

MSCA Settles Bargaining Charges with BHE, Advances 15% Part-time Cap Complaint BHE Admits Non-compliance with Previous Order

On May 22, 2009, MSCA settled two unfair labor practice cases involving allegations that the Board of Higher Education had failed to bargain in good faith during the recently concluded round of contract negotiations for the day unit.

Attorney **Sandra Quinn**, from the MTA Division of Legal Services, represented MSCA at a mediation session at the Division of Labor Relations in Boston. MSCA President **C. J. O'Donnell** and MTA consultant **Donna Sirutis** participated in the mediation.

The settlement agreement acknowledges that the Board of Higher Education did not comply with an order issued by the DLR's predecessor, the Labor Relations Commission. In the previous decision (SUP-4100) the Commission found that the employer had not bargained in good faith because it refused to authorize its representatives to make an economic offer while waiting for "parameters" from the Secretary of Administration and Finance.

This acknowledgement could be important when the parties enter into negotiations for a successor agreement in 2012. Should the BHE repeat this conduct in the future the DLR could issue a finding of contempt, which would allow the MSCA to seek relief in court. The LRC's ruling in 1997 and this recent settlement could help other Massachusetts unions presented with similar circumstances.

A notice of the settlement is to be posted by the Board of Higher Education for thirty days on all state college campuses in conspicuous locations where members can view it beginning September 1, 2009. MSCA will monitor compliance with the settlement.

DLR Issues Complaint in 15% Cap Case

On May 6, 2009, the DLR issued a formal complaint of prohibited practice against the Board of Higher Education concerning the BHE's failure to enforce the contractual limit on the number of certain course sections that can be taught by part-time faculty (Article XX, Section C.10).

This complaint resulted after the DLR conducted an investigation on January 22, 2009, into MSCA's allegations of unfair labor practice charges, originally filed on May 30, 2008.

In attendance at the January investigation were MSCA president **C. J. O'Donnell**, MTA consultant **Donna Sirutis**, MSCA Grievance Committee Chair **Margaret Vaughan** and former MSCA president **Patricia Markunas**. **James Cox, Esq.**, represented the Board of Higher Education.

Kathleen Goodberlet, the DLR investigator, found probable cause to believe that certain of the alleged violations had occurred and ordered a formal hearing to be held later this year. MSCA's case will now be assigned to an attorney in the MTA's Division of Legal Services for representation at the formal hearing.

—*MSCA president C. J. O'Donnell, MTA consultant Donna Sirutis and MSCA Perspective Editor Pat Markunas contributed to this article.*



DGCE bargaining chair Sue Dargan joins Framingham chapter president Robert Donohue at the April 24th MSCA Board of Directors meeting in Worcester.

Day Contract Ratified

The results of the ratification vote on the April 22, 2009 Tentative Agreement for a collective bargaining agreement for the period July 1, 2009, through June 30, 2012, are as follows:

Yes	717
No	81
Challenged Ballots	1
Blank Ballots	2
Total Ballots Cast	801

According to Massachusetts General Laws Chapter 150E, Section 7(c), the Board of Higher Education must, within 30 days, submit a request for funding of the contract to the governor. At press time, the BHE expects to have this request to Gov. Patrick by mid-July.

The governor then has 45 additional days in which he may file a bill with the legislature to fund the contract.

MSCA is working with the colleges to implement longevity and formulary pay increases on time July 1. We will keep you informed about the progress of the contract funding process.

Thanks to all members who took the time to cast a ballot in the ratification vote. Your support of MSCA is very much appreciated.

—*C.J. O'Donnell, MSCA President*

—*Dan Shartin, Chairperson, MSCA Bargaining Committee*

Busy Summer Ahead for DGCE Bargaining Team

Team Prepares to Enter Negotiations

Sue Dargan, Chair, DGCE Bargaining Team

The DGCE Bargaining Team is in the preliminary stages of negotiating a successor to the 2006-2009 collective bargaining agreement, which expires on August 31. The team met this winter to prepare a bargaining survey for faculty who teach in DGCE to determine their priorities and concerns.

Members received an email with a link to the electronic survey in April, which was also posted on the MSCA website. There were 451 responses to the multiple-choice questions and 100 written comments. Survey results were provided only to the team and will not be released to the DGCE membership.

The team met in May to analyze the survey findings and develop a formal initial proposal. This proposal was presented to and approved by the MSCA Board of Directors at its June 5 meeting. Negotiations began June 24.

The team consists of: **Sue Dargan** (Chair, Framingham), **Glenn Pavlicek** (Bridgewater), **Jack McKeon** (Fitchburg), **Ben Ryterband** (Mass Art), **Gerry Concannon** (Mass Maritime), **David Goodof** (Salem), **Ken Haar** (Westfield), **Bill O'Brien** (Worcester) and **C.J. O'Donnell** (MSCA President). Team alternates include: **Jean Stonehouse** (Bridgewater), **Nancy Kelly** (Fitchburg), **Robert Donohue** (Framingham), **Sam Schlosberg** (Mass Art), **Arthur Aldrich** (Mass Maritime), **Paul McGee** (Salem) and **Jack Shea** (Westfield). MTA consultant **Robert Whalen** will serve as the team's chief negotiator.

Post-tenure Review Final Ratings Vary Among Campuses, Disciplines

Patricia Markunas, Editor

The completion of the post-tenure review process first implemented in the 2004-07 collective bargaining agreement (Article VIII-C) and extended in two subsequent memoranda of agreement affords an opportunity to take a comprehensive look at the results of this expansive merit pay system.

Appreciation is given for **Christine Melin's** work in the preparation of the statistical material for this comprehensive report.

Background

Nine hundred, twenty-nine (929) tenured faculty and librarians were eligible to participate in the new PTR Alternative One process. In the fall 2005, 874 members elected to do so over the four academic years of the last contract plus its extension (2005-2009).

During this period, 42 of these members left the state college system (29) or entered state college administration (13) prior to their evaluation. Twenty-three (23) tenured members who originally selected Alternative Two chose to switch to Alternative One in spring 2008. In all, 855 tenured members were evaluated under PTR Alternative One.

Fifteen (15) different vice presidents and 12 different presidents were involved in this process over the four years.

Ratings for 2008-09

Table 1 (this page) shows the number and percentage of "not acceptable" ratings for the fourth, final year of PTR by campus. Five campuses did not have any initial ratings of "not acceptable" and only three had final ratings of "not acceptable."

Table 2 (this page) shows the number and percentage of initial and final ratings of "exemplary" by campus. The range for the initial ratings for the academic year just ended was the most extreme among all four years.

Results of the Reconsideration/Appeal/Grievance Resolution Processes

Charts 1 and 2 (this page) show the overall results of the reconsideration, appeal and grievance resolution processes for the two categories of initial non-exemplary ratings.

"Appeal" includes any step of the reconsideration, appeal and grievance resolution processes. "Granted" means at least one increase in the PTR rating.

Five (5) individuals did not submit the required portfolio for review and received a rating of "not acceptable." These individuals did not appeal their ratings. These data are included in Chart 1.

The results can also be presented without inclusion of those cases where PTR candidates did not appeal their ratings. For initial "not acceptable" ratings, 61% of those who requested reconsideration or appeal had their ratings increased at least to "meritorious" and, in five cases, to "exemplary."

For initial "meritorious" ratings, 59% of those who requested reconsideration or appeal had their ratings increased to "exemplary."

These results are important to keep in mind when the post-tenure review process is reinstated beginning in AY 2011-2012.

In spring 2008, Westfield State College president **Evan Dobelle** resolved existing individual and chapter grievances concerning procedural violations in the post-tenure review process at that campus. All ratings of "meritorious" and "not acceptable" were changed to "exemplary" and salaries were adjusted retroactively. The final ratings at Westfield State College are 100% exemplary.

Final Ratings for All Four Years

Charts 3 and 4 (page 3) contrast the overall initial ratings and final ratings for all four years of the current post-tenure review process.

Table 3 (page 3) shows the final ratings by campus over the entire four-year period. As with the ratings for the year just concluded, considerable range exists in the percentage of final "exemplary" ratings across campuses.

Final Ratings by Discipline

Table 4 (page 3) represents an updated version of data published in the October 2008 issue of the *MSCA Perspective*. The primary disciplines of all 855 tenured members were reviewed to insure greater consistency in categorizing faculty to academic disciplines; changes were made and errors were corrected.

The difference between faculty and librarian ratings is not statistically significant.

The October 2008 results are repeated here: faculty in disciplines with higher salaries nationwide have not received comparable PTR ratings to those faculty in disciplines with lower salaries nationwide. These discrepancies are troubling in their implications for efforts to achieve equity with salaries paid to our peers.

Table 1
2008-09 Ratings of "Not Acceptable" by Campus
(in decreasing order by initial percentage of PTR candidates)

Campus	# (%) Initial Ratings	# (%) Final Ratings	President/Vice President
Salem	7 (15%)	4 (8%)	Meservey/Esterberg
Mass Maritime	1 (14%)	1 (14%)	Gurnon/Lima
Bridgewater	2 (5%)	2 (5%)	Mohler-Faria/London
Overall	11 (5%)	7 (3%)	
Worcester	1 (5%)	0 (0%)	Ashley/Shamgochian

Note: At the remaining five colleges, no initial rating of "not acceptable" was given in 2008-09.

Table 2
2008-09 Ratings of "Exemplary" by Campus
(in decreasing order by final percentage of PTR candidates)

Campus	# (%) Initial Ratings	# (%) Final Ratings	President/Vice President
Westfield	28 (100%)	28 (100%)	Dobelle/Hayes
MCLA	13 (93%)	14 (100%)	Grant/Green
Mass Art	13 (100%)	13 (100%)	Sloan/Branson
Worcester	20 (90%)	21 (95%)	Ashley/Shamgochian
Bridgewater	33 (87%)	36 (95%)	Mohler-Faria/London
Overall	178 (81%)	195 (89%)	
Fitchburg	24 (86%)	24 (86%)	Antonucci/Fiorentino
Framingham	19 (83%)	19 (83%)	Flanagan/Martin
Salem	23 (48%)	36 (75%)	Meservey/Esterberg
Mass Maritime	5 (71%)	5 (71%)	Gurnon/Lima

Chart 1
Appeal Results for
"Not Acceptable" Ratings
(all four years: 36 total)

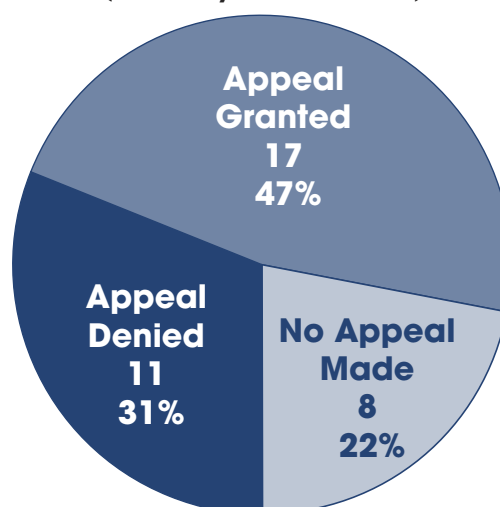
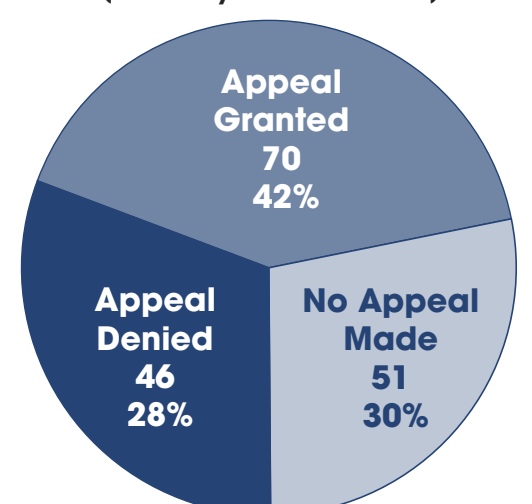


Chart 2
Appeal Results for
"Meritorious" Ratings
(all four years: 167 total)



Post-tenure Review Process Changes for Better with Each Contract

C.J. O'Donnell, MSCA president

Post-tenure review has been a part of American higher education, in various forms, since at least the 1970s.

The first Massachusetts public higher education affiliate to agree to a post-tenure review system was the UMass system. In their 1995-98 contract, UMass agreed to a simple review process to yield either a "satisfactory" assessment or an "unsatisfactory" assessment that required professional development. It was deemed the "Multi-year Performance Review" and carried no pay increases.

MSCA Bargaining History

For Massachusetts state college faculty and librarians PTR began with the 2001-2003 agreement. Opposed by the bargaining team, the first system was cursory, occurred every seventh year after one's most recent evaluation, involved no salary increase, required professional development for those rated "unsatisfactory" by the vice president, and was grievable.

Although the bargaining team again opposed post-tenure review during negotiations for a successor agreement, the team agreed to a bifurcated system in the 2004-2007 agreement. Faculty and librarians with tenure on September 1, 2004 chose one of two alternatives for evaluation.

Alternative one was a one-time full-blown evaluation resulting in a rating of "exemplary" (6% salary increase), "meritorious" (3% salary increase) or "not acceptable" (no salary increase). Those rated "not acceptable" could request, but not be required to perform, a professional development plan and be re-evaluated. However, only procedural violations could be grieved. Alternative two remained the same procedure established under the 2001-2003 agreement.

This system of evaluation was more comparable to a merit pay system for tenured faculty and librarians than the post-tenure review systems that have been implemented in other higher education systems.

In a memorandum of agreement signed in April 2008, members who had chosen alternative two were given the opportunity to opt into alternative one.

The bargaining team again proposed eliminating PTR in this round of negotiations; however, we agreed to another modified system in the 2009-2012. There will be no PTR until AY 2011-2012.

Improvements in the Upcoming Contract

- **Voluntary** – No one will be required to participate and there will be no adverse action for not participating.
- **New ratings** – The ratings will be "6% increase warranted," "3% increase warranted" and "no increase warranted." MSCA was dissatisfied with management's proposed ratings during negotiations for the 2004-2007 agreement, but management was insistent on those ratings at that time.
- **Broader professional development** – Members receiving a 3% or a 0% salary increase will be eligible for a professional development plan and re-evaluation; previously only members receiving no increase were eligible.
- **Elimination of Alternative Two** – Alternative two had no salary increase attached to it and could have led to adverse personnel action.

As you can see, there is no guarantee that post-tenure review will continue in either its current form or any other form in a successor agreement.

Future Analyses of PTR Ratings

A report on campus expenditures for post-tenure review over the past four years will be published in the September issue of the *MSCA Perspective*.

The relationship of chronological age and sex to final ratings, by campus and overall, will be researched as well. If significant relationships are found, actions may be taken in addition to the current consolidated grievances underway.

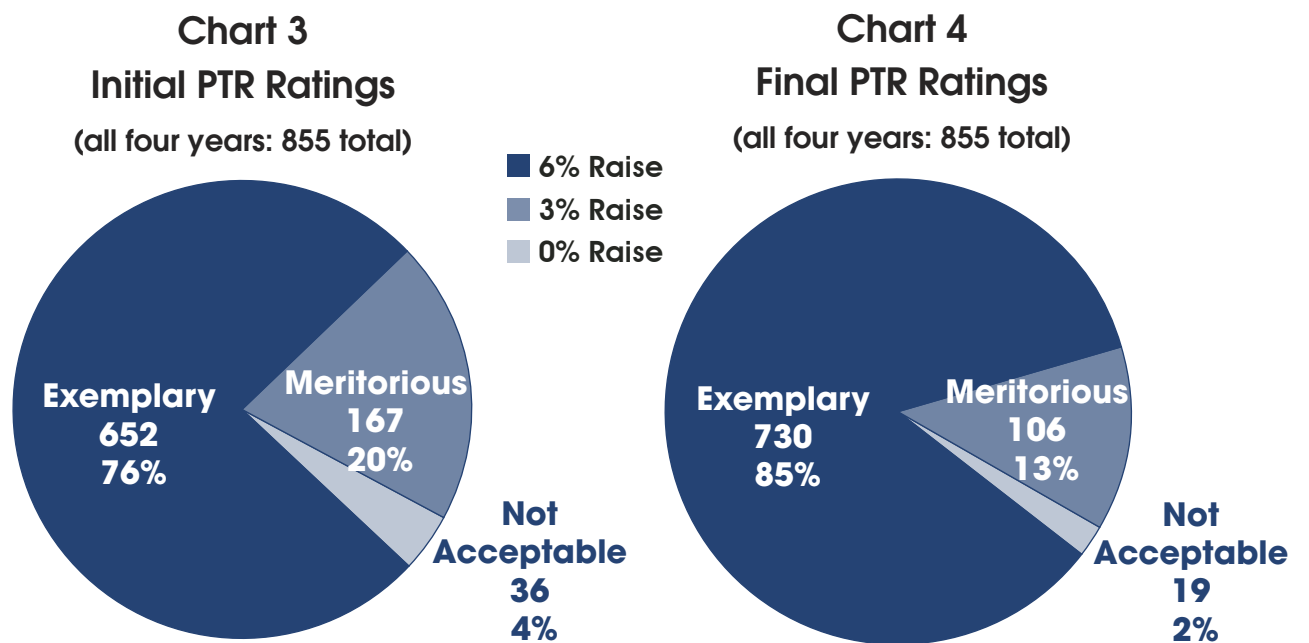


Table 3

Overall Post-tenure Review Final Ratings by Campus

(all four years, in decreasing order by percentage of "exemplary" ratings: 855 total)

Campus	# (%) of Exemplary Ratings	# (%) of Meritorious Ratings	# (%) of Not Acceptable Ratings	Total
Westfield	98 (100%)	0 (0%)	0 (0%)	98
Bridgewater	134 (91%)	12 (8%)	2 (1%)	148
MCLA	49 (87%)	7 (13%)	0 (0%)	56
Overall	730 (85%)	106 (13%)	19 (2%)	855
Worcester	73 (85%)	11 (13%)	2 (2%)	86
Mass Art	49 (84%)	9 (16%)	0 (0%)	58
Framingham	72 (83%)	13 (15%)	2 (2%)	87
Mass Maritime	26 (81%)	5 (16%)	1 (3%)	32
Salem	147 (79%)	31 (17%)	8 (4%)	186
Fitchburg	82 (79%)	18 (17%)	4 (4%)	104

Table 4

Overall Post-tenure Review Final Ratings by Discipline

(all four years: 855 total)

General Academic Discipline	Number of Exemplary Ratings	Number of Non-exemplary Ratings	Percentage of Non-exemplary Ratings
Natural Sciences, Mathematics, Computer Science, Industrial Technology and Engineering	111	35	24%
Business and Economics	59	18	23%
Nursing and Allied Health Sciences	29	7	19%
Librarians	19	4	17%
Professional Maritime Faculty	11	2	15%
Overall	730	125	15%
Social Sciences, Criminal Justice, Social Work and Consumer Science	182	26	13%
English and Communications	108	13	11%
All Other Humanities, Art History and Interdisciplinary Studies	133	13	9%
Health and Physical Education	22	2	8%
Education and Art Education	56	5	8%

IN THE ASSOCIATION

Fitchburg, MCLA Chapters Elect New Presidents

Two newly elected chapter presidents joined the MSCA Board of Directors at the end of spring semester. **Sean Goodlett**, an associate professor in the Department of Economics, History and Political Science, joined the Fitchburg State College faculty in 2001. He holds a doctorate degree in European intellectual history from the University of Oregon, in addition to two masters degrees in British history and British/American literature.



Sean Goodlett

Prior to his arrival at Fitchburg, Sean held a visiting professorship in history at Clarion University of Pennsylvania and adjunct professorships at Western Oregon University and the University of Oregon. He also served as the assistant archivist in the Ava Helen and Linus Pauling Papers collection at Oregon State University.

Sean's current academic project involves revision of a manuscript on the cultural and social history of 18th century European newsprint. One goal as chapter president is addressing "the sizeable increase in workload at Fitchburg State that has occurred over the past 11 years."

Sean and his wife have three sons and are avid gardeners and hikers.

Dana Rapp served as the MCLA grievance officer prior to his election as chapter president in May. He wanted to run for office to "better understand the policies that limit our work and to be part of a growing community of people across the state who are coalescing around issues of justice and fairness."

Dana joined the MCLA faculty in 2002 where he is an associate professor in the Education Department. Dana's current research interests include the dehumanizing effects of high stakes testing on K-12 students, teachers and communities.

Dana holds a doctorate degree in policy studies from Indiana University (also his undergraduate alma mater) and a masters degree in educational administration from James Madison University. Prior to his arrival at MCLA, Dana was an assistant professor at Ashland University in Ohio.

—Ed.

Annual Meetings Adopt Budgets, Dues, Policies

Every spring and summer, MSCA and our two parent unions hold annual meetings of elected delegates to consider and adopt an annual budget and dues, legislative initiatives and other policy statements.

MSCA Delegate Assembly

The 2009 MSCA delegate assembly was held on April 25 at Worcester State College. Delegates from across the state gathered to adopt the proposed FY 2010 MSCA budget and dues as recommended by the MSCA board of directors and published in the March/April issue of the *MSCA Perspective*. For the second year in a row, MSCA statewide dues were held to existing levels.

Delegates unanimously adopted a resolution that MSCA support legislation to allow state employees currently enrolled in the optional retirement plan to opt out of the plan and join or rejoin the state retirement plan. MTA has filed a bill (S1173) that would provide a 180-day window for ORP members to change retirement systems in line with MSCA's resolution. A hearing on this bill is scheduled for Sept. 21 before the Public Service Committee. More information regarding the bill will be forthcoming.

The ORP issue is of critical importance to public higher education faculty throughout Massachusetts.

MTA Annual Meeting

The 2009 MTA annual meeting was held on May 1 and 2 in Boston. Over 1000 delegates were in attendance. MSCA had 24 delegates present.

Considerable debate was held about the MTA's proposed budget and net dues increase of \$17. Several motions to reduce expenditures, dues and the annual assessment for MTA's public relations and organizing programs were defeated.

One motion of unknown budgetary impact was adopted: to provide the MTA's newspaper, *MTA Today*, electronically to members unless they request a hard copy subscription. Questions about the implementation of this motion remain, as the MTA has valid email addresses for less than 30% of its statewide membership.

NEA Representative Assembly

This year's NEA-RA will be held the first week of July in San Diego, CA. Approximately 9,000 delegates attend the RA every year.

The following MSCA members have been elected to serve as delegates to this national policy-making body: **Ronald Colbert** (Fitchburg), **Gerald Concannon** (MMA), **Robert Coppola** (Mass Art), **Joseph Ebiware** (MCLA), **Nancy George** (Salem), **C.J. O'Donnell** (MMA), **Len Paolillo** (MCLA), **Charles Wellens** (Fitchburg), and **Edward Welsh** (Westfield).

A report on the actions taken at the NEA-RA will be published in the September issue of the *MSCA Perspective*.



Cheryl Stanley (left), the Westfield chapter day bargaining committee representative, joins MSCA vice president Amy Everitt (Salem) at the April 25 MSCA delegate assembly in Worcester.

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