

IN THE MATTER OF FACT FINDING BETWEEN

USNH Board of Trustees

University of New Hampshire

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University of New Hampshire Chapter of

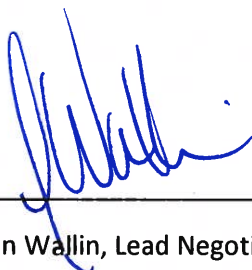
The American Association of University
Professors

BEFORE: Dr. Allan McCausland

UNIVERSITY OF NEW HAMPSHIRE'S REBUTTAL BRIEF

The University System, by and through the University of New Hampshire, hereby submits its closing brief in the above captioned matter.

Respectfully Submitted,



John Wallin, Lead Negotiator

Assistant Provost for Contract Administration

University of New Hampshire

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BEFORE: Dr. Allan McCausland

The University of New Hampshire stands on the Closing Brief submitted to the factfinder, Friday, March 18, 2022. In the University's review of the Closing Statement of the AAUP-UNH, the University wishes only to address the following inconsistencies, presented below in the same order in which they are presented in the AAUP-UNH Closing Statement.

1. Pro forma modeling is precisely the type of fact-based work which the University has always relied upon in making assessments about the financial future. If the University were to rely solely on the financial data currently available and for past years, without any projections, the logical – and wholly unrealistic – endpoint is that no salary increases could ever be offered because we have not yet earned future revenue. Moreover, as clearly evidenced in the record the University has spent down cash reserves to over the past two years, including a \$9.9 million expenditure which went exclusively to AAUP-UNH unit members. [Closing Statement, p: 2-3]
2. The AAUP has, in its Closing Statement, affirmed the University's statement that the AAUP-UNH has not moved closer on salary but, in fact, increased their requested salary between their second and third proposals by 1.0% (less \$300). [Closing Statement at p. 3]
3. The AAUP has affirmed that it never made a single proposal which would move unit members onto the new health plan proposed by the University. As is clear in the record before the factfinder, a move to the new health plan is integral to the University realizing benefit savings, while continuing to provide employees benefits at or better than comparator plans at a cost that is equal to or less than those plans.

Despite never accepting those plans, the AAUP represents that their salary proposals were “to partially offset the higher medical insurance employee cost share percentages proposed in the package.” The AAUP never made a counterproposal which included any of the University’s parental leave plans. The union exclusively sought to expand the amount of paid time off available for all parents without addressing the gender equity concerns raised by their own unit members attendant to birth parents. Further, the AAUP’s refusal to contemplate a proposal inclusive of an employer-funded Short Term Disability plan actually does ensure unit members without sufficient sick time are at risk of an injury or illness leaving them without an income.

4. The AAUP-UNH uses their Closing Statement to present new facts, which they did not present during the factfinding testimony and facts which they never previously raised during bargaining. There is ample evidence in the record before the factfinder that the retirement contributions have been rigorously benchmarked and the University’s proposals represent a competitive retirement benefit.

That the current leaves benefit was “negotiated in AAUP-UNH beginning in FY 1991 and has worked well for tenure-track faculty members for more than thirty years” is not reflected in the facts before the factfinder, including the direct testimony of Kim Jennison, UNH HR Benefits.

The AAUP contract does not provide for 30 days of paid sick leave as represented by the AAUP in the Closing Statement. [at p. 9] The actual language of the CBA Article 17.1 covers this:

17.4.1 Interim Disability. When faculty members are absent from their duties because of illness and other faculty members assume their responsibilities on a temporary basis, no formal report of absence is required unless the absence exceeds one (1) month. [J1:31]

Unreported absences for illness require other faculty members to assume the responsibility on “a temporary basis” meaning that other members of the faculty must take on uncompensated additional work on a short-term basis. This may have been a solution in 1991, but modern day UNH has a faculty which is inclusive of clinical, extension, lecturer, research and adjunct faculty who do not wish to take on the work of ill tenured faculty for “up to 30 days” as the AAUP states, uncompensated. These faculty are, notably, not represented by the AAUP-UNH and despite the AAUP-UNH assertion that “benefits this union has obtained have frequently been

extended to non-represented employees at UNH”, the record is absent any affirmation that non-tenured faculty assent to doing 30 days of additional uncompensated work to provide this benefit to their tenured colleagues. The University’s sick leave and Short Term Disability proposal is equitable, comprehensive, employer-funded and provides protection to employees at all stages of their employment and for all covered medical needs, not just pregnancy and birth.

5. Despite the AAUP’s claims that UNH has employed a “strategy of obstructive negotiations” the record clearly demonstrates that the University made more proposals, more progress towards compromise in those proposals, presented more facts through presentations and made more experts available to the AAUP-UNH in the course of bargaining than the union did. The record clearly reflects the Union made no proposals for the final five months of bargaining. It is also important to note that even after being presented with the University’s Closing Brief, and their own President and Vice-President’s lead signatures on a public petition claiming UNH engaged in regressive bargaining, the AAUP-UNH does not make that claim here and the University again calls on the factfinder to address this allegation by conclusively dismissing this frivolous, libelous statement in his finding.

The University’s proposals are consistent with benchmarked data, competitive against comparator institutions of higher education, and necessary to ensure the financial sustainability needed to recruit and retain faculty and staff across the institution.