



Massachusetts Department of Higher Education

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Carlos E. Santiago
Commissioner
Chris Gabrieli
Board Chairman

April 23, 2020

Elizabeth M. Sullivan, Esq.
Rubin & Rudman
53 State Street
Boston, MA 02109

RE: Review and Analysis of MSCA Bargaining Package Proposal April 14, 2020

Dear Attorney Sullivan:

Thank you for your email of April 14, 2020 in which you, on behalf of the State University Council of Presidents (COP) forwarded the MSCA's two-year offer which was presented to the COP's bargaining team on April 14, 2020. Your submittal was made in accordance with the Board's delegation of collective bargaining authority to the COP under which all economic or financial proposals must be reviewed by the Department of Higher Education for analysis and approval.

As presented, the MSCA package proposal contains provisions calling for a two percent (2%) across the board salary increase for Year 1 of the successor collective bargaining agreement (7/1/20-6/30/21) and a further two percent (2%) across the board salary increase for Year 2 of the successor agreement (7/1/21-6/30/22). The proposal further provides that formulary increases for FY2021 and FY 2022 be suspended and that those monies be used specifically to increase the per-credit part-time and music instructor compensation rates. Lastly, the package proposal contains a proposed early retirement incentive under which eligible employees would receive a lump sum payment ranging from 3.3% to 30% of their then salary upon retirement.

After careful review and consideration of the MSCA proposal, and for the reasons cited below, please be advised that the Department of Higher Education cannot approve the submitted proposal, and further directs the COP bargaining team to emphasize with the MSCA the need to place collective bargaining in abeyance until such time that the

financial impacts and other uncertainties resulting from the current COVID-19 public health emergency can be more fully ascertained.

The Commonwealth is currently in the midst of an unprecedented global pandemic which has had deep and far reaching ramifications. Thousands have succumbed to the COVID-19 virus and the Commonwealth is presently in the surge of the COVID-19 infections and deaths. The continuing public health emergency makes it impossible for people and institutions to carry on in a “business as usual” manner. Stay at home and social distancing advisories remain in effect, and the economy and fiscal outlook of the Commonwealth has been severely impacted by the crisis.

The long-term impact on public higher education presented by the current crisis remains uncertain. The economic impacts on students and families is likely to be long lasting, with corresponding impacts on enrollment, retention, and student housing vacancies. These factors, as well as the uncertainty of public funding, will have adverse impacts on university financial conditions.

At the Legislature’s budget hearing last week, regional economists, legislators and Administration officials all agreed that the state’s economy has been damaged, that its financial prognosis is still largely unknowable, and that public health considerations, not economic forces, will determine how the next several months will unfold. Estimates were given that future tax collections could result in \$4 billion to \$6 billion below initial projections for FY 2021. Economists predict it would be at least until July before anyone knows the extent of the damage to the economy and what a recovery would look like. At least one expert noted that it might be until 2022 before employment (and thus tax revenue) recovers to pre-virus levels. All of this makes it difficult to craft a balanced state budget. Thus, budgetary uncertainty will remain for at least the short term if not the long term. Consequently, the uncertainty of the state fiscal situation has an associated effect on the ability of the universities to establish reliable budget forecasts for the coming year.

Furthermore, state universities are and will be facing several other financial liabilities and uncertainties. There is still a large degree of uncertainty on the amount of supplemental funding to be received by the Commonwealth and universities under federal programs including the CARES Act. The universities are also facing large bond payments on dormitories and other infrastructure and there is no clear path on how these payments will be addressed during the current crisis. The universities have also incurred expenses directly related to meeting the COVID-19 crisis and transitioning to on-line and remote learning. Moreover, they have incurred \$47 million in room and board and parking refunds to students for the Spring semester.

Recently, the Commissioner publicly stated his concern about our systems of higher education as a result of the present pandemic. Furthermore, the DHE has been advised by the OER against bargaining on a successor agreement given the uncertainty of the state’s fiscal condition. Therefore, the DHE is unable to provide you with any financial parameters for collective bargaining now or in the foreseeable future and certainly not until these economic uncertainties are resolved. Without greater clarity on public funding

and university budgets and revenue, any discussion on salary increases for the next two years would be unrealistic, and therefore unproductive. For these reasons, it would be irresponsible for the DHE and the state universities to engage in any collective bargaining. Therefore, the Department must decline the MSCA's proposed two-year salary increases and other financial proposals, and we see it as critical, given the ongoing financial uncertainties, that collective bargaining on a successor agreement be placed in abeyance during the present public health emergency and fiscal crisis.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Simard', with a stylized flourish at the end.

Thomas J. Simard
Deputy Commissioner for A&F

CS/m

cc: Carlos E. Santiago, Commissioner
Richard Lapidus, Chair, State Universities Council of Presidents
Michael J. Murray, Esq., Director of Employee and Labor Relations