

**AAUP-UNH Closing Statement
in Fact-Finding with
University System of New Hampshire Board of Trustees
before Dr. Allan McCausland, Fact-Finder
18 March 2022**

This closing statement comprises five sections:

- I. Preface – a review of the context of negotiations
- II. Article 16 Salaries and Article 18 Summer and Overload Compensation – review and comparison of AAUP-UNH’s and UNH’s proposals on salary increases, salary minima by academic rank, promotion increases, and summer and overload compensation rates
- III. Article 17 Benefits – review and comparison of AAUP-UNH’s and UNH’s proposals on (a) medical insurance plans and employee contribution rates, and (b) parental leave
- IV. Discussion of UNH Proposals on which AAUP-UNH did NOT present at Fact-Finding – changes to employer retirement contribution; changes to structure of paid leaves of absence
- V. Conclusion

I. Preface

AAUP-UNH has been the sole exclusive bargaining agent for the tenure-track and tenured faculty (herein referred to collectively as ‘tenure track’) at the University of New Hampshire since FY91. The bargaining unit comprises all full-time, academic year-appointed faculty and a small number of full-time, fiscal year-appointed faculty. The goals of this faculty union have remained unchanged since the first collective bargaining agreement was forged: to protect academic freedom and to foster working conditions, including salaries and benefits, that enable recruitment and retention of world-class scholar/teachers who, going forward, can enhance UNH’s reputation as a Carnegie R1-ranked (‘highly research intensive’) institution.

Although AAUP-UNH is legally obligated to negotiate terms and conditions of employment only for the tenure-track faculty at UNH, salary increases and benefits this union has obtained have frequently been extended to non-represented employees at UNH and, in the case of benefits, to other represented and non-represented employee groups across the University System of New Hampshire (USNH). This time around, however, UNH and USNH have adamantly held that our bargaining unit’s benefits must be reduced to be commensurate with lower compensation packages given to other employee groups. UNH and USNH argue for no continuing salary increases during a time of rising

inflation, reductions in the employer retirement contributions, greater cost shifting of medical claims expenses to the faculty members, and wholesale modification of the structure of paid leaves of absence that removes the essential flexibility of time management that R1-level tenure-track faculty need to perform their dual roles as scholars and teachers. Moreover, UNH and USNH have explicitly argued that UNH tenure-track faculty are obliged to constrain the University System's total benefits cost growth by absorbing these reductions, already imposed on non-represented employee groups, in the interest of 'benefit parity', which ignores the highly differentiated labor market from which exceptionally talented teacher/scholars are recruited.

In its fact-finding presentations USNH identified thirty-one 'peer' institutions [UNH Exhibit 2, slide 2a-015], a subset of which partially overlaps with the historical mutually agreed list of eight comparator institutions used in successive UNH contract negotiations since at least 2010 [AAUP Exhibit FFP¹_Articles_16_18, slide 6]. The thirty-one institutions' employee benefits are USNH's benchmark reference for proposed benefit reductions at UNH. USNH compiled this list without any involvement of AAUP-UNH, in a collaboration between the USNH presidents, the USNH Human Resource Executive Council, and an external benefits consulting company (Brown & Brown Benefits Advisors, Inc.) [D. Hoffman, Fact-finding Transcript, 21 January 2022, page 67, lines 14-25]. In truth, only the eight previously agreed comparator institutions represent potential competitors for the hiring and retention of R1-level tenure-track faculty members. The list of mutually agreed comparator institutions has only been used for the purpose of salary comparisons, and not for benefits comparisons, because the majority of these institutions enable faculty participation in large state employee retirement systems (i.e., defined benefit pension plans) and some institutions enable faculty participation in large state employee healthcare plans. UNH and USNH do not permit employees to enroll in State of New Hampshire retirement plans, and New Hampshire state employees have a separate HMO/POS healthcare plan available to them.

Our understanding is that fact-finding entails examination of facts. AAUP-UNH has based its bargaining proposals on publicly available data from federal government and independent agencies about salary and benefits, cost of living, and New Hampshire housing and rental costs. UNH and USNH, conversely, have offered *pro forma* budget models based upon assumed future enrollment declines to justify decreasing benefits and holding salaries constant for tenure-track faculty. Models, however, are not facts. However useful they may be as planning exercises, they invariably involve

1 Fact-Finding Presentation slide deck

assumptions that are not facts, nor foregone conclusions. As noted elsewhere², U.S. high school graduate projections from both WICHE and NCES³, which UNH and USNH have cited in negotiations and fact-finding, have historically underestimated the actual numbers of graduates by as much as 9%.

AAUP-UNH's bargaining proposals have moved significantly toward UNH's respective positions, whereas UNH has not moved from its initial proposals. In addition to dire projections of declining enrollments, USNH has also emphasized its pandemic-related losses, even as it acknowledged at fact-finding that those losses have been almost wholly covered by funds received via the federal CARES, HEERF, and GOFERR programs. Moreover, the COVID Enhanced Retirement Program (CERP) implemented at UNH and other USNH institutions resulted in a 10% reduction in the number of tenure-track faculty and a recurring annual savings of approximately \$33.5M for UNH before any tenure-track faculty and staff replacements occurred in FY22 [Joint Exhibit 12]. As demonstrated by Dr. Rudy Fichtenbaum's analysis of USNH audited financial statements, UNH and USNH are *in fact* in very good financial condition at present [AAUP Exhibit 6].

In the remainder of this closing statement, AAUP-UNH will summarize its last proposals on salary and benefits issues, reprise the factual bases for its proposals, and compare those proposals with UNH's last offers.

2 Neil Kraus, "What Cliff? Data and the Destruction of Public Higher Ed," originally published at InsideHigherEd.com, 28 February 2022, now available at <https://techlive.in/what-cliff-data-and-the-destruction-of-public-higher-ed-inside-higher-ed/>

3 Western Interstate Commission on Higher Education; National Center for Education Statistics, U.S. Department of Education

II. Article 16 Salaries and Article 18 Summer and Overload Compensation

AAUP-UNH presented its proposals covering salary increases, salary minima by academic rank, promotion increases, and summer and overload compensation rates as part of a package with proposed medical insurance employee cost share percentages [Joint Exhibit 23; also AAUP Exhibit FFP_Articles_16_18]. These proposals were made for FY21 through FY23 to avoid the uncertainty of future years at a time when the pandemic’s likely progression was not at all clear. AAUP-UNH’s salary proposals were made with the full intent of retroactive implementation even as negotiations proceeded well past the effective new contract commencement date, and full retroactivity remains mandatory for any settlement. To have done otherwise would have rewarded UNH through salary and benefits cost savings achieved simply by its refusal to move off its initial offer. UNH’s package proposals also spanned this same time frame. The table below summarizes the last offered proposals from both parties on salary increases:

Year	AAUP-UNH	UNH
FY21	2.5% + \$1500 flat, continuing	0%
FY22	2.5% + \$1500 flat, continuing	0% + \$750 one-time
FY23	3.5% + \$1200 flat, continuing	0% + \$750 one-time

AAUP-UNH’s proposal on salary increases offered 2.5%/2.5%/3.5% across the board annually for FY21/FY22/FY23 plus flat dollar continuing increases of \$1500/\$1500/\$1200 to partially offset the higher medical insurance employee cost share percentages proposed in the package. As presented at fact-finding on 26 January, AAUP-UNH’s proposed salary increases are on par with increases at four of the eight comparator institutions in FY21 of 3% to 5.5% and increases for FY22 ranging from 2% to 3% at four of the comparator institutions (one institution has a 1% increase in FY22, and the remaining institutions are in active negotiations) [AAUP Exhibit 2]. It is important to note that tenure-track faculty can aspire to just two promotions (Assistant to Associate Professor, and Associate to (full) Professor) in their academic career with modest promotion salary increases, which is very different from private sector promotion practices. Thus, it is vital that annual salary increases for continuing faculty not simply match the regional inflation rate (CPI-U), which is 6.3% for January 2022 for the Boston-Cambridge-Newton-NH metropolitan statistical area⁴, but also recognize the

4 https://www.bls.gov/regions/new-england/news-release/consumerpriceindex_boston.htm

additional years of expertise and professional contributions gained in the mission of scholarship and teaching. As demonstrated at fact-finding on 26 January 2022, the tenure-track faculty's professional contributions included a 47% increase in external sponsored grant awards from FY19 to FY21 during a time of extreme work overload due to the sudden shift to online and hybrid instruction modalities [AAUP Exhibit FFP_Articles_16_18]. AAUP-UNH's salary proposals honor the faculty's extraordinary efforts in response to the pandemic. As presented at fact-finding, but not included here for brevity's sake, AAUP-UNH's proposed increases in salary minima by academic rank, promotion increases, and summer and overload compensation increases are approximately 1.8% each year, less than the proposed general salary increases and far less than inflation rates over FY21 and FY22 to date.

By contrast, UNH admitted no continuing increases to base salary for each year of FY21-FY23, offering only two modest one-time payments of \$750 in each of FY22 and FY23, and a re-opener clause to enable new salary negotiations presuming certain financial metrics were attained. AAUP-UNH has no control over the attainment of the financial metrics cited by the University, especially because the tenure-track faculty salary base at the close of FY21, approximately \$57M excluding benefits costs, comprises but 12.2% of UNH's unrestricted revenues in FY21 and any concessions made by AAUP-UNH would have minimal effect on UNH's overall expenses, which were approximately \$470.5M in FY21. AAUP-UNH's last salary proposal represented a substantial downgrade from its initial proposal of 4% annual increases for FY21-FY25, and our proposal to accept gradual increases in medical insurance employee cost share percentages (Section III of this closing statement) was a response to UNH's much greater proposed increases in those cost share percentages. From these facts AAUP-UNH has developed its salary proposals to maintain UNH's competitive position among the agreed comparator institutions and recognize increasing faculty scholarly and professional contributions.

AAUP-UNH has moved toward an intermediate position with respect to UNH's proposals. UNH has exhibited no movement on continuing increases to base salaries, and has proposed overall reductions in total compensation including benefits. If UNH's proposals were to be accepted, the result would be an immediate decline in tenure-track faculty real disposable income due to high inflation and substantial loss of future retirement savings (section IV of this closing statement). AAUP-UNH's salary proposals are fair and reasonable considering academic labor market conditions for highly talented R1-level faculty, UNH and USNH are in very good financial condition, and the CERP

retirements offer a continuing savings reservoir which may be partially reallocated to AAUP-UNH's salary requests for tenure-track faculty.

III. Article 17 Benefits

a. Medical insurance

In response to UNH's proposals at negotiations, which contain substantial increases in employee medical premium cost share percentages for all coverage tiers, increased deductibles and co-pays, and dramatically increased limits on out-of-pocket medical expenses, AAUP-UNH offered to allow smaller increases in employee cost share percentages over the proposed bargaining agreement duration while maintaining deductibles, co-pays and limits on out-of-pocket expenses at the levels present in CY2020 [Joint Exhibit 23]. In a departure from past negotiations on medical insurance, AAUP-UNH also proposed hard dollar caps on the employee cost share because the tenure-track faculty have no control over UNH's medical claims expense projections, and the fixed employee cost share percentage could result in unaffordable employee share dollar costs. AAUP-UNH's medical insurance proposal was coupled with its salary increase proposal, which contains flat dollar increases intended to partially offset the faculty member's increased premium cost share.

Shown in the table below are the proposed employee cost share percentages from both parties for the coverage tier 'Employee + Family' OAP 200/400 (denoted as EE+F in the exhibits), which is the lowest deductible, highest total cost tier and the tier elected by the majority of tenure-track faculty. The UNH proposal would require tenure-track faculty to switch to the new medical insurance plan designs extant in CY2021 for non-represented employees with increased deductibles, co-pays, and limits on out-of-pocket expenses. The complete AAUP-UNH and UNH proposals are found in the AAUP-UNH fact-finding presentation slide deck for the 21 January 2022 hearing [AAUP Exhibit FFP_Article 17, slides 9-11] and in [Joint Exhibits 22 and 23].

Year	AAUP-UNH	UNH
<i>CY2020</i>	<i>19%</i>	<i>19%</i>
CY2021	19%*	19%*
CY2022	21%	25.7%
CY2023	22%	27.8%

*AAUP-UNH's proposal was made in January 2021 for the years CY2022 and CY2023. The cost share percentage for CY2021 was fixed by the evergreen status of contractual benefits beyond the 30 June 2020 contract closing date. The contractual employee cost share rate for

CY2020 is shown for reference. UNH's proposal also required acceptance of new medical plan designs with higher deductibles, co-pays and limits on out-of-pocket expenses.

UNH based its proposal for medical claims expense cost-shifting to the employee, in part, on a single external projection of medical expense claims growth in the 7-8% range for CY2022, which is not factual [UNH Exhibit 1, slide 3]. Yet UNH maintained the CY2022 tenure-track employee medical premium rates at the same levels as in CY2021 and noted at fact-finding [UNH Exhibit 1, slide 3] that in-hospital claims expenses had decreased by 18.7% with respect to CY2020.

AAUP-UNH presented at fact-finding a nationwide study of private sector medical insurance cost growth [AAUP Exhibit Article 17-B, items 3,4; source: The Commonwealth Fund], which separately analyzes employee and employer costs for traditional medical insurance plans, that demonstrates a much smaller growth rate in employee costs in New Hampshire than UNH has indicated. The nationwide study is based on publicly available data compiled by the federal government⁵ (Medical Expenditure Panel Survey – Insurance Component, or MEPS-IC) and represents trends over both intermediate and long-term intervals. Significantly, USNH elected to become self-insured for medical claims expenses in FY2012, and media reports at the time trumpeted the cost savings of \$10M over the prior year's expense of purchasing a traditional group medical insurance plan. If, as USNH claims, self-insured status yields savings with respect to the purchase of traditional group medical insurance, then medical claims cost growth should parallel that demonstrated in the private sector data presented at fact-finding [AAUP Exhibit Article 17-B, item 4]. Although AAUP-UNH made its medical insurance proposal prior to learning of the national study, the results of this study support the slower growth rate of employee medical premium cost share percentages offered by AAUP-UNH, and in fact the union's proposals are more generous to UNH than the New Hampshire MEPS-IC data would justify.

b. Parental leave

AAUP-UNH negotiated the parental leave benefit beginning in FY2003 because supporting families is a demonstrably good thing for faculty parents, for children, and for the university. AAUP-UNH has long recognized the inequities of the current parental leave of absence benefit even though it negotiated that benefit 20 years ago. The inequities stem from the commencement of the leave at the

5 <https://datatools.ahrq.gov/meps-ic> Medical Expenditure Panel Survey – Insurance Component, Agency for Healthcare Research and Quality, U.S. Dept. of Health and Human Services

birth or placement by adoption of the child, which results in some faculty members effectively receiving no paid leave of absence if the child arrives in the early summer. For parental leaves that commence amid, or terminate during, an academic year semester, there is an impact on students that cannot be understated. The impact on students of a change of instructor at any point in a course is disruptive to their education, especially if the faculty member returns from, or begins, parental leave after the mid-semester point. In an ideal world these transitions would be seamless, but different instructors have different pedagogical styles, different expectations of student competence in the subject matter, and different grading criteria. For these reasons, and at the urging of tenure-track faculty members [AAUP Exhibit Article 17-A, item 2] and following recommendations of the UNH ADVANCE study group [AAUP Exhibit Article 17-A, item 3], AAUP-UNH proposed extending the leave of absence to a full semester and permitting the faculty member to schedule the parental leave during, prior to, or immediately after the semester in which the child arrives. This flexibility serves both student and faculty interests in providing continuity of instruction.

By contrast, UNH's parental leave proposal is both byzantine and punitive for adoptive and non-birth parents, as well as the birth parent, who must utilize a new Family Care provision, the days to be deducted from the faculty member's accumulated Sick Time, to spend time with newborn or adoptive children beyond the guaranteed four weeks of parental leave. UNH's proposal would shorten fully paid parental leave from a guaranteed twelve weeks (the present benefit) to a guaranteed four weeks. The depletion of a Sick Time reservoir, which is typically not large for an early career faculty member, leaves the faculty member with the Hobbesian choice of returning to work prematurely while still ill, seeking qualification for Short Term Disability leave, or taking an unpaid leave of absence [UNH Exhibit 3, slides 4-7]. While there are situations in which pregnancy may result in an illness that qualifies for the UNH-proposed Short Term Disability leave, the purpose of parental leave was to give parents additional flexibility and time to bond with their new child, adjust to their new family situation, and balance their professional obligations. It was never meant to incur or mandate use of sick leave.

In the recruitment and retention of world-class tenure-track faculty members, the UNH parental leave proposal would be a detriment rather than an asset. In each of the past four fiscal years, at most twelve tenure-track faculty members (from a bargaining unit numbering approximately 570 FTEs in that interval) have taken parental leave, and their twelve-week absences have been readily covered by the university. UNH's proposal to put tenure-track faculty members on the same leave of absence structure, including dramatically shortened, fully paid parental leave, as other university

employees ignores the unique, central role of tenure-track faculty in carrying out the mission of this R1-ranked research university.

IV. Responses to UNH Proposals on which AAUP-UNH did not present at fact-finding

a. Reduction in employer retirement contributions

UNH has proposed to reduce its maximum employer retirement contribution from 10% of base salary to 8%. The proposed reduction would result in the loss of more than \$300,000 in accumulated retirement assets for a new Assistant Professor hired at the current contractual minimum salary assuming a long-term 8% average annual return on investments. For the early career faculty member this loss of future value would be especially damaging given that the Social Security Administration's "Old Age, Survivors, and Disability Trust Fund 2021 Trustees Report" has stated Social Security can only pay 76% of formula-prescribed benefits beginning in 2034, absent any action by the U.S. Congress⁶. For these reasons, AAUP-UNH has proposed to keep constant the current employer retirement contribution percentage rates.

b. Modifications of the structure of paid leaves of absence

The present structure of paid sick leave is one negotiated by AAUP-UNH beginning in FY1991 and has worked well for tenure-track faculty members for more than thirty years. Leaves of duration less than thirty days are not formally accounted for, as colleagues assume the teaching responsibilities of the absent faculty member. This informal method of covering tenure-track colleagues' absences has fostered a culture of mutual responsibility for the teaching mission and mutual support for one another's professional endeavors. For sick leave of thirty days or longer, paid interim disability leave commences and more formal accounting of leave days transpires. UNH's proposed restructuring of paid leaves of absence would replace this flexible sick leave policy with a fragmented time accounting system that verges on time-clock monitoring of faculty work activity, yet does not recognize the considerable expenditure of faculty time and effort outside of the traditional eight-hour workday⁷, with total effort often amounting to 60-65 hours per week. Most discouragingly, UNH's proposal monetizes tenure-track faculty absences in ways the present leave structure does not, and it

⁶ <https://www.ssa.gov/OACT/TR/2021/tr2021.pdf> see page 6

⁷ <https://www.insidehighered.com/news/2014/04/09/research-shows-professors-work-long-hours-and-spend-much-day-meetings>

depletes a much smaller proposed reservoir of sick leave time for transient absences such as doctor and dentist appointments. The UNH proposal solves no problem, for indeed there is no problem with the existing structure of paid sick leave for tenure-track faculty.

V. Conclusion

AAUP-UNH negotiated in good faith throughout the past two years, moving from its initial proposals on salary and benefits toward a possible middle ground with UNH. UNH, for its part, has failed to move at all on salary issues. AAUP-UNH's proposed salary increase percentages for FY21-FY23 are within the ranges already established at four of eight agreed comparator institutions. The compounded salary increase proposed over that interval totals 8.74% excluding the flat dollar components intended to partially offset the higher employee medical insurance premium cost share. As reported by the U.S. Bureau of Labor Statistics, the 12-month inflation rate ending February 2022 is 7.9%, and the economic impacts of Russia's war on Ukraine are not reflected in that number. UNH's proposal of no salary increases over the FY21- FY23 time period, if accepted, would result in a profound decline in the tenure-track faculty member's standard of living, and it would make UNH less competitive than the agreed-upon comparator institutions in recruiting exceptionally talented R1-level faculty members. For these reasons, UNH's salary proposal is unacceptable.

AAUP-UNH proposed gradual increases in the faculty member's medical insurance premium cost share percentages to a maximum of 22% for the most expensive family plan option in FY23. UNH's proposal would raise the employee cost share percentage in that same tier from its current 19% to 27.8% while simultaneously increasing the employee's deductibles, co-pays, and limits on out-of-pocket expenses. UNH justified its proposal based on an assumed growth rate of medical expense claims of 7-8% in CY2022 using a single consulting company's projection. Using data compiled by the U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, AAUP-UNH established at fact-finding that the average annual growth rate of private sector employee medical insurance premiums in New Hampshire was 3.2% over the interval CY2015-CY2020 and only 0.4% from CY2019 to CY2020. AAUP-UNH's proposal allows modest cost-shifting from the University to the employee while limiting the rate of increase in the employee contribution dollar cost to at most 3% per year. UNH's proposal, if accepted, would cut faculty members' disposable incomes significantly in addition to the inflation-linked losses attending no base salary increase.

AAUP-UNH has responded to long-standing tenure-track faculty concern about parental leave inequities by proposing a flexible leave benefit that ensures students' educational experiences are not disrupted by abrupt changes of instructors. The lengthened leave, combined with its flexible scheduling, would have minimal impact on the university's finances given the very few tenure-track faculty members exercising the parental leave benefit over the past four years. UNH's proposed reduction of guaranteed paid parental leave is punitive for tenure-track faculty members, especially non-birth and adoptive parents, and fails to recognize that supporting tenure-track faculty families is very good for recruitment and retention of highly talented R1-level faculty.

UNH and USNH have repeatedly mentioned the USNH Board of Trustees' desire to 'harmonize' benefits by reducing faculty benefits to match those of other employee groups without regard to the critical, central role occupied by tenure-track faculty in securing the University's coveted Carnegie R1 ranking. USNH and UNH have suggested that any salary and benefits enhancements offered to those faculty members must be extended to all USNH employees, but this is patently false: AAUP-UNH can only legally represent the tenure-track faculty.

AAUP-UNH's proposals are fair and reasonable, maintain competitive salaries with those at the mutually agreed comparator institutions, address recent inflation trends, and ensure that benefits remain attractive to both prospective and continuing tenure-track faculty members. Fact-finding demonstrated definitively that UNH and USNH have the ability to pay modest salary increases and enhance the benefits of tenure-track faculty members. UNH must stop their strategy of obstructive negotiations and recognize and respect the extraordinary efforts of its tenure-track faculty during the last two years of the COVID-19 pandemic. It can do so by accepting AAUP-UNH's most recent package proposals.