

# AAUP Works

Chapter Bulletin

Volume 17, Issue 1

January 25, 2010



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## 2010 Bargaining Begins Soon

*AAUP Bargaining Team Selected, Positions Being Formulated*

I have been asked by the Chapter's Executive Council to serve as your chief negotiator in the upcoming round of bargaining. I'm pleased to serve and believe we have put together an excellent team. In addition to me, the bargaining team will include: Elise Cowie (AHS/Nutritional Sciences), Lynn Davis (RWC/Math), Sally Dunn (College of Nursing), Daniel Langmeyer (A&S/Psychology), and Virginia Russell (DAAP/Architecture).

The Chapter Associates Council has completed its formal review of bargaining issues and the Executive Council is now reviewing their recommendations in order to form preliminary bargaining positions.

No date has been set to begin negotiations, but because of the new schedule (see p. 3) we will undoubtedly begin earlier than ever before, possibly as early as mid-February.

Throughout this process, we will keep you informed and welcome input. Feel free to email any member of the Executive Council or talk with your Associates Council representative at any time.

— Dave Rubin, PhD  
Director, Contract Administration

## Budgeting Priorities and the Future of the University of Cincinnati

*A response to the report of the  
All-University Athletics Task Force*



On January 22, 2010, the Chapter Executive Council delivered the following statement to President Gregory Williams in response to the All-University Athletics Task Force report.

The AAUP Executive Council joins all members of the UC community in recognizing the achievements of all our Bearcat student athletes. We congratulate the Bearcat football team for winning the Big East Championship and earning the right to compete in the Sugar Bowl. We also congratulate the team on their BCS leading graduation rate. Their performance reminds us that student ability, attitude and hard work are the hallmarks of the best kind of university athletics programs.

The future of Bearcat athletics and the future of the University of Cincinnati as an institution will be greatly impacted by budgetary decisions made over the next couple of years. The Athletics Department deficit is, plainly put, an issue that must be addressed as part of planning for that future.

The UC All-University Athletics Task Force recently issued their report ([http://www.uc.edu/news/docs/Athletics\\_Report\\_Final.pdf](http://www.uc.edu/news/docs/Athletics_Report_Final.pdf)) with recommendations on the Athletics Department's debt. The report details the research conducted

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by the Task Force, including a survey about what various UC constituent groups—undergraduate students, graduate students, faculty members, staff, and alumni—felt was the relative importance of 10 components of the University’s mission.

**[A]ll five groups were remarkably similar: “Academic Programs” and “Faculty” were ranked highest across all groups while “Intercollegiate Athletics” was seen as the least important in relation to these other components of the university [emphasis added].** Perhaps the most insightful set of findings were from the comments. All five groups repeatedly talked about athletics as being important; however, they called for “balance” as UC determines how to fund athletics in relation to the university mission. **All groups commented that UC shouldn’t fund athletics at the expense of academics [emphasis added]** (p. 6).

What is the Athletics Department’s current financial position? The report notes:

The Athletics Department is running at a \$3.5 million operational deficit and has amassed a \$24 million total structural deficit. Furthermore, the Athletics Department estimates that it could take as much as \$11 million additional annually to be competitive in the Big East Conference (based on a priority funding assessment for each sport excluding football) (p.8).

The Task Force members make these recommendations:

A three stage plan needs to be developed to appropriately fund athletics. This plan must maintain a “balance” of priorities within the university as the three stage plan is implemented:

- a) remove the annual deficit,
- b) pay back the overall deficit, and
- c) generate additional revenue and funding to reach the desired level of funding to be competitive in the Big East (p.8).

In support of this plan, they state:

The findings of this report suggest that the university’s current athletic funding model does not adequately support UC’s membership in The Big East or the agreed upon university athletic mission (as defined by Catapult.) This situation makes it clear that additional annual transfers to athletics will be necessary if there is to be repayment of the accumulated deficits. **Thus, the Task Force recommends that the university consider assuming completely, or at least partially, the Athletics Department’s accumulated deficits, based on criteria and timing to be determined by the President and the Director of Athletics [emphasis added]** (p.9).

*USA Today* provides additional information with which to place the Task Force Report in context (full report available at <http://www.usatoday.com/sports/college/ncaa-finances.htm>). After analyzing data provided by UC to the NCAA, the analysis concluded:

At the University of Cincinnati, a Big East Conference school, subsidies grew from 26.7% (\$5.6 million) of athletics revenue in 2005 to 33.1% (\$10.7 million) in ‘08. That made Cincinnati the power-conference public school where reliance on subsidies grew most during the years studied. (“Amid funding crisis, college athletics soak up subsidies, fees,” *USA Today*, 1/15/10, available at [http://www.usatoday.com/sports/college/2010-01-13-ncaa-athletics-funding-analysis\\_N.htm](http://www.usatoday.com/sports/college/2010-01-13-ncaa-athletics-funding-analysis_N.htm))

The Executive Council has for the past two years been emphasizing that the future of this University is in no small part dependent on making wise budgeting decisions in order to prepare for the transition to a 21st century faculty—the core providers of academic instruction—as “baby boomer” faculty members begin to retire in large numbers. Given the demographic hiring realities that we must face over the next 10 years, it is difficult for us to see how it would be a wise budgeting decision to transfer \$24 million in debt to the University’s general fund, when the primary mission of that fund is to support academics and basic university functions.

**We therefore propose that a new task force be seated—with significant and broad faculty representation—to review the many options available for stabilizing the Athletics Department finances, with the goal of finding options that will not harm the educational mission of the University.**

The Executive Council reiterates that we support Bearcat athletics and are proud of our student athletes. We all want to see Bearcat athletics succeed, but this Council does not believe it is wise to achieve that goal at the expense of students’ education. UC must prioritize and protect our core academic mission and provide the best possible education for all of our students, as well as research opportunities that will help support the health of the regional economy.

# 2010 Bargaining Schedule: Getting to a New Contract

**August - November, 2009: Bargaining research.** The Chapter's Associates Council formed bargaining research committees which prepared preliminary recommendations and research. (Bargaining surveys, delivered to all bargaining unit faculty members, were also conducted in January 2009 and August 2009.)

**December 1, 2009: Associates Council recommendations.** The Associates Council voted on final recommendations and reports were forwarded to the Chapter's Executive Council.

**December 2009 - January, 2010: Review and formulation of initial bargaining positions.** The Executive Council is now reviewing the Associates Council recommendations and reports to formulate bargaining planks, and has finalized selection of the Chapter's negotiating team.

**January - February, 2010: Finalizing initial bargaining positions.** The Executive Council will finalize formal bargaining positions and statements. (Additional bargaining surveys may be conducted, as needed.)

**February 15 - April 1, 2010: Start of negotiations.** At some point during this period, formal contract negotiations will begin.

**April, May, June 2010:** *Contract negotiations continue...*

**June 30, 2010: The 2007-2010 contract expires.** Until a new contract is in place, the terms of the 2007-2010 agreement remain in place (unless one party or the other withdraws from the contract per the procedure outlined in Article 39.3).

**Ratification Vote on a tentative agreement.** The signing of a tentative agreement at the bargaining table does not finalize a new contract. The tentative agreement must be reviewed and voted on by the AAUP-UC Chapter membership. (Only active Chapter members have the right to vote.) Once a tentative agreement is signed, then contract ratification activities will begin.

Chapter Bylaws require that at least 14 days between the announcement of a tentative agreement and the beginning of contract ratification balloting. Also, "members in good standing shall be given the opportunity to attend at least one forum in the interim between the Executive Council notice of a tentative agreement and the beginning of balloting where questions may be posed to members of the Negotiating Team concerning the proposed contract."

Because of this new schedule, if a tentative contract is signed in May, June or July, for the first time Chapter member forums and contract ratification balloting will take place in the summer (not in the fall). Your attention, input, and vote will be crucial during this period. Please stay informed and involved over the next six months.

— Greg Loving, Chair  
Chapter Associates Council

# ***Faculty Workload Policies: Implications for Collegiate Restructuring***

A number of questions about faculty workload documents and practices have recently arisen due to the collegiate restructuring process. We thought it appropriate, therefore, to provide a general discussion of faculty workload, particularly as it relates to faculty rights in the collegiate restructuring context.

Faculty workload has never been addressed directly in the UC/AAUP Collective Bargaining Agreement because of the impracticality of trying to apply a uniform workload description to such highly diverse faculty and collegiate situations. Instead, faculty workload has traditionally been established through mutual agreement between administration and college/unit faculty. Were this not the case, the AAUP would insist upon negotiating over it since faculty workload is a “term and condition of employment.”

The general topic of faculty workload in Ohio is complicated by legislation from the 1990’s and the subsequent development of approved workload policies at all of the state universities in Ohio, UC included. In 1993, attached to the 1993-95 biennium budget bill, the Ohio legislature passed language to “recover 10% faculty undergraduate instructional activity” that had supposedly been lost over the prior decade or so. Members of the Legislature had received complaints from parents that their children, students at state universities, were being increasingly taught by adjuncts and graduate students. A Board of Regents study concluded that there had been a shift in full-time faculty workload away from undergraduate instruction and towards graduate teaching and research.

The 1993 legislation mandated that the Board of Regents establish general guidelines for faculty workload and that all of the 4-year state universities develop their own, more specific faculty workload policies that were in accord with the general guidelines and which had to be submitted for Regents’ approval by June 30, 1994. The Regents guidelines included suggested average percentages of faculty time devoted to undergraduate instructional activities (teaching, prep, grading, advising, etc.) depending upon whether a certain department/college offered doctoral or masters or baccalaureate or associate degree programs. The Regents’ guidelines recognized that their percent figures were only averages and that diversity among faculty would likely result in workload variations among the members of a

UC submitted its faculty workload policies to the Board of Regents on June 1, 1994. The submission included a very general University statement plus workload policies for all of the colleges in existence at that time. The policies had been developed at UC jointly by faculty and administration. The Regents approved those policies and they became effective. In addition, in some colleges (e.g. A&S), departments developed academic unit level faculty workload policies that were more specific than the college policy. These department-level documents were also developed using appropriate governance processes and were approved by both faculty and administration. Where such documents have subsequently been changed, it has been with approval of both faculty and administration. They also are applicable to all members of the respective departments.

Since 1994, alteration of workload policies at UC has occurred only by agreement of administration and affected faculty. There have been no unilateral changes in workload policies. In two rare instances where it appeared that college administrations were moving to unilaterally alter workload policies, the AAUP pointed out the need for mutual agreement and warned that it would file unfair labor practice charges (ULPs) if necessary. In those two instances, the college administrations withdrew the proposed changes.

As noted above, the collegiate restructuring process has prompted a number of questions regarding faculty workload. Departments from two colleges (COE and CAS) are being merged to form a new college (CEAS). Some Faculty Members<sup>1</sup> from CAS will move to A&S or CECH or other colleges. In at least one of the colleges (A&S) to which some CAS faculty will move, there are department workload documents. What are the workload implications of this reorganization, both for the Faculty Members who are moving and for their new homes? Some key questions are:

- *Will a new workload document need to be created for the new College of Engineering and Applied Science? If so, how will it be created?*

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<sup>1</sup>The term “Faculty Member,” in capital letters, refers specifically to members of the AAUP Bargaining Unit. All Faculty Members are covered by the provisions of the Collective Bargaining Agreement between the AAUP and the University of Cincinnati. Rights may be accorded to other faculty (e.g., visiting faculty or part-time faculty who are less than 65% FTE) by the University (Rules of the Board of Trustees) or by individual departments or colleges.

- Will some colleges or departments need to modify their workload documents as faculty move into new departments? How will modification be accomplished?
- Can a workload document specify different workloads for different unit members? Shouldn't everyone in a unit be treated the same?
- Is a Faculty Member's workload contractually set at the time of initial appointment? Does a workload document "travel" with a Faculty Member from one college to another, or from one department to another?
- There are contractual provisions in place which ensure a reasonable transition period with regard to RPT criteria when a Faculty Member moves from one unit to another. Is there any similar protection with regard to workload?

Answers to some of these questions are fairly simple. Answers to others are more complicated by the nature of workload and by the historical context.

### **The Need for New or Revised Workload Policies**

The College of Engineering and Applied Science (CEAS), resulting from the merger of the College of Engineering (COE) and the College of Applied Science (CAS), is due to be fully operational by September 2010. Since CEAS will be a new college, a new faculty workload policy document that covers all CEAS Faculty Members, whether originally from COE or CAS, will have to be developed.

Also, while some CAS departments (and associated Faculty Members) are moving as units to the new CEAS, other CAS Faculty Members will be moving into other, already existing colleges such as A & S and CECH where their new colleges/departments already have workload documents. The new homes for these Faculty Members may have missions that differ significantly from their old home in CAS. In those cases, it is likely that the new homes (departments/colleges) will have to modify the existing workload policies to accommodate a wider variety and/or apportionment of faculty workload activity.

### **Mechanisms for Changing Workload Policies**

As was the case with existing workload documents, any new or revised policies must be the result of a collaborative effort between faculty and administration. Any new or revised workload policy must be approved by both. The process of developing or revising workload policies should be started once it has been established which Faculty Members will be in a given college/

department with the right to participate in the process. The development and approval of new faculty workload policies, or revisions to existing policies, should be done in accordance with shared governance principles described in Article 27 and in accordance with bylaws of existing colleges/departments. College and/or department faculty should meet and decide democratically how they want to proceed with development or revision of workload policies. Process can include, at the discretion of the college or department faculty, establishment of a committee to draft a proposed document. In the end, however, all Faculty Members in the college or department should vote on whether or not to approve the new or revised workload document.

All Faculty Members, regardless of title and regardless of whether they are "current" or "transferred," should have equal opportunity for input and/or election of representatives related to development and approval of new/revised workload policies. Article 27 guarantees **all Faculty Members** governance rights related to those matters that affect them.

### **General Guidelines for Workload Policies**

As Faculty Members and administrators develop new workload policies, or revise existing policies, the product of their work must meet certain standards. College workload policies must be in accordance with Board of Regents guidelines and with the overall UC policy, both published in 1994. Department policies must be in accordance with their respective overarching college policies which were first developed, and approved by the Board of Regents, in 1994.

All full-time Faculty Members in the college/department should have the same **total** workload obligation; their full-time pay is for the provision of full-time services (teaching, research, service). However, it is appropriate and acceptable for Faculty Members within a given college/department to have different *apportionments* of faculty activity across the typical spectrum (teaching, research, service) in accordance with their training, interests, areas of specialization, career goals, etc. In other words, all full-time Faculty Members should have the same workload obligation, but this doesn't mean each Faculty Member's workload plan will look exactly the same.

Finally, while workload policy and implementation should meet the needs of the college/department, it should also provide opportunity

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for the professional and career development of Faculty Members. In a higher education setting, professional development is important in maintaining the preparedness of Faculty Members to fulfill their workload responsibilities, and the UC/AAUP contract has a number of references to faculty development opportunities.

### **Contractual Rights and Obligations of Individual Faculty Members**

The general responsibilities of Faculty Members are described in Article 3 of the UC/AAUP Contract. All Faculty Members must meet those obligations regarding the “teaching, discovering, creating, and (/or) reporting (of) knowledge and the participation in unit, college, and University governance regardless of home college/department. More specific descriptions are found in workload policies and may also be described in initial hiring letters.

Workload policies are the properly adopted policies of the college/department; **all** members of the college/department are expected to perform under those policies. In other words, there cannot be separate, permanent policies for transferred Faculty Members or for any other subset of Faculty Members (with the one exception related to RPT described below).

While the details of a position offer, as stated in the original individual contract letter between a Faculty Member and the University, may describe the initial “job responsibilities” of a Faculty Member, those are not necessarily binding indefinitely. The basics of initial rank, initial salary and general duties/responsibilities are binding, but many specifics may change as the goals, organization, and needs of the institution change. The institution has obligations to the State, to its students, and to the public as well as to its employees. One simple example: an offer letter may state that you will be assigned office #200 in building A but that does not obligate the University to keep you in office #200 for all of a 30-year career. Similarly, but with regard to workload, program and course changes may necessitate changes in the specific work assignments of Faculty Members.

Workload is not specifically mentioned in it, but Faculty Members are protected by the UC/AAUP Contract in various ways related to workload responsibilities. Article 27 grants governance rights, thus ensuring faculty participation in the development and revision of workload policies and protecting against unilateral change in them. Article 7 covers rights related to RPT;

assurance that RPT decisions will be based on performance is tied to provision of a workload that enables Faculty Members to meet those performance criteria. Faculty development opportunities, already mentioned, are covered in Articles 24, 31.2.4, and in various leave articles, while the right to institutional support in order to safely and efficiently carry out workload responsibilities (teaching, research, and service) is described in Article 30.

### **Rights and Obligations of Administration**

So long as the governance requirements of Article 27 are followed, the Administration does have the right, after consultation, to reorganize the structure of the University and to transfer Faculty Members from one college/department to another. The Administration also has the right to expect transferred Faculty Members to comply with all of the policies of their new home, including workload (except – see caveat related to RPT below), and to become fully functioning members of their new unit. On the other hand, the Administration has the responsibility to provide the opportunity for faculty development and to provide the resources necessary for a Faculty Member to fulfill his/her workload responsibilities.

### **Relationship between Workload and RPT**

There is a clear and direct relationship between RPT and workload, and thus between RPT criteria and workload documents. Faculty Members should not have to meet RPT criteria that do not correlate with their workload responsibilities (e.g., Faculty Members who are required to produce research publications in order to be promoted must be given a sufficient opportunity, with respect to their workload, to conduct research).

Article 7.5.3 of the UC/AAUP Contract is designed to protect Faculty Members when RPT expectations change. Under the provisions of Article 7.5.3, when RPT criteria change (or when a Faculty Member is transferred and thus moves to an academic unit with different RPT criteria), “due consideration shall be given to the former criteria.” In other words, the Faculty Member’s old criteria must be applied until the Faculty Member has been given reasonably sufficient time to meet the new criteria.

While there is no similar language in the Contract with regard to workload, the implications are clear. There must be correlation between what a Faculty Member is obliged to do (workload) and on what a Faculty Member is judged (RPT criteria). If transferring Faculty Members are covered under former RPT

criteria for a period of time, their former workload should also be considered so that they are not evaluated on things beyond their control. It's somewhat analogous to a comet, with the head moving through space and the tail being dragged along with it. RPT criteria do move with a transferred Faculty Member for at least a short period of time. Because RPT criteria and workload documents are related and entangled, the workload document may be dragged along with the RPT criteria, but, again, only for a limited time.

The length of time a Faculty Member may use "old" RPT criteria is not specifically set in the Contract. The contract language states that "If a **reasonable** time has not elapsed since a change in RPT criteria, due consideration shall be given to the former criteria [in assessing the dossier]" (Article 7.5.3) [emphasis added]. "Reasonable" is a purposely elastic term, but it doesn't mean "forever" or until a person leaves the University. Across the University, it has meant a limited number of years, one to three years being typical.

With regard to the current restructuring, some colleges/ departments (certainly including all of the schools in the new CEAS) will have to develop new or revise existing RPT documents to accommodate new configurations of faculty. Workload documents may also have to be developed or modified in order to ensure coherence

between workload and RPT criteria. This is crucially important.

### Conclusion

As restructuring proceeds, it is important for all participants to keep in mind those things that will ensure a smooth transition and result in efficiently functioning colleges and departments. Contractual requirements, of course, must be met. But it is also important, in drafting or revising workload and RPT documents, not to create categories of "second-class citizenship." Units can function with full efficiency only when all the members of the unit feel they are an integral part of the department's mission. To that end, Faculty Members transferring to new units should be accorded the opportunity, if they desire, to shift career emphasis and be given reasonable resources to do so. To accomplish this, there may have to be temporary adjustments in workload that allow these transferring Faculty Members to make the shift. These short-term adjustments will be a worthwhile investment in the future success of all academic units and of all individual faculty members.

—Dave Rubin, Ph.D  
Director of Contract Administration



## GOT QUESTIONS? WANT TO LEARN MORE ABOUT THE AAUP-UC CHAPTER?

CHECK OUT THE WEBSITE (<http://aaupuc.org/>) FOR:

- List of elected officers and college representatives
- Statement of core principles
- Electronic, searchable versions of the contract
- White Papers and advisory letters on annual performance reviews, academic freedom, shared governance, electronic balloting, and more...
- Past issues of *Works*

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# AAUP Report on Egregious Violations of Faculty Rights at Clark Atlanta



Making the bogus claim of an “enrollment emergency,” CAU fired sixty full-time faculty members, egregiously violated tenure rights, trampled on fundamental AAUP principles as well as provisions of the university’s faculty handbook, and ignored the basic concept of academic due process. These are but some of the findings of arbitrary and outrageous administrative behavior revealed by a new AAUP investigating committee report (available at <http://www.aaup.org/AAUP/protect/academicfreedom/investrep/2010/clarkatlanta.htm>).

The report was produced by a committee of AAUP members with no previous involvement in the situation who reviewed extensive documentation and interviewed current and former faculty and administrators. Among the report’s main findings:

- The claim that the university was in the midst of an “enrollment emergency” was unsubstantiated and indeed was contradicted by a former administrator responsible for managing enrollments, suggesting that the claim was a pretext to justify dismissing faculty members.
- The administration selected faculty members for release based mainly on its unsubstantiated assessment of their lack of merit, effectively dismissing them for cause but without any demonstration of what the cause was.
- The dismissed professors were denied basic academic due process to which they were entitled under the university’s own regulations as well as under AAUP-supported standards.
- The four weeks of severance salary offered by the administration to all the fired faculty members was sorely deficient.
- The administration pressured vulnerable faculty members to forfeit any right to appeal the dismissal and to release the university from any further claims by offering a modest additional

amount of severance pay—two to eight weeks.

- The administration made no serious or good-faith effort to consult with faculty before taking the drastic step of terminating a quarter of the faculty and, in fact, showed consistent disregard for established faculty governance bodies.

The AAUP is well aware of the challenges that currently face many higher education institutions. The case of Clark Atlanta, however, provides a *negative* object lesson in how to address those challenges—with arbitrary administrative actions grounded in dubious evidence (and undertaken in some cases against the evidence), without consultation with the faculty, and with total disregard for academic due process, not to mention good management and basic decency. At stake are not just the jobs of individual professors and collective faculty rights, but also educational quality, the students, the university, and the larger community that it purports to serve.

The Committee on Academic Freedom and Tenure authorized the publication of the report, and will present a statement on Clark Atlanta University at the June 2010 Annual Meeting that may include a recommendation for censure.

— Gary Rhoades, AAUP National General Secretary

*From The AAUP Online, an electronic newsletter of the national American Association of University Professors*

## Tax Deductibility of AAUP Chapter Dues and Fair Share Fees

Did you know that Chapter dues and Fair Share fees are often tax deductible, if you itemize your deductions?



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