

Gov. Patrick Hears from MTA Leadership

C.J. O'Donnell, MSCA president



Sarah Nathan, MTA

C. J. O'Donnell poses a question to Gov. Patrick at the Jan. 8 meeting with union leaders.

On Jan. 8 Governor Deval Patrick met with MTA affiliate presidents, MTA Board members and staff from across Massachusetts. The governor updated us on the state's economy and his trip to Washington, DC where he had asked that a portion of the federal stimulus package be dedicated to public education. He then spent about 45 minutes answering questions from the audience of roughly 250 people.

Given the first question, I asked Gov. Patrick when he was going to get serious about settling the higher education contracts by lifting the "hold" placed on discussions of the employer's economic offer authorized in September 2008. He told us that he had authorized new parameters the first week in January and was shocked that we had not been informed.

I noted that this was yet another example of the lack of respect higher education members feel from his administration, with poor communications demonstrated by the failure of his administration to return phone calls, respond to emails or follow up on face-to-face meetings. The governor was dismayed at the communication problems and promised to look into the issue.

Shauna Manning, president of the Classified Staff Union at UMass Boston, gave an impassioned appeal to the governor not to pursue his proposal to establish tiered employee contributions to health insurance premiums. Mary Gilmore, a retired teacher and past MTA president, took the governor to task for vetoing a bill to increase retiree cost-of-living increases to the same level as social security recipients.

Other issues raised were inclusion of K-12 units into coverage under the Group Insurance Commission, pension reform, strategies to increase revenues and the excessive use of part-time faculty at the community colleges.

Higher education had a disproportionate number of representatives in attendance who put several questions and comments directly to the governor. Max Page, outgoing president of the Massachusetts Society of Professors at UMass Amherst, and I spoke with the governor for about ten minutes after the function (see photo, p. 4). We discussed revenues, pension reform, tiered health insurance and collective bargaining. The governor said he was hopeful that the agreements could be settled swiftly. I remarked that we had been hoping the same thing for nearly a year.

Notable was the sea of blue and white MSCA "Fair Treatment, Equitable Pay" stickers worn by union leaders. More than half of those who rose to ask a question or make a comment were wearing our stickers, along with MTA president Anne Wass, MTA vice president Paul Toner and MTA executive director David Borer. Photos from the event are posted on the MTA website at < http://www.massteacher.org/news/headlines/headlines_2009-01-09.cfm >.

Attending the event from MSCA were Ken Haar, chapter president at Westfield State and Ron Colbert, faculty member at Fitchburg State and MTA Director. MTA consultants Donna Sirutis and Bob Whalen were present as well.

MSCA, MSP Charge State with Bad Faith Bargaining

Sarah Nathan, MTA Communications

Frustrated by stalled contract talks, two MTA public higher education affiliates formally charged their state employer for the second time in recent months with failing to bargain in good faith.

On Dec. 9, the union representing faculty and librarians on the Amherst and Boston campuses of the University of Massachusetts filed unfair labor practice charges with the state Division of Labor Relations. The Massachusetts Society of Professors at UMass Amherst and the Faculty Staff Union at UMass Boston allege that their employer of record, the UMass Board of Trustees, offered a salary increase and then effectively reneged on it.

"We have an obligation to tell our employers, the UMass trustees and the state, that what they are doing is illegal," said MSP President Max Page. "This economic crisis does not give them the right to violate our state's collective bargaining law."

In August, 11 MTA affiliates separately charged their respective state employers, the UMass trustees and the state Board of Higher Education, which bargains for the state and community colleges, with bad faith bargaining. At that time, neither the trustees nor the BHE had put forth any salary offer.

Within a few weeks of the filings, both boards offered modest salary increases to several MTA-affiliated unions. In October, however, an official representative of the university system informed the MTA that he had "no authority to honor the salary offer." Around that time, the MTA was informed by a high-ranking member of Governor Deval Patrick's budget office that contract talks involving all salary and economic matters were on hold.

"After we filed the first round of unfair labor practice charges, a minimal salary offer was finally made," Page said. "Recognizing the state is facing difficult economic times, we accepted that offer and were surprised and disturbed when told that negotiators could not discuss economics at the table. In my mind, this is a classic example of bad-faith bargaining."

The agreements with all but one MTA affiliate currently in negotiations expired on July 1. The state's contract with the Association of Professional Administrators expired on the last day of 2007. Despite months of negotiations, the first salary offer wasn't made until September 2008.

Continued on page 4

IN THE ASSOCIATION

Nominations Open for 2009 NEA Representative Assembly

The 2009 Representative Assembly of the National Education Association will be held July 1 – 6, 2009 in San Diego, California.

MSCA members in good standing on January 15, 2009, who pay their dues to NEA through the appropriate MSCA chapter, may seek election as MSCA local delegates to the NEA-RA. Stipends may be available to assist with travel expenses.

Only members who pay their dues to NEA through the appropriate MSCA chapter will be entitled to vote in the election for MSCA delegates to the NEA-RA. Members teaching in day or DCGE who pay dues to NEA through another MTA local (e.g., MCCC, APA, or a K-12 local) may seek election as a local delegate only through that local and will be entitled to vote only in that other local election.

Individuals who join NEA after January 15, 2009 will not be eligible to seek election as a delegate to the 2009 NEA-RA.

The specific number of delegates allocated to MSCA will be established after January 15, 2009. The specific number of seats will be sent to all candidates and will appear on the ballot, if a run-off election is necessary.

The election timetable is as follows:

- Nomination deadline: March 13, 5:00 p.m., regardless of postmark or indicated fax time.
- Ballots mailed: week of March 16.
- Ballots return deadline: April 3, 5:00 p.m.

Questions should be directed to:

Nancy George, MSCA Secretary
Salem State College
352 Lafayette Street, Salem, MA 01970
(978) 542-7182
(978) 542-2242 FAX
nancy.george@salemstate.edu

Did You Know... About Anonymous Complaints?

Did you know that anonymous complaints, made orally or in writing, cannot be used against a faculty member under any condition by college administrators? This prohibition includes use by chairs of departments. A chair may orally inform a faculty member of such a complaint, but the complaint cannot be used as any part of an evaluation involving personnel decisions nor can any documentation of the complaint be placed in the faculty member's personnel file.

If a chair finds the complaint to be substantial, the chair is required under the contract to inform the affected faculty member. This should be done even if the complaint remains anonymous. Under such conditions, the faculty member should be assured that no action can be taken. Where appropriate, the chair should attempt to resolve the complaint while at the same time ensuring confidentiality for all parties involved.

The Board of Higher Education and MSCA/MTA signed a Memorandum of Agreement detailing this policy on Dec. 3, 1996, and reaffirmed the agreement in the *Policy on Handling Anonymous Complaints*, signed July 10, 2002. Both documents supplement the day and DGCE collective bargaining agreements and are enforceable under them.

In part the *Policy* reads:

The administration of each College shall not take adverse action against any unit member on the basis of anonymous complaints, including complaints where the complaining individual is known but does not want his or her identity disclosed....

It further states that at the beginning of the academic year, each College will distribute to vice presidents, deans, directors, and department chairs a copy of the *Policy on Handling Anonymous Complaints* along with the Dec. 3, 1996 Memorandum.

Copies of both Agreements and the *Policy* are available at your campus MSCA chapter office.

—Margaret Vaughan is chair of the MSCA Grievance Committee and can be reached at (978) 604-4883 or <mvaughan@chebeague.net>.



Margaret Vaughan

NEA NOMINATION FORM: DEADLINE - March 13, 2009

Name of Candidate (Please Print) _____

Institution Affiliation _____

I wish to place my name in nomination as a candidate for MSCA delegate to the 2009 NEA Representative Assembly.

Signature _____ Date _____

Please attach a biography statement (not to exceed 50 words)

Send completed form to: Nancy George, MSCA Secretary
Salem State College
352 Lafayette Street
Salem, MA 01970

Support Available to Attend NCHE Conference

The MSCA Board of Directors approved support for MSCA members to attend the 2009 annual conference of the National Council on Higher Education, to be held March 27-29 in Portland, Oregon. Visit <www2.nea.org/he/conf.html> for conference information.

Members must belong to MSCA and NCHE to be reimbursed for travel, lodging, registration and meals up to \$1,500. To request reimbursement, please contact MSCA Treasurer Glenn Pavlicek at <pavlicek@bridgew.edu> or (508) 531-2793. The deadline to request reimbursement is March 1, 2009.

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> to request a place on the agenda or with any other question about board meetings.

March 6
Framingham State College
McCarthy Campus Center – 1839 Room

April 3
Framingham State College
McCarthy Campus Center – 1839 Room

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

MSCA Perspective

A publication of the Massachusetts State College Association, the faculty and librarian union for the nine state colleges in Massachusetts.

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MSCA Pursues Enforcement of Contractual Limits on Part-time Faculty

Investigation Held on Unfair Labor Practice Charge Against Management

Patricia V. Markunas, Editor

The Charge

On Jan. 22 an investigation was held at the Division of Labor Relations concerning an unfair labor practice charge filed on May 30, 2008, by MSCA against the Board of Higher Education and the Council of Presidents.

This charge involved management's failure to enforce the contractual limits on the number of sections that can be taught by part-time faculty (Article XX, Section C.10) or the remedy ordered by then-COP chair **Janelle Ashley** in response to a consolidated grievance filed over the same issue (see the July 2008 issue of the *MSCA Perspective*).

The Language

The language found in Article XX, Section C.10, limits the number of sections that can be taught by part-time faculty in academic departments with six or more full-time faculty members. The limit is 15% of the total annual three-credit course offerings by department, over and above certain exemptions. (The limit is 20% at the Massachusetts College of Art and Design.) By agreement of the parties, the limit applies to four-credit courses as well.

The exemptions include course sections taught to replace full-time faculty on any paid or unpaid leave, on assignment to alternative professional responsibilities or release time, or for unforeseen emergencies.

The language does not apply to academic departments with fewer than six full-time faculty members or to the kinds of courses, for example, that receive fractional teaching workload found in Article XII, Section A.4.c. (physical education activity courses, directed study, internship supervision, etc.).

The History

In March 2002, MSCA filed a consolidated grievance over management's failure to enforce these contractual limits at several state colleges. At that time, at least 14 academic departments at five colleges were in violation of the Agreement. The grievance was put into recess until complete data could be gathered for all nine state colleges.

The first academic year for which comprehensive data were provided by management was 2004-2005. At that time, 29 academic departments at seven state colleges were in violation of the Agreement.

The Consolidated Grievance Ruling

The hearing on the consolidated grievance was held in November 2005. Worcester State College president **Janelle Ashley**, who chaired the Council of Presidents that academic year, found that seven state colleges had "violated the Agreement by employing, in various departments at various times, more part-time faculty to teach three-credit courses than the Agreement permits."

Pres. Ashley ordered a remedy that, among other points, directed each college in violation of the Agreement, to reduce its improper reliance on part-time faculty and to bring itself into compliance with the contractual mandate no later than the conclusion of the AY 2008-2009.

The Response to the Ruling

The number of sections taught by part-time faculty in violation of the Agreement decreased in the AY 2005-2006; only 20 academic departments at five state colleges were in violation of the Agreement.

Unfortunately, this progress toward contractual compliance was reversed in the years following. In the AY 2006-2007, 27 academic departments at seven state colleges were in violation of the contractual limits. The situation worsened in the AY 2007-2008, when 31 departments at seven state colleges were in violation of Article XX, Section C.10 (see Table 1).

Faced with ample evidence that the employment of part-time faculty would not comply with the Agreement or the grievance ruling in the foreseeable future, MSCA filed the unfair labor practice charge in May 2008.

The Hearing

MSCA was represented at the Jan. 22 hearing by MTA consultant **Donna Siritus**, MSCA president **C.J. O'Donnell**, MSCA grievance committee chair **Margaret Vaughan** and yours truly. **Christine Melin**, executive assistant to the MSCA grievance committee, provided much-appreciated assistance to prepare the statistical information presented at the hearing.

Among other material, we presented Table 2, which shows the actual number of courses taught in violation of the limits in Article XX, Section C.10 in academic departments subject to those limits. Table 2 provides unequivocal evidence that compliance with the Agreement was worse in the two academic years since the grievance ruling was issued than it was in the two academic years prior to.

Individual tables by college were provided to show the actual number of courses taught in violation of the contractual limits on part-time faculty as well. It was

Table 1

State College Academic Departments
Subject to and in Violation of Article XX, Section C.10:
Academic Year 2007-2008

	Overall # of Departments	# Depts. Subject to Article XX	# Depts. in Violation	% Depts. in Violation
Bridgewater	29	24	12	50.0%
Fitchburg	14	12	0	0.0%
Framingham	18	13	2	15.4%
Mass Art and Design	9	8	2	25.0%
MCLA	17	9	1	11.1%
Mass Maritime	7	6	0	0.0%
Salem	28	22	10	45.5%
Westfield	21	15	3	20.0%
Worcester	20	13	1	7.7%
Totals	163	122	31	25.4%

Table 2

Total Number of Courses per Campus in
Violation of the Cap on Part-time Faculty:
Academic Years 2004-05, 2005-06, 2006-07, and 2007-08

Campus	2004-05	2005-06	2006-07	2007-08
Bridgewater	140	129	230	343
Fitchburg	0	0	0	0
Framingham	29	3	0	16
Mass Art and Design	6	0	19	16
MCLA	11	0	1	3
Mass Maritime	0	0	2	0
Salem	158	148	210	203
Westfield	66	61	75	58
Worcester	6	5	14	25
TOTALS	416	346	551	664

noted that, across the system, the academic departments most frequently and egregiously in violation were departments of English, however named.

Evidence was submitted by department chairs that the increased number of part-time faculty has increased the workload of the remaining full-time faculty. The additional workload burden is particularly acute for academic advising and participation in governance and the peer evaluation process at the departmental and college levels.

Chairs provided evidence that the violations of contractual limits on part-time faculty have increased their workloads as well, especially in the areas of hiring, scheduling and evaluations. One chair, who has 25 full-time and nearly 50 day part-time faculty members in her department, noted that it is impossible to schedule all of her contractually mandated classroom observations or complete all of her required faculty evaluations during the academic year.



Sarah Nathan, MTA

MSCA president C. J. O'Donnell and MSP president Max Page (UMass-Amherst) meet with Gov. Patrick at the conclusion of the Jan. 8 meeting with MTA leadership.

Bad Faith Bargaining Charged *Continued from Page 1*

Investigative conferences on the first round of charges were held at the Division of Labor Relations in December.

Since contract talks began, the state's economic picture has worsened. To address a major budget deficit, Patrick has slashed \$755 million in state funding, including \$48.2 million earmarked for public higher education. As a result, the 29 public higher education campuses in Massachusetts were hit with a 5 percent budget cut midway through the current fiscal year.

While personnel were spared on most public higher education campuses, UMass Lowell Chancellor **Marty Meehan** said UML could not absorb a \$4 million cut without a reduction in force. On Dec. 2, he announced a major layoff, affecting 52 full-time employees and 20 part-time employees. Of the jobs slashed, five were held by MTA members.

At the same time the public higher education campuses are facing additional budget cuts, enrollment is at an all-time high.

According to estimates released by the Department of Higher Education, there were more students enrolled as undergraduates at the state's public colleges and UMass this September than in any other fall term in the history of the Massachusetts public higher education system. The number of undergraduate students is up by 4.2 percent from the previous year and has increased by 18.2 percent over 10 years.

By segment, the state's 15 community colleges are

experiencing the biggest jump in enrollment from the last academic year to the current one — 5.3 percent, or 4,479 students. Enrollment at the five UMass campuses is up by 3.4 percent, and enrollment is up 3 percent at the nine state colleges. Average year-to-year increases over the last decade have been approximately 1 percent.

While the increase in the number of undergraduates enrolling in public higher education in Massachusetts is positive news, there are real questions about how the faculty and staff can continue to accommodate more students with reduced resources.

"Enrollment in our state's community colleges is at an all-time high, yet the threat of layoffs and increased student fees and tuition is out there," said **Joseph LeBlanc**, president of the Massachusetts Community College Council. "While we are planning to organize and work hard to avoid additional cuts, it may not be possible if things get worse — and things are expected to get worse."

"When economic times are bad, we need to make public higher education more accessible and affordable for people," he added. "It is unconscionable to cut faculty and professional staff who are on the front lines teaching our students."

—A longer version of this article appeared in the December 2008/January 2009 issue of the MTA Today. Reprinted with permission.

Patrick Makes Further Cuts, Files FY10 Budget

C.J. O'Donnell, MSCA president

On Jan. 28 Governor Patrick released his proposed FY10 budget (House 1) and announced a second round of "9C" cuts. Section 9C of Chapter 29 of the general laws allows the governor to make mid-year cuts if revenues fall below projections. Revenue projections for this year are now roughly \$2 billion below the level projected when the FY09 budget was passed, or \$1.4 billion below actual FY08 revenues.

The state colleges received a 5% cut in October 2008, with an additional cut this month of 0.6%. The community colleges saw a compounded 5.6% cut; UMass, a compounded 5.3% cut. These cuts have created problems on the campuses, but the governor's proposed FY10 budget goes even further.

The projected deficit for FY10 is \$3.5 billion. As a result the governor's proposed FY10 appropriation to the state colleges is 16.5% less than this year. To make matters worse, Gov. Patrick has proposed a "rolled-up" appropriation for the state and community colleges.

Rather than individual appropriations for each college, he has proposed a single amount for the 24 institutions. Funds would be distributed based on "improvement measures." There are no such measures.

The governor provides for up to 10% of the appropriation to be moved from the state colleges to the community colleges. These provisions would require the state colleges to compete not only with each other for state funds, but also with the community colleges.

Adding insult to injury, the governor has included a provision whereby a state employee's contribution to GIC health insurance premiums will be based on salary. Those making less than \$35,000 per year would pay 15%, those making between \$35,000 and \$50,000 would pay 20%, and those making more than \$50,000 would pay 25%.

—Analysis of the budget was provided by *Arline Isaacson and Dave Danning of MTA.*

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