendly. Avoid either extreme.

**Resist the urge to fight fire with fire.** The best response to a heated or insulting message is not to reply immediately.

Good practice dictates that you take some time to cool off and reflect about how to answer. Some experts suggest that you compose a reply but then save it and reread it later. See if you feel the same way. Above all, never send important e-mail messages when you are tired, angry, or upset — or late at night when you might be all three.

When you do reply to a negative message, avoid being drawn into a lengthy back-and-forth exchange that may only serve to escalate the conflict. Attempt to resolve the difficulty in person: "It appears that we are talking at cross-purposes; let's meet tomorrow and work this out."

**Compose every e-mail message as if the entire world will read it.** While you may well be engaging in a "private" exchange with a colleague or supervisor, e-mail is by definition a public forum. Be cautious and thoughtful about what you commit to writing and how you phrase your messages. If an issue is especially delicate or controversial, pick up the phone.

**Above all, in workplace e-mail messages, be professional.** Developing a professional ethos demands constant self-scrutiny. After writing the previous paragraph, I took a break to respond to a colleague's e-mail message requesting a document that I had already sent him. In resending the document, I unthinkingly reminded him that I had already sent it — a reminder that served no other purpose than to embarrass the recipient and make me feel petty.

I was quick to apologize. What you're going for here is a tone that is businesslike but warm, succinct but not telegraphic, and respectful rather than even subtly reproachful.

From time to time I receive a message saying something like, "John Doe hereby retracts the e-mail message recently sent to you." But you can never retrieve a message. That is precisely why observing the best practices of e-mail etiquette from the outset is so important. You can avoid a lot of regret by remembering a simple truth: E-mails are forever.

—Gary A. Olson is dean of the College of Arts and Sciences at Illinois State University. He can be contacted at [golson@chronicle.com](mailto:golson@chronicle.com). For an archive of his previous columns, see [http://chronicle.com/jobs/news/archives/columns/heads\\_up](http://chronicle.com/jobs/news/archives/columns/heads_up).