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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

WAYNE STATE UNIVERSITY,

Public Employer,

-and-

Case No. D83 E-1502

WAYNE STATE UNIVERSITY
CHAPTER OF THE AMERICAN
ASSOCIATION OF UNIVERSITY
PROFESSORS,

Union.

Victor Baum /

Wayne State University

FINDINGS AND RECOMMENDATIONS
OF PUBLIC FACT FINDER

BACKGROUND

The parties to this proceeding are Wayne State University and the American Association of University Professors, Wayne State University Chapter. The Association is the exclusive bargaining agent for the faculty and academic staff of the University. Economic and non-economic matters are in dispute.

SALARIES

The economic issues will be considered first. This includes all matters that have substantial fiscal impact. Most significant is the matter of a salary increase for bargaining unit members. The Association's position is that there should be a retroactive salary increase of 8.2% for fiscal year 1984 and an 8.6% increase for fiscal 1985. The latter includes a special adjustment of 4.28% for women's equity. The Association proposes a 6% to 8% increase for fiscal 1986.

The University administration proposes that there be no salary increase for fiscal year 1984 and an increase of 4.7% for fiscal 1985. There would be an 0.2% promotion increase pool for fiscal year '84. There would also be payment in fiscal '84 of the deferred portion of a fiscal '83 salary increase, payment of which was deferred in part. Included in the University's offer of a 4.7% increase for fiscal '85 is an 0.2% pool for promotional increases. For fiscal year '86, the University Administration proposes a 4.7% increase.

This is a good starting point for a review of the University's overall fiscal condition in recent years. The revenues of the University, available for general use, come primarily from three sources: appropriations by the State Legislature, student tuition and fees, and indirect cost recovery under provisions of research grants and research contracts.

In 1980, with the decline in the economy, the State's fiscal integrity began to unravel. In 1981 and 1982, the bottom dropped out. The economic recession crippled the State to the extent that monies appropriated for the University by the Legislature were denied the University by gubernatorial executive order. While the recession raged on, so did inflation; the University's costs continued to mount.

Attempts to improve revenue by increasing student tuition were in large part counterproductive. Student enrollment declined substantially, somewhere between 25% and 28% from the 1975 level. Of the large public universities of this country, only the City University of New York suffered a greater decline in enrollment. The University did not fare well in indirect cost recovery. When scheduled state appropriations failed to arrive, the University was forced to seek a loan. Two banks with which the University had dealt for years refused to extend credit. Fortunately, the University was able to borrow from another financial institution.

Projects were abandoned. Departments and colleges, that had husbanded their resources for the purchase of equipment, found their budget surpluses "siezed" and used to pay University debts incurred by less fiscally responsible units.

Maintenance of plant and other capital assets, already badly neglected, was further deferred.

The Wayne State University Library, which once ranked 38th among 104 libraries in the Association of Research Libraries, plummeted to 96th.

In the midst of this fiscal crisis, the University asked salary concessions from the AAUP. There had been a negotiated salary increase of approximately 5% for fiscal year 1983. AAUP agreed to defer all but 30% of the increase to the following year. In return the University agreed that it would not lay off members of the faculty and academic staff. The University honored the agreement. The University did, however, permit the number of faculty and academic staff members to decline by attrition and created incentives for early voluntary retirement.

This barely depicts, with broad brush strokes, the University's plight in the early 1980's.

In the fall of 1982, the President of the University published an analysis of the University's condition, entitled "An Agenda for the University." President Adamany's "Agenda" includes a farsighted, carefully considered and comprehensive analysis of the University's problems and the means for resolving them. The President's message, _inter alia_, dealt with the special mission of a university in an urban center; student enrollment decline; the need to assure access to the University for the special kind of student body that exists in Metropolitan Detroit; the deterioration of physical plant and other capital assets; the need to maintain fiscal viability; the need to restore library resources; and the need to replace obsolescent technical equipment, used in teaching and research.

The "Agenda" is in large part reflected in the Administration's statement of budget priorities published on June 8, 1983. This statement is in turn reflected in the fiscal year 1984 budget, adopted by the Board of Governors of the University. This budget does not include any money for increasing the salaries of members of the bargaining unit. The June 8, 1983 statement of budget priorities is attached as Exhibit I of the Appendix.

For the most part, the policy decisions underlying the fiscal 1984 budget appear sound and in the best interests of the University and the public. These policy decisions directly affect the economic issues in this case; the more significant of these policy decisions will be examined.

STUDENT TUITION

Student tuition and fees provide a substantial part of the University's total revenues -- approximately 30% in 1983. There is no tuition increase included in the FY '84 Budget. A policy decision was made not to seek revenue by raising student tuition. This decision removes a source of revenue otherwise available for a salary increase. The evidence in this case strongly supports the decision.

From 1975 to 1983 the Detroit Consumer Price Index increased by 87.7%, but Wayne State University's annual tuition for undergraduate students who reside in Michigan increased by 150.5%. In the same period of time tuition as a percentage of general fund revenues increased from 25% to 31%. The result is that Wayne State University presently has the fourth highest tuition of all major public research universities in the United States. Tuition at Wayne State is 59% higher than the $1,242 median reported by the National Association of State Universities and Land Grant Colleges.

The President of the University has called this situation "intolerable." "Intolerable" is not too strong a word when one considers the nature of the student body. Thirty-eight percent of the students receive financial aid. Forty-three per cent of those who do, are from families with less than $15,000 in annual income. The parental contributions to these students is 40% less than the Michigan average and 34% less than the national average.

Three-quarters of Wayne State students are employed full-time or part-time. Close to one-third are parents, raising children in their homes. Ninety per cent of the students live in the Detroit Metropolitan area, but very few live on campus. The average age of Wayne's undergraduates is 25, as compared to 20 at the University of Michigan and 21 at Michigan State.

Over 27% of the student body are members of racial minority groups. Most of Wayne State's students -- regardless of race or age -- are the first generation in their families to attend college. Access to the University for this kind of student body should not be barred by high tuition.

Wayne State's high tuition is inimical to its role in the Metropolitan Detroit community as a provider of members of the professions. Seventy-one per cent of Wayne's living alumni reside in or near Detroit. Sixty-five per cent of the Wayne Medical School graduates and 61% of the Law

School graduates reside in Wayne, Oakland and Macomb counties. So do 71% of the Pharmacy graduates, 67% of the Engineering graduates, 69% of the Business Administration graduates, 62% of the Nursing graduates, 75% of the Education graduates and 65% of the Social Work graduates.

Thus, a very substantial portion of this University's graduates furnish their knowledge and skills to the greater Detroit community. Not the least of these services are those involved in addressing the human problems, rife in the Metropolitan area.

Wayne State has a distinguished record for providing opportunity to all of the residents of this urban community to educate themselves for important roles in our society. A policy to keep tuition from barring access to the University is clearly in the best interest of the community and the University.

OTHER BUDGET PRIORITY RECOMMENDATIONS

Another of the recommendations of the Administration, reflected in the Board of Governors' FY '84 Budget calls for expenditure of $950,000 in a long-term deficit retirement program. This recommendation applies to payment of actual indebtedness owed to persons and entities not a part of the University. This must be done to keep the University creditworthy. It is clearly in the University's interest and the public interest to do so.

Another Administration recommendation, reflected in FY '84 Budget, calls for a $140,000 (10%) increase in expenditure for equipment. This can hardly be faulted given inflation and the demonstrated need.

The same is true respecting the budgeted increase of $160,000 (10%), for inflation, in expenditures for library acquisitions. This is true for the budgeted increase of $100,000 (4%), for inflation, in expenditures for supplies and the budgeted increase of $2.8 million to meet likely utility rate increases.

Quite debatable is a $50,000 item, the first of twelve installments, to liquidate the so-called General Fund deficit. This "deficit" is not owed to persons or entities who are not a part of the University. Liquidation of this "deficit" will not make the University more credit worthy.

The evidence leaves a little room, but not much, to quarrel with the President's recommendation, adopted by the Board of Governors in the FY '84 Budget for the additional expenditure of $1.7 million to restore and replace aging equipment, to meet the need for modern medical and scientific teaching equipment and to improve productivity in clerical and information-transmission activities. The evidence tends to show obsolescence of critical proportions.

There is even less room to argue about the FY '84 Budget item increasing expenditures by $1.3 million for restoration of libraries. The same is probably true regarding the item for an additional expenditure of $800,000 for the Computing Services Center.

A strong case can also be made for the fiscal 1984 budget item of an additional expenditure of $3.1 million for physical plant operations.

The evidence seems to support the Administration's recommendation, reflected in FY '84 Budget, of additional expenditures of $490,000 for alumni and development activities.

The evidence supports the Administration recommendation, reflected in the FY '84 Budget, for the expenditure of $660,000 to replace an obsolete accounting system, to implement a plan for a Fixed Capital Assets Inventory and to conduct evaluations of programs.

The same is true with respect to the additional expenditure of $100,000 in the FY '84 Budget to strengthen the Public Safety Department.

These expenditures very nearly exhaust anticipated revenues. The FY '84 Budget seems to have made an excellent start in alleviating all of the problems caused by the recession, except one, the problem of the morale of the members of the bargaining unit who made significant sacrifices in fiscal 1983.

Conspicuous by its absence is the failure of the FY '84 Budget to provide any increase whatsoever in the salaries of the faculty and academic staff. Payment in FY '84 of salaries that were contracted to be paid in the prior year is not an increase. The deferred money was not available in fiscal 1983 to be spent or to be invested for a return.

Absolute truth is not embodied in any budget; there is room for adjustments in the fiscal '84 Budget. At the outset, it is clear that the items in the FY '84 Budget, supported by the evidence as being in the best interests of the University, leave little for an increase in salaries. This report will not recommend a whopping salary increase for FY '84. However, within the total monies budgeted and the funds which have become available because of underestimates of revenue or overestimates of expenses, there is enough to give the faculty and academic staff a modest increase. This would recognize their sacrifice in fiscal 1983, undo in small part their loss from inflation, and give a much-needed boost to morale.

Respecting sacrifice and morale, President Adamany made these observations in November of 1982:

> "Employee groups have been asked to defer approximately 80% of scheduled or anticipated compensation increases. Many employee groups, including the faculty and academic staff, have either agreed to such deferrals or have indicated a willingness to accept deferral . . . The deferrals by many employee groups went beyond a strategy to save the jobs of fellow employees. They were also acts of sacrifice to assist the University to weather a budgetary crisis.
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> * * *
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> "Employee morale has deteriorated badly, and labor relations have been adversely affected by fiscal stringency." (University exhibit 54, p. 2)

The provisions in the University's June 8, 1983, "Budget Priorities Statement" that relate to compensation do nothing for the morale of faculty and academic staff.

Recommendation 6 provides:

> "The administration recommends that no further compensation increases be awarded in FY 84, except for those which can be funded by identifiable productivity improvements within presently budgeted funds or by attrition or lay-offs within the existing payrolls."

The evidence demonstrates that "identifiable productivity" is measured largely by faculty-to-student ratios, a matter over which individual faculty and academic staff members have little or no control. The same is true regarding lay-offs and attrition.

In short, the Priorities Statement on which the budget for FY '84 is based is, on the whole, a well-balanced piece of work. But it is deficient in one respect; it does not address the serious faculty morale problem. As a matter of fairness, this error should be corrected.

Where will the funds come from if a salary increase for fiscal '84 is not to undermine, materially, the Budget Priorities? First, the decline in student enrollment in fiscal '84 was roughly half that anticipated in the FY '84 Budget. Revenues from tuitions have been much greater than anticipated.

Second, one can infer from the evidence that the number of faculty members declined in fiscal '84; this reduces expenditures.

Third, the evidence suggests that indirect cost recovery from research grants and contracts increased in fiscal '84, perhaps more than estimated in the budget. If this is the case, more revenue resulted than was anticipated.

Fourth, there are probably some unspent budgeted funds that can be found within the fiscal '84 budget for a modest salary increase.

I cannot determine from the evidence precisely how large such a retroactive salary increase can be without significantly interferring with the FY '83 Budget priorities; I can only make a rough estimate of 2.5% to 3%. (See President Adamany's testimony, Tr. vol. V, p. 17, to the effect that approximately $1,679,000 would pay for a 4% salary increase. See, also University exhibit 53, pp. 12 and 15.)

Respecting salaries for fiscal '84 and fiscal '85, each side has offered a plethora of evidence to support its position. Reasonable arguments have been made by each. Much of the evidence concerns salaries at universities allegedly comparable to Wayne State. The "battle of comparables" went on day after day and occupies a large part of the 1,075 pages of transcript and 512 pages of exhibits. Another large part of the evidence deals with the increase in the cost of living over the years. Concerning the comparables, neither party has won a definitive victory.

As for the cost of living, the University correctly points out that although the members of the bargaining unit have been ravaged by inflation, they have not lost more to inflation than the University as a whole, nor more than the average resident of the State. But this does nothing for the morale of bargaining unit members. One senses that Association members feel at best neglected and at worst punished by the Administration, without fault on their part.

Turning to the FY '85 Budget, it is an extension of the fiscal priorities set earlier. There is a 5.5% increase in salaries in this budget that is described as "an inflation-level" increase. It is a cautious budget, but a reasonable one. The policies underlying the FY '85 Budget and its dollar figures for line items appear in the Appendix as Exhibit II.

The University sought funding from the Legislature for a fiscal '85 salary increase. The Fiscal Agency of the State Senate and House of Representatives pointedly omitted this item in its statement of uses to which State funds should be put.

It would be unwise to use monies appropriated by the Legislature for purposes other than those intended by the Legislature. The University enjoys autonomy under the Constitution of Michigan. It can lawfully use money appropriated for it by the Legislature for purposes not intended by the Legislature. But public universities in Michigan must go to the State Legislature in each session to make each university's case for receiving State funds. The University must constantly be concerned about good relations with the Legislature. It is common knowledge that the Legislature is especially sensitive about the use of State funds for salary increases when contrary to legislative intent. The evidence in this case shows that the Legislature intends to monitor closely the University's use of funds appropriated by the State.

For the most part, the University's "agenda" and the budgets embodying it have been carefully and thoughtfully crafted. The University Administration deserves a reasonable opportunity to carry out its overall plan. All evidence and argument considered, the University's position regarding a salary increase in fiscal '85 appears to be fair and is recommended.

It would seem that the University's offer of a 4.7% salary increase for FY "86 is too cautious in the light of facts presently known. The University's offer was made before the Governor's proposed budget was known. The gubernatorial budget is now in the public domain. Since the University made its proposal, much more is known, also, about the reaction of the Legislature to the Governor's proposal. There is a relatively clear indication of willingness by the State of Michigan to increase the level of appropriations for public education.

On the other hand, the AAUP's demand of a 6 to 8 per cent increase would seem to be too high. There is uncertainty whether federal statutes and regulations will be changed to restrict eligibility of students for grants and loans. This could reduce tuition revenues. The indications are that inflation will be slight. I recommend a 5.5% increase in salaries for fiscal '86.

DISTRIBUTION OF SALARY INCREASES

There is an issue concerning the manner in which salary increases should be distributed.

The University's position is that, apart from fringe benefits, all of a salary increase should be distributed based on merit. The University states that the 4.7% salary increase recommended for fiscal '85 should go into merit increases as follows: 0.2% promotional, 1.0% unit selective, that is, awarded by a committee selected from the department or division, and 3.5% "President/Dean's selective", that is, awarded by the President on the recommendation of deans and directors.

The AAUP would award a little less than 98% of a salary increase on an across the board basis. The 8.2% increase sought by the Association for FY '84 would be allocated as follows:

Classification salary adjustment	2.7%
Across the board adjustment	3.3%
Promotion salary adjustment	0.2%
Selective salary adjustments	1.75%
President's, dean's selective salary adjustment	.25%
Total	8.2%

The AAUP argues that the bulk of the salary adjustment is given to meet increases in the cost of living and that in recent years the cost of living has been increasing for all members of the bargaining unit, irrespective of merit.

The record supports the University's claim that in recent years the University has done poorly in national ratings of its scholarly quality. The University argues:

> "The one clear way to move the University forward toward quality is to reward quality, the University can hold its present quality faculty, and attract new quality faculty, only if it can offer those persons salaries which are competitive on the national market."

The arguments of both parties are reasonable. There is room here for compromise. The bargaining teams should consider an allocation of 75% on the basis of merit and 25% across the board. The suggestion is weighted in favor of merit distribution because of the persuasive testimony of the deans of the various colleges. Their testimony demonstrates that merit distribution would help the University in recruitment and even more in retention of capable professors. Also, there is evidence that among the universities that allocate on both merit and across the board bases, approximately 80% allocate much more on merit than does the AAUP proposal.

However, the evidence overall does not support the conclusion urged by the University that "the magnitude of the [recruitment and retention] problem is such that it can be met only by the dedication of the entire salary approval to the problem." Wayne State is not alone in the problem of recruiting and retaining highly qualified professors. The evidence indicates that a minority of comparable universities use a pure merit system in distributing salary increases. A survey conducted by the Wayne State Administration shows that 49% of the responding instituions awarded all of increases in salary on a merit basis; 45% of the respondents distributed a portion of an increase on the basis of merit and a portion across the board; and 6% of the respondents allocated all of a salary increase across the board. The mixed and across-the-board-only-systems total 51%. Outstanding universities are among those using a mixed system.

There is another difference between the parties in connection with the process by which merit allocations should be made. The AAUP favors a so-called "unit selective process" in which the influence of the University President and his appointees is not as great as in the system proposed by the University Administration. In the latter proposal there would be both unit selective, and President's-deans'/directors' selective, salary adjustments, but the President and Administration would have greater authority over merit distributions than in the AAUP plan.

I suggest that the bargaining team keep the unit selective system that is presently in place. The evidence indicates that it has worked quite well. The party seeking a change has the burden of persuasion. The University administration has not met this burden.

Turning now to another salary issue, there is a question whether a portion of any salary increase should have a component for women's equity to correct disparities in compensation based on gender. There is such a component in the AAUP proposal, but not in the University's proposal.

There is testimony from Professor Rita Richey indicating that the study to date is preliminary and tentative. She says that it is a study from which "it appears that people talking in the hallway have perhaps something there and we should go and look at it in a little more serious matter" (sic; probably intended to be "manner."). Professor Richey's testimony shows that what is presently needed is a study by experts selected in a manner approved by the AAUP and the University. The study should be completed with dispatch. If differences based on gender exist, they should be promptly corrected.

ELIGIBILITY FOR PARTICIPATION IN RETIREMENT PROGRAM

Another cost related issue concerns eligibility to participate in the University retirement plan. Article XII, I of the collective bargaining agreement, insofar as relevant, provides:

> "1. Members of the bargaining unit with two years of University service, and who have attained thirty years of age, shall be eligible to participate in the retirement program . . . "

The AAUP would reduce the age of eligibility for participation from 30 to 26 years. The Association argues that an early start enables bargaining unit members to receive greater cash benefits at the time they retire. This would enhance the University's attractiveness to young faculty members, present and prospective.

The evidence indicates that in the University of Michigan Retirement Program, which provides approximately the same benefits on retirement as Wayne State, persons become eligible to participate upon appointment for one semester.

The University opposes the change because of its fiscal priorities as reflected in the University's present and proposed budgets for FY '84, '85 and '86. However, the Association offered evidence to show that only 14 members of the bargaining unit would become eligible at this time. Even if the change is made, it is possible that less than 14 will apply.

The AAUP proposal is recommended because it will help attract and keep promising young teachers, without significant effect on the fiscal '84 and '85 budgets.

RESEARCH & EDUCATIONAL DEVELOPMENT GRANTS

Article XXVI of the existing Agreement provides:

> "During the life of this Agreement, the University shall provide annually at least $160,000 for research awards evaluated by the University Research Award Evaluation Committee.
>
> "The University shall establish annual Educational Development Grants to be awarded to members of the bargaining unit. During the life of this Agreement the University shall provide annually at least $15,000 for educational development grants evaluated by the University Educational Development Grant Committee. No individual Educational Development Grant may exceed $3,000."

The Association would increase the amount ear-marked for annual research awards from $160,000 to $200,000.

Instead of having the University Research and Award Evaluation Committee merely evaluate award applications and recommend awards to a higher echelon -- as is the present arrangement -- the University Research and Evaluation Committee would make the awards directly to applicants.

The Association would also change the control of a portion of the monies obtained by the University as indirect costs reimbursement in connection with contracts and grants. One Hundred Thousand Dollars, annually, would be taken from indirect cost reimbursement revenues and placed under the control of the University Research Award and Development Committee. Such revenues are presently in the control of the University Provost.

Finally, the Association would increase the maximum amount of Educational Development Awards from $15,000 to $45,000 annually.

The Association has offered evidence tending to show that younger associate professors and assistant professors have not been receiving enough research award and educational grant money. However, the evidence does not show that lower ranking faculty members would fare better if the University Research and Development Award Committee could designate, rather than merely recommend, the recipients of research and educational development grants.

The Association has also introduced evidence tending to show that research monies available for the humanities from private and governmental grants and contracts is very small compared to that available for research in the hard sciences and technological development. The Association's evidence suggests that the imbalance could be lessened by adoption of the Association's proposals.

The University's position on research and educational grants is that there is "new" money for research in the budget for fiscal '85. It also argues that the changes sought by the Association are inconsistent with the University's fiscal priorities as reflected in the University's existing and proposed budgets for FY '84, '85 and '86.

The burden of proof and persuasion ordinarily rests with the party seeking change. The fact finder concludes that the Association has not sustained the burden of proving that its proposal is in the best interests of the University and the public.

LONG TERM DISABILITY INSURANCE ELIGIBILITY

In the present contract the minimum time of service to be eligible for benefits is three years. The AAUP would shorten the term for eligibility to one full calendar year.

The evidence shows that Michigan State University has a one year eligibility requirement.

For reasons stated above and respecting the Association's research and educational development grants, I do not support the Association's position on eligibility for long term disability insurance.

MEDICAL INSURANCE FOR RETIREES

The next issue involves an extension of medical and dental benefits for retired persons who have been members of the bargaining unit.

Under the present provisions of the collective bargaining agreement, upon retirement, persons lose dental insurance coverage completely and lose advantageous group rates for medical insurance. Michigan State University and University of Michigan give better treatment to retired personnel.

The Association's proposal would extend dental coverage at no cost to persons retiring after May 28, 1983.

The University's position is that the Union's request is not consistent with the goals, policies and priorities embodied in the University's present and prospective budgets.

The Association's proposal would significantly affect the fiscal priorities of the University. For reasons already stated, I do not recommend the Association's proposal, despite an empathetic urge to help the retirees.

SABBATICAL LEAVE

There is an issue respecting compensation for persons on sabbatical leave. The AAUP is asking for a change in Article XIII, B 2 f (1). Subparagraph f (1) deals with compensation for persons taking a one semester leave following 12 semesters of service. The present collective bargaining agreement provides compensation for such a person, of 80% of what she would have received had she not gone on leave.

The Union's proposal is to increase the compensation for such person from 80% to 95% for a one semester sabbatical following 12 semesters of service.

The University has offered 100% for faculty and 80% for academic staff.

The Association maintains that there is no basis for the differential between faculty or academic staff. The University claims that academic staff members who take sabbaticals must be immediately replaced with a full-time replacement, but faculty members on sabbaticals need not be fully and immediately replaced. Because of this, the University contends that the Association's plan is more costly. The evidence supports the University's argument.

Moreover, the University points out that sabbaticals are intended for scholarly research, resulting in papers, books and reports of discoveries. Such scholarly work is not expected of members of the academic staff. The University has offered a continuing education plan for academic staff members to keep them current in their professions.

The University's position is more persuasive than the Association's.

CHRISTMAS SEASON CLOSURE

This is an issue that has economic consequences, but it is unclear whether the AAUP's proposal would increase or decrease costs. Article XII, Section N of the current collective bargaining agreement provides as follows:

> "Twelve-month bargaining unit members will be given time off with pay between Christmas and New Year's. Any bargaining unit member required to work between Christmas and New Year's will be given compensatory time off at a later date."

The Association would change the collective bargaining agreement to read as follows:

> "Bargaining unit members will be given time off with pay for those working days occurring between Christmas Day and New Year's Day. In those years that

> December 24th falls on Monday or January 2nd falls on Friday that day shall also be paid time off for bargaining unit members.
>
> "Any bargaining unit member required to work during the Christmas/New Year's closure will be given compensatory time off at a later date."

The apparent changes are first, application of the provision would be extended beyond 12-month bargaining unit members to all bargaining unit members. Second, in those years in which December 24th falls on Monday or January 2nd falls on Friday, bargaining unit members would get time off with pay on Monday and Friday.

December 24th will fall on Monday and January 2nd on Friday only three times in the next 10 years. The evidence indicates that there is very little activity on Christmas Eve Mondays and on post-New Year's Day Fridays. Even enrollment activity is hardly appreciable. Inconvenience to students would appear to be slight.

However, there is no evidence to indicate the cost of such a change to the University. The AAUP argues that heating and light bills would be reduced. But the University does not agree and there is no expert testimony to support either conclusion.

I recommend that the bargaining teams seek expert advice on the cost consequences of such closure. If the proposal would not result in a substantial increase in costs, it should be written into the collective bargaining agreement.

PRACTICE PLANS

Another issue involves practice plans. The Wayne State University College of Medicine has a practice plan that permits private practice of medicine by faculty members under certain circumstances. There is also a practice plan in the School of Nursing. A practice plan permitting private consultation by members of the faculty of the College of Education has been proposed.

The Association would like to have a letter from the University Administration agreeing that the Administration will not require any member of the Medical School faculty to participate in a practice plan. The Association points out that there has been collective bargaining concerning University policy on outside consulting by faculty members and on copyrights and patents resulting from the research of faculty members.

The position of the University is that there should not be collective bargaining on practice plans.

In past contract negotiations the University took the position that the Medical School practice plan was not a mandatory subject of collective bargaining and declined to negotiate on the subject. The Association started unfair labor practice proceedings before the Michigan Employment Relations Commission, charging the University, inter alia, with failure to bargain in good faith. The Administrative Law Judge ruled that the practice plan issue was not a mandatory subject of collective bargaining and that the University was not guilty of an unfair labor practice.

The Association appealed the Administrative Law Judge's ruling to the Michigan Employment Relations Commission; the Commission affirmed the Administrative Law Judge by a two to one vote. The Association moved for reconsideration and the Commission again upheld the Administrative Law Judge. The Association did not appeal to the courts. The litigation, doggedly pursued by the Association, was costly in time, effort, and money.

Without question, the subject of practice plans is a permissible one for collective bargaining. But no one should be surprised at the University's insistence on enjoying the fruit of its hard won litigation victory. The Association's request is unrealistic.

More importantly, nothing in the evidence suggests the remotest likelihood that the University Administration will, in the forseeable future, require faculty members to participate in practice plans.

For the above reasons I do not recommend that there be bargaining on the matter of the practice plan in the College of Medicine.

AGENCY SHOP

The "agency shop" issue is an important one. The issue is controversial and much debated in private and public employment. The bargaining representative and its dues paying members want all persons in the bargaining unit to share in the cost of Association activities in bargaining and representation; an "agency fee" clause would accomplish this. There are, however, individual members of the bargaining unit who do not want to give financial support to Association activities.

Only 51% of the bargaining unit are dues-paying members of the AAUP. Less than a majority of the faculty are members. A majority of the members of the academic staff belong to the Association.

Collective bargaining agreements between the University and two units represented by the UAW have "agency shop" clauses.

According to the Association, certain states by statute require an "agency shop" provision in the collective bargaining agreement of a public employer and its employees. Michigan does not have such a statute.

By statute it is permissible in Michigan to provide in a collective bargaining agreement that a member of the bargaining unit who refuses to become a union member must pay an agency fee to the bargaining representative. The fee is designed to cover the cost of representing the member. (MCLA 408.471) This fee can only cover the cost of contract negotiation, contract administration and grievance activity. Abood v Detroit Bd of Education, 431 US 209 (1977).

The union has a legal duty to represent each member of the bargaining unit fairly, whether or not he or she is a union member. The Association argues that an agency shop provision requires only that every person represented by the union pay a fair share of the cost of representation. The Association calls its proposal a "fair share" provision.

The University Administration is opposed. The Administration argues that the AAUP's remedy is to convince bargaining unit members to join the AAUP. The University has offered evidence that faculty members in certain of its schools and colleges strenuously oppose any requirement that they pay dues or agency fees to the AAUP. It is ironic that since 1972, the AAUP has paid lawyers $41,400 to represent persons who work in the Medical School and who believed themselves aggrieved. At the hearing, the strongest objection to an agency fee clause came from the Medical School. Only 19.4% of medical school employees are members of the Association. The others, in the Association's view, are "free riders".

Here is a possible compromise. The collective bargaining agreement would provide for a check-off of an agency fee for those persons in the bargaining unit who are not dues-paying members of the Association. See MCLA 408.477 and Detroit Bd of Education v Parks, 417 Mich 268 (1977). The fee could not exceed a members aliquot part of the cost of contract negotiation, contract administration, and grievance activity.

However, there would be a provision exempting from payment of an agency fee and from the check-off any person who states under oath that she or he objects, as a matter of conscience, to any of his or her funds being used by the Association. The national policy of AAUP provides for such an exemption for conscientious objectors.

Further, the collective bargaining agreement would state that a conscientious objector would have to pay the reasonable costs incurred by the Association in representing him in the assertion of any grievance. This would include the reasonable costs incurred by the union in all steps of the grievance procedure including arbitration and an appeal from the decision of the arbitrator. (Article XVII F of the collective bargaining agreement presently states that at a certain stage of the grievance procedure, the grievant may be represented by counsel of his choice at his own expense.)

A conscientious objector should have no trouble with the proposition that he, and not all of the other members of the bargaining unit, should pay for grievance efforts by the Association on his behalf. The individual objector would have the right to select and pay for any other representative in grievance proceedings.

Some, who do not want to be AAUP dues-paying members, might even go along with a check-off of agency fees as payment for insurance of the cost of grieving.

This plan, of course, would not result in payment by a conscientous objector of his aliquot share of the cost of collective bargaining and contract administration. Nevertheless, in recognition of the strong resistance to joining the union by a very large minority of bargaining unit members, the Association would do well to give consideration to this compromise as a step in the right direction.

I have found no judicial or administrative decisions dealing with a plan like this one, but I am of the opinion that the writing of such a plan into a collective bargaining agreement would be lawful. See MCLA §423.210(2); Abood v Detroit Bd of Education, 431 US 209 (1977).

There are other possible avenues of compromise. For example a standard agency fee provision could go into effect only for those college schools and departments in which at least 55%, or some other agreed portion of the members of the bargaining unit, are dues-paying members of the Association.

GENERAL OBSERVATIONS

Lest there be any doubt, I reject the argument that the fact finder should accept as binding the decisions of the Board of Governors of Wayne State University on fiscal matters if such decisions are supported by evidence on the whole record. This standard is appropriate for one engaged in judicial review. A fact finder in public labor matters is not engaged in judicial review. A fact finder merely makes findings and recommendations. These findings and recommendations bind no one. The Legislature's hope is that these findings and recommendations will provide a basis for resolving collective bargaining deadlocks.

I recognize that control of the University rests with the Board of Governors. What the Association seeks is to have the administration recommend to the Board, changes in some of its decisions that are embodied in the budgets for fiscal '84 and fiscal '85. There is nothing wrong with the bargaining agent making such a request or with the fact finder endorsing it.

The clear public policy of the State is to encourage settlement of public labor disputes by collective bargaining, mediation and fact finding. Mediation and fact finding are merely catalysts in the collective bargaining process. To require the fact finder to endorse management's position, if there is evidence to support it, is inconsistent with the collective bargaining process and therefore, inconsistent with the public policy of the State.

The fact finder should weigh each of the positions of the University and the Association on its own merits and make recommendations, accordingly; I have done so.

For successful collective bargaining and good labor relations there must be compromise and give and take. I urge the parties to make every possible effort to reach agreement.

Victor J. Baum

Victor J. Baum, Fact Finder

VJB4/c/11

WAYNE STATE UNIVERSITY
BUDGET PRIORITIES STATEMENT
JUNE 8, 1983

Summary of Recommendations

1. The Administration recommends that the FY 84 Budget be developed on the assumption that available General Fund revenues will be $161.2 million, from the following sources: State Appropriation, $111.9 million; Tuition and Fees, $45.3 million, Indirect Cost Recover, $4 million; Department Revenues, $4.8 million.

2. The Administration recommends no tuition increase in FY 84.

3. The Administration recommends a twelve-year plan to liquidate continuing General Fund and Auxiliary deficits of $11,449,000.

4. The Administration recommends expenditure of $1 million in FY 84 as the first payment on the long-term deficit retirement program.

5. The Administration recommends additional expenditures of $2.2 million in FY 84 for salaries and fringe benefits to honor existing collective bargaining contracts.

6. The Administration recommends that no further compensation increases be awarded in FY 84, except for those which can be funded by identifiable productivity improvements within presently budgeted funds or by attrition or lay-offs within existing payrolls.

7. The Administration recommends that the long-term decline in Faculty-to-Student ratios be reversed and that funds made available through this process over time be made available to improve the University's national competitive standing in salary rates.

8. The Administration recommends that salary improvements for faculty give substantial weight to merit performance and national market conditions, and that improvements for other employees give substantial weight to merit performance.

9. The Administration recommends expenditures for continuing operations as follows:

   (a) An inflationary increase of $140,000 (10 percent) in expenditures for equipment;

   (b) An inflationary increase of $160,000 (10 percent) in expenditures for library acquisitions;

   (c) An inflationary increase of $100,000 (4 percent) in expenditures for supplies;

   (d) An increase of $2.8 million to meet the projected cost utility rate increases.

APPENDIX, EXHIBIT I

10. The Administration recommends that the Contingency Reserve be increased from $900,000 to $1 million to recognize inflation and to reflect current year (FY 83) experience with demands on the Reserve.

11. The Administration recommends additional expenditures of $1.7 million to restore and replace the University's aging equipment inventory, to meet demands for modern medical and scientific equipment, and to improve productivity in clerical and information-transmission activities.

12. The Administration recommends additional expenditures of $1.3 million for restoration of the University Libraries, with $800,000 to be added to the acquisitions budget and $500,000 to be allocated for library automation.

13. The Administration recommends additional expenditures of $800,000 for the Computing Services Center to improve service, to reduce reliance on external revenue sources, and to eliminate further deficit accumulation.

14. The Administration recommends additional expenditures of $3.1 million for Physical Plant operations, as follows:

    (a) $900,000 for restoration of custodial and grounds activity, although this increase will still put these activities below minimum accepted standards;

    (b) $1.5 million for the first phase of a ten-year program to meet approximately 57 percent of the University's presently identified deferred maintenance costs;

    (c) $700,000 to renovate older structures, to demolish several, and to alter or obtain space suitable for new uses, including proper remote storage for the library collection.

15. The Administration recommends additional expenditures of $490,000 for Alumni and Development activities, as follows:

    (a) $350,000 to provide General Funds to maintain the existing base budget of the Development Office;

    (b) $100,000 to expand the Development and Alumni programs in order to increase the University's external funding;

    (c) $40,000 for a one-time program to build widespread support in the Detroit metropolitan area through recognition of the 50th anniversary of the University.

16. The Administration recommends expenditures of $660,000 to replace the University's obsolete accounting system, to implement a Fixed Assets Inventory, and to conduct evaluations of University programs.

17. The Administration recommends additional expenditures of $300,000 for other items, as follows:

    (a) $100,000 to strengthen the Public Safety Department;

    (b) $200,000 for line items in the Provost's budget, including an increase in the Minority Faculty Recruitment Fund of $100,000.

18. The Administration recommends that the Board of Governors adopt these priorities, except the tuition policy, at the July, 1983 meeting.

19. The Administration recommends that the Board of Governors act on the recommended tuition policy at its meeting of June 10, 1983.

20. The Administration recommends that the Board of Governors schedule the presentation and adoption of the FY 83 University Budget for its meeting of September 14, 1983.

FY 1985 Budget Summary

1. The FY 85 budget is based on the assumption that available General Fund revenues will be $176.6 million, from the following sources: state appropriation, $123.5 million; net tuition and fees, $44.9 million; indirect cost recovery, $4 million; interest income, $.3 million; external departmental revenues, $3.9 million.
2. The FY 85 budget anticipates no increase in tuition, following action by the Board of Governors in June, 1984, except for 2.5 percent increases in the Law and Medical Schools.
3. The FY 85 budget assumes the maintenance of present levels of operation as follows:
   - (a) An inflationary increase of 5 percent in expenditures for equipment and travel, at a cost of $199.8 thousand.
   - (b) An inflationary increase of 4 percent in expenditures for supplies, at a cost of $584.4 thousand.
   - (c) An inflationary increase of 10 percent in expenditures for books and periodicals, at a cost of $230,000.
   - (d) An inflation-level increase of 5.5 percent in salaries and wages, at a cost of $4.8 million.
   - (e) An increase of $1,658,000 to meet anticipated utility costs;
   - (f) A budgeted increase of $2,469,000 (13 percent) to meet anticipated fringe benefit costs.
4. The FY 85 budget continues the long-term plan to liquidate General Fund and Auxiliary deficits, at an annual rate of $1,150.000.
5. The FY 85 budget includes the following major enhancements of academic programs:
   - (a) An increase in research incentives by increasing allocations to principal investigators (5 to 8.5 percent), colleges and

schools (5 to 10 percent), the provost's research stimulation fund (5 to 10 percent) and continuing returns to departments (15 percent), at an increased cost of $599,500 (from $1,055,000 to $1,654,500).

(b) An increase in support for research using hazardous materials by adding $55,000 to assure safe disposal of these materials, to meet federal standards.

(c) An increase in the University's urban research and service missions by adding $100,000 to the budget of the division of Urban, Labor and Metropolitan Affairs, to be used to support present faculty members engaged in urban research, service activities, and the development of urban-related curricula.

(d) Recognition that academic supply and travel budgets are substantially inadequate, because they bore the heaviest brunt of recession budget cuts, by increasing the supplies budgets for schools and colleges by 3 percent above inflation, at a cost of $180,000. Because the relative supplies needs of various schools and colleges are not the same, the provost and the Office of Budget and Planning are directed to study a proper allocation formula for these base enhancements in the supplies base.

(e) Support for professional school research programs by providing $50,000 each to the Schools of Law and Medicine to assist faculty members in those schools to expand research activities.

(f) Strengthen the Medical School's clinical instruction and research activities in Internal Medicine and Medical Molecular Biology, pursuant to the University's Program Revision Request in its state budget submission, by allocating $500,000 for additional faculty positions and allowing the School to shift an additional $500,000 from supplies to appoint additional faculty.

(g) Strengthen the Department of Computer Science, pursuant to the University's Program Revision Request in its state budget submission, by allocating $200,000 to that department for uses to be specified in a plan submitted to and approved by the Provost.

(h) Assistance for laboratory research departments whose support needs include post-doctoral fellows, graduate assistants, and technicians, by making a one-time, nonrecurring allocation of $150,000 for the departments of Chemistry ($50,000), Biology ($40,000), Physics ($30,000), and Computer Science ($30,000).

(i) Strengthen the College of Engineering's research and industrial-collaboration programs by authorizing three faculty positions above the budget formula, pursuant to a College development plan to be developed by the Dean and approved by the Provost, at a cost of $91,000.

(j) An improvement in the competitive position of the Law School, whose salaries have slipped below the 60th rank in the nation at a time when its instructional and scholarly programs are gaining national recognition, by adding $60,000 (funded from the Law School tuition increase) for salary improvements.

(k) Assistance for the College of Liberal Arts, which, despite enrollment declines, has not been able to effect a sufficient reduction in faculty expenditures to meet its supply needs, by providing a special allocation of $175,000, which is nonrecurring. This allocation will be released to the College upon submission and approval of a financial plan for the College.

(l) Improvement in the University's ability to recruit nationally competitive faculty in high-market areas--including Nursing, Business, Pharmacy, Law, Engineering, Chemistry, Biological Sciences--by increasing the Provost's faculty recruitment fund from $100,000 to $300,000.

(m) An allocation for the first phase of Rockefeller Fellowships in labor research by providing $10,000 for recruitment of fellows, preparation of space, and operating expenses to match grant funding.

(n) A commitment to the Armenian Studies Program by placing it on a general fund basis to provide program stability, at a cost of $30,000.

(o) An expansion of the University's Extension program by offering a major concentration of courses from many parts of the curriculum at a single site in Macomb County (Sterling Heights) at a start-up and support cost of $59,000 ($10,000 of which is nonrecurring).

(p) The establishment of the Industrial Productivity and Research Institute, funded as a legislative item, which seeks private gifts and industry/business grants in four specified areas--materials research, safety and security systems, fermentation technology, business productivity--to match University expenditures for applied research, at a cost of $300,000.

(q) An initiative to take the lead in correcting the deficit of black faculty members by establishing a post-baccalaureate program for high potential minority students who wish to prepare themselves for doctoral work in selected academic areas and for careers in academic life, at a cost of $150,000.

6. The FY 85 budget includes the following activities for academic support:

(a) The centralization of transcript evaluation (but not the assessment of course equivalencies, which remains in schools and colleges) in the Office of Enrollment Services, at a cost of $75,000.

(b) The automation of catalogues, circulation systems, acquisitions, and finances in the University Library and the creation of a collection network with other major libraries throughout the metropolitan area, at a cost of $250,000, which is nonrecurring.

7. The FY 85 budget gives priority in the Division of Administration and Finance to the establishment of a modern, fully-automated personnel/payroll system, as part of the University's on-going

efforts to upgrade its administrative operations, at a cost of $250,000.

8. The FY 85 budget makes modest additions to support the University's Development and Public Affairs program:

   (a) The allocation of $40,000 to continue the fund-raising program for the National Endowment for the Humanities matching grant, at a cost of $40,000, which is nonrecurring.

   (b) The addition of $33,000 to the Office of Development to put the staff for corporate in-house campaign program on a general fund basis.

   (c) An increase of $10,000 in travel support for alumni club development and Development Office activities in conjunction with the Anthony Wayne Society.

   (d) An increase of $4,000 in the Alumni and Development Offices to recognize increases in computer use resulting from the availability of improved donor and alumni data bases and the expanded efforts by schools and colleges to reach these groups.

   (e) The allocation of $34,000 on a nonrecurring basis for improvement of the alumni data base, by adding departmental designators to graduates of the College of Liberal Arts, adding alumni who were not recorded in the late 1960s and early 1970s, and attempting to update addresses for 20,000 alumni whose records are no longer accurate.

9. There are no FY 85 budget initiatives in the Executive Office of the President, except for personnel reclassifications in the Office of General Counsel.