

Reflections on the 2014 Contract Negotiations Cynthia Klekar, 2014 Chapter Chief Negotiator

As everyone knows, contract negotiations are never easy. Coming to an agreement on issues that will impact an institution for years to come requires everyone to be patient and open-minded. Both teams must conduct extensive research and formulate thoughtful and detailed proposals. In order to persuasively argue the merits of a proposal, one must be persistent. And to understand and respect the other team's perspective, one must have empathy and a commitment to big-picture thinking. The work at the table entails compromise; listening, at times to things you do not want to hear; and asking the hard questions, knowing that the answers may be, at times, again, things you do not want to hear. Inevitably, the teams must acknowledge and address sensitive and contentious issues, no matter the level of discomfort that may arise. And while a collegial discussion is always desired, conversations can escalate into heated debates, leaving everyone on both sides of the table frustrated, disappointed, and offended.

The 2014 contract negotiations between the WMU-AAUP and the administration were no different. I wish I could report that the teams came to the table with a shared vision for how the new contract could improve the campus climate. We did not. Rather, the two teams arrived at the table in May miles apart. While the WMU-AAUP team came prepared each day to argue and defend the faculty's (and what should be the university's) priorities—funding for research and instructional support, shared governance, due process, and resources to recruit and retain faculty—the administration's team arrived with a much different goal. The administration's team was content to address only two issues: What they deemed a problem *with the contract*, such as language that, in their opinion, was obsolete or ambiguous and the reduction of benefits that they interpreted as creating too much of a liability for the administration. Two such divergent perspectives took months to work through; and even then we were only able to agree to the extent that we bargained a tentative agreement.

Obviously, the significant changes to the contract did not come easy. Despite the challenges of the negotiation process, the WMU-AAUP negotiating team

fought tirelessly (no exaggeration) to achieve the mandate the faculty gave us.

Our mandate was to:

- Preserve our current workload
- Strengthen shared governance
- Protect summer teaching preference
- Protect intellectual property
- Gain compensation increases that bring faculty salaries in line with peer institutions
- Keep health care costs under control
- Reinstate merit pay
- Address gender pay inequity
- Protect our union
- Gain recognition of all types of research and creative activities

While the team did not get everything that the faculty wanted, we gained a great deal this summer. Every article that the chapter's team brought to the table has new language that strengthens faculty rights. The new contract codifies faculty participation in shared governance, stating "involvement of the faculty is critical in order to improve the quality and effectiveness of education" at WMU. Changes to Article 2: Definitions and Article 37: Long Range Planning guarantee chapter representation on university-wide and long-range planning committees. The Preamble, Article 42: Work of the Unit, and Article 32: Economic Compensation now more clearly confirm research as a part of our workload. Article 30: eLearning protects faculty intellectual property rights. In addition to increases to base salaries, overload rates, promotion increments, and salary minima, we increased the compensation limits (Article 31) for the first time. And we bargained for a research supplement that acknowledges, though not to the extent we would like, the need to address salary compression at WMU. Not only did the team achieve these gains, we met the challenge to resist pressure to abdicate some of the faculty's key rights: We preserved current workload levels, summer teaching preference, the right to arbitrate cases of discipline for cause, and employer retirement contributions.

These are hard-won gains that the entire faculty earned through their understanding of the impact the agreement has on their professional lives and the quality of education at WMU. The team began preparing for the negotiations in January, and it was through the ongoing support and dedication of our Chapter President, Lisa Minnick, and the Executive Committee that we gained the knowledge, skills, confidence, and motivation to fight strategically for the faculty. The new language is also the result of significant faculty work and engagement during the negotiation season: faculty invited team members and chapter leaders to department meetings throughout the spring semester in order to help establish our agenda; many faculty supported

the team by offering their experience and expertise while we developed proposals; our chapter leadership and Executive Committee provided the team with mentoring and training; and faculty from all departments worked on the contract campaign. Over 300 faculty members, their families, our students, members of other employee groups, and community members participated in a number of events and demonstrations throughout the summer and into the fall semester to show their commitment to improving the culture of higher education on this campus. Everyone's dedication and sacrifice contributed to us bargaining a strong contract, and thus strengthening the faculty and the university's core academic mission.

Research Supplement

During the 2014 contract negotiations, the two teams agreed to a compensation package that includes a research supplement for all bargaining unit faculty members. The WMU-AAUP team has received a number of questions about how the research supplement works. The information below should answer these questions.

- Faculty members are not required to apply for the research supplement.
- Every bargaining unit faculty member will receive a research supplement increase of .5% in January 2015 and 1.00% in January 2016.
- The research supplement is applied to base.
- The research supplement is based on the median salary at rank. The median salaries below include the 2.00% increase the faculty received this fall.

Rank	2014 Fall Median	.5% Supplement Based on 2014 Fall Median Applied January, 2015
Professor	101,086	505
Associate Professor	75,134	376
Assistant Professor	61,200	306
Instructor	47,055	235
Master Faculty Specialist	72,635	363
Faculty Specialist II	62,934	315
Faculty Specialist I	45,900	230

If you have any questions about the research supplement or any aspect of the new contract, please contact Dr. Cynthia Klekar, Chief Negotiator, at cklekar@wmuaaup.net.

Stay In Touch

There are many ways to stay up-to-date with chapter news. You can check our website or blog or follow us on Facebook and Twitter.

Web: <http://wmuaaup.net>

Blog: <http://wmu-aaup.com>

Where Do We Go From Here? Lisa Minnick, Chapter President

After an intense summer of bargaining, the WMU-AAUP and the university administration reached a tentative agreement on a new three-year contract just before midnight on September 5. On September 19, the faculty voted to ratify the tentative agreement, with over 90 percent of the votes cast in favor of ratification. On September 30, the tentative agreement was approved unanimously by the WMU Board of Trustees.

Our WMU-AAUP negotiation team – Chief Negotiator Cynthia Klekar and team members Bilinda Straight, Tom Joyce, and Onaiwu Ogbomo – worked tirelessly on behalf of all of us and our families. It is hard to imagine that anyone could have done a better job than these dedicated and committed colleagues. Certainly no one could have been better prepared, more courageous, or more determined than they were from day one. There was never a moment of backing down, slacking off, or looking for the path of least resistance. Their work on our behalf, not to mention the professionalism, poise, and integrity they maintained as they completed this difficult and exhausting work, is inspiring and humbling. We all owe them a huge debt of gratitude.

As I wrote to the faculty on September 6, no one ever gets everything they want in a negotiation. But thanks to the perseverance of our team and the overwhelming support of the faculty for their efforts, we will do well over the three years of our new contract while giving up very little.

The 2014 negotiations are over, but our work is not complete. We need to be thinking about the future and planning our long game. If you are not satisfied with the state of affairs on our campus or in higher education more generally, there are many opportunities to work toward positive change, individually and collectively. In that spirit, please consider representing your department on the WMU-AAUP Association Council or representing your college on the Executive Committee. Volunteer to serve on university committees and Faculty Senate councils. If you want real shared governance at WMU, the way to get it is to step up, join in, and *share the governance*. Opportunities abound. It is time for more of us to take advantage of them.

But our work must also extend beyond our campus. Everyone with a stake in the future of public higher education – and that means all of us – needs to think about taking a more active role in local, state-level, and national electoral politics. Colleagues who are con-

cerned about our health insurance costs or salaries at WMU or about the many other challenges to our profession need to take on these issues *at their source*. That means committing time and energy to fighting back against public policies and political trends that foster anti-intellectualism and antipathy toward public resources of any kind, resulting in the public disinvestment in higher education that we have experienced over the past few decades.

Yes, we are all very busy, especially as our job responsibilities seem to be increasing while support for what we do seems to be decreasing. But we have to make time to engage. We already know what the consequences of our failure to do so will look like, because they are already coming to pass. The intrinsic value of learning and knowledge has been opened to debate, and we aren't winning the argument. Public resources like state universities are increasingly seen not as a public good but as a drain on the economy and unworthy of investment. Our working conditions, standard of living, and the status of the faculty on this campus are all consequences of that kind of thinking. This is where we are now, and no union or negotiation team in the world is going to be able to fix that all by itself.

The 2014-17 *Agreement* is a step in the right direction toward moving faculty compensation at WMU closer to that of our colleagues at peer institutions and toward strengthening faculty rights to shared governance. To the extent that it still isn't enough is on the administration, the legislature, and those who have championed the disinvestment in education that we have seen over the past few decades. It is not on the faculty, it is not on the WMU-AAUP, and it is certainly not on our negotiation team. But if there is any hope of turning things around, that is going to be on all of us. It is too much work and too important to be left to a handful of people to try to fix everything for everyone. But if everyone does a little, we can accomplish a lot.

We can all agree that there is more work to be done. Part of it is simply keeping our union alive, including by paying our dues but also by stepping up to serve. I think everyone understands that without a union, we can look forward to a much grimmer future than anything we have experienced at WMU in recent memory. Without a union, the administration can do whatever they want, whenever they want, including changing our health plans and what we pay for our coverage and reducing (or eliminating) the employer contributions to our retirement. They wouldn't have to ask our permission – i.e., negotiate with us – for any of it anymore.

We have to be willing to stand up for what we value, including higher education in general and the role and status of the faculty at WMU more specifically. It is understandable that we might be distracted by the demands of our daily lives or even feel hopeless. But hopelessness is self-fulfilling prophesy. We will only

lose when and if we decide we will not fight. In recent years, on this campus and in our communities, we have not taken full responsibility for things that are important to us. We have left that work to others. We can't keep doing that. The time to step forward is now.

“We Organized Ourselves” Bill Warren, Chapter Vice President

In celebration of Western Michigan University's centennial in 2003, WMU-AAUP produced a DVD that conveyed the chapter's history through the remembrances and commentary of its nine presidents to date. While each president touched on the importance of various issues that are still relevant to the chapter today, such as protection of academic freedom and grievance procedures that protect due process for faculty, Ernest Rossi's message still resonates today in light of the challenges we now face in a “right to work” state.

Professor Rossi, president of the chapter in 1982 and a faculty member at WMU from 1966 to 1996 in the Political Science Department, highlighted how Ralph Miller, professor of English, one of the founders of the AAUP's advocacy chapter at WMU in 1950, president of the advocacy chapter in 1973-1974, and then president of the collective bargaining chapter in 1981-1982, urged the transition away from advocacy to collective bargaining because “traditional approaches” had failed. By traditional approaches, Rossi meant that the national AAUP's advocacy efforts included publishing a censure list of colleges and universities that refused to honor principles of academic freedom and shared governance as well as annual lists of faculty salaries around the country. In essence, as Professor Rossi explained, the national AAUP's advocacy approach was one of spreading “bad publicity.”

However, as Professor Rossi pointed out, WMU's administration in the 1970s did not care if it got bad publicity. No matter how much WMU's advocacy chapter asked administration to treat faculty members fairly and improve salaries and benefits, administrators could simply cry poverty or emphasize declining student enrollments and sweep the faculty's concerns away. Sound familiar? Beginning in the mid-1970s, Ralph Miller and others pushed their colleagues to pursue collective bargaining to make their concerns heard. Miller and his like-minded colleagues had to reach out to faculty members to shrug off their attitudes of, oh well, nothing can be done. Their organizing efforts paid off. After faculty voted to make this transition a reality in March 1975, they did so without outside help. WMU faculty transformed the AAUP

advocacy chapter into a collective bargaining chapter without significant help from the national AAUP organization. In Rossi's words, “we organized ourselves.”

Today, despite the significant gains and protections in our new contract, the situation of WMU's faculty is not unlike that of the mid-1970s. We face declining student enrollments as well as erosions in tenure-track faculty hiring. We work with an administration that is often an unwilling partner with the chapter. Moreover, we now face the brave new world of “right to work” and its hard-to-predict impacts on our chapter and its membership.

Rossi's emphasis on how he and his colleagues in the mid-1970s “organized themselves” could also be applied to the efforts that the chapter undertook over the past several months to produce a successful new three-year agreement with WMU. Our chapter embarked on a year-long contract campaign without significant help from the national AAUP, whose leadership is focused much more now on organizing new chapters across the country rather than helping established ones, such as WMU-AAUP. Over the past year, our chapter sponsored numerous events and rallies that were aimed at raising awareness of the many challenges we face, and galvanized a significant number of faculty members behind the arduous months of contract negotiations. At the almost zero hour of our contract's expiration on September 6, several hundred faculty members rallied at the Seibert Administration Building in the face of a hostile WMU police presence. These self-organized efforts culminated in a contract with important economic gains and continued protections of academic freedom.

Now, of course, our chapter must face the impacts of “right-to-work.” One such impact is the end of agency shop. The new *Agreement's* Article 9, which pertains to membership and dues, explains that, as “right to work” in Michigan allows, no faculty member is required to pay dues to support the chapter. Faculty members may choose to “opt out” of membership by submitting a written statement to the chapter indicating this decision. A few faculty members have already

done so. Professor Rossi's observation that "we organized ourselves" will need to be even more relevant with our chapter's activities as we move forward. It will be crucial that the chapter makes its importance and relevance as clear as possible. In a sense, our chapter is entering an era not unlike that of when the chapter transitioned from advocacy to collective bargaining status; we will need to be as transparent as

possible about how the various services and protections that we offer are worthy of our members' continued support. Faculty members will also need to remember that without the WMU-AAUP's successes over its nearly forty-year existence as a collective bargaining chapter that their economic benefits and other protections would surely be diminished.

Improvements in Access to FMLA **John Saillant, Chapter Grievance Officer**

The 2014 negotiations resulted in an important improvement to bargaining-unit members' access to leave of absence (Article 27) under the federal Family and Medical Leave Act of 1993 (Article 27.2). Federal law requires employers to grant up to twelve workweeks of unpaid, job-protected leave, with health insurance continuing as normal during employment, in certain circumstances having to do with illness or life events. However, federal law also allows (but does not require) employers to count FMLA leave concurrently with the sick leave that is based on days accrued during employment. Also, federal law allows (but does not require) employers to deny FMLA leave to an employee who has not worked at least 1250 hours in the twelve months before the day he or she would begin FMLA leave.

The practical result of current federal law is that an employee with a long-term illness could lose the twelve workweeks of health insurance that would go into effect with FMLA leave simply because either the faculty member (while on paid sick leave) fell below the 1250 threshold or the sick leave and the FMLA were run concurrently near the beginning of the illness. In a nutshell: it's very easy to lose the health-insurance ben-

efit that's part of FMLA. Most of us are not thinking about the importance of twelve weeks of health insurance remaining after paid sick leave has been exhausted, but in fact that has been a crucial issue for a few of our faculty colleagues.

New language in Article 27.2 remediates the problem: "Upon exhausting all available sick leave the faculty member may be eligible for continued leave under FMLA. If the faculty member, upon exhausting all sick leave, is ineligible for FMLA leave solely because he/she has not worked (because he/she was on sick leave) at least 1200 hours (150 days) during the twelve (12) month period immediately preceding the faculty member's request for FMLA leave, Western will waive the 'worked at least 1200 hours' FMLA eligibility requirement so that the faculty member can be considered for additional leave under FMLA." The chapter negotiating team proposed the new language, and the administration team proposed mentioning the lower threshold of 1200 (not 1250) hours.

An overview of FMLA is available from the U.S. Department of Labor at <http://www.dol.gov/dol/topic/benefits-leave/fmla.htm>.

Weingarten Rights **(A member's right to representation)** **Marilyn S. Kritzman, Chapter Contract Administrator**

Weingarten rights guarantee an employee the right to union representation during an investigatory interview. These rights, established by the Supreme Court, in 1975 in the case of *J. Weingarten Inc.*, must be claimed by the employee. The supervisor has no obligation to inform an employee that she or he is entitled to Union representation.

What is an Investigatory Interview?

An investigatory interview is one in which a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an em-

ployee to defend his/her conduct. If an employee has a reasonable belief that discipline or discharge may result from what she or he says, the employee has the right to request Union representation.

Examples of such an interview are:

1. The interview is part of the employer's disciplinary procedure or is a component of the employer's procedure for determining whether discipline will be imposed.
2. The purpose of the interview is to investigate an employee's performance where discipline, demotion

or other adverse consequences to the employee's job status or working conditions are a possible result.

- 3. The purpose of the interview is to elicit facts from the employee to support disciplinary action that is probable or that is being considered, or to obtain admissions of misconduct or other evidence to support a disciplinary decision already made.
- 4. The employee is required to explain his/her conduct, or defend it during the interview, or is compelled to answer questions or give evidence.

You may be called in for an interview by your chair/director, Associate Dean or Dean, members of the Provost's staff, the University's General Counsel, the Office of Institutional Equity, or the WMU Police, to name a few.

Weingarten Rules

When an investigatory interview occurs, the following rules apply:

Rule 1 - The employee must make a clear request for Union representation before or during the interview. The employee can't be punished for making this request.

Rule 2 - After the employee makes the request, the supervisor has three options. She or he must either:

- a. Grant the request and delay the interview until the

- Union representative arrives and has a chance to consult privately with the employee: or
- b. Deny the request and end the interview immediately; or
- c. Give the employee a Choice of: 1)having the interview without representation or 2) ending the interview

Rule 3 - If the supervisor denies the request and continues to ask questions, this is an unfair labor practice and the employee has a right to refuse to answer. The employee cannot be disciplined for such refusal but is required to sit there until the supervisor terminates the interview. Leaving before this happens may constitute punishable insubordination.

If you are called to an investigatory meeting, please state the following:

I request union representation.

If my responses to your questions could lead to my being disciplined or terminated, or adversely affect my personal working conditions, I respectfully request that you summon my union representative. Until my representative arrives, I choose not to answer any questions.

Call the chapter at (269) 345-0151 to request assistance.

Testimonials: Why Faculty Will Continue to Pay Their Dues

Kent Baldner (Philosophy):

I am going to keep paying my dues because it's the right thing to do!

I've been a dues-paying union member since my first job bagging groceries when I was 15 years old. Our voices are stronger together. The dues we pay are a small cost for what we get out of it. Does anyone here at Western want to go back to how things were before we had union representation? That was before my time, but one of my colleagues, Arthur Falk, was instrumental in bringing the AAUP to Western. I for one will proudly be a dues-paying member of the WMU-AAUP for as long as I remain at Western!

Gwen Athene Tarbox (English):

I'm going to keep on paying dues to the WMU-AAUP for many reasons; the most obvious is that our union has done an excellent job at representing our interests to the administration during contract negotiations. However, beyond that, the union contract makes life a lot easier for all of us on campus, including -- and perhaps especially -- the administration. At non-union campuses, almost every grievance ends up in litigation, which is time-consuming and expensive for the administration and for the faculty involved. With a strong contract in place, policies are clearly set out and deviations from the policies can be grieved internally and efficiently. Many of my friends have told me horror stories about unfair treatment and lack of due process at their non-union campuses. I'm grateful every day to work at a union campus, where I stand a far lesser chance of being discriminated against -- and so does everyone else. My union dues are an important investment in workplace harmony and personal fiscal solvency. #StrongerTogether

Angie Moe (Sociology):

I am going to keep paying my dues because our gains have been difficult to obtain but would be easily lost.