



AEEF News and Views

Newsletter of the Association of Employees of the Educational Foundation



BARGAINING BULLETIN - April 3, 2012

NLRB Charges go to Washington

After nine months of intensive investigation and evidence gathering, the Regional Director of the National Labor Relations Board (NLRB) has submitted all of AEEF's unfair labor practice charges to the NLRB's Division of Advice in Washington DC. Such a decision is typically reserved for unusual situations, including those involving "difficult legal issues" or "novel legal theories."

"This is welcome news" explains AEEF president Jordan Weinstein, "We've said for over a year now that, rather than bargain in good faith with our union, we believe management paid a New York City law firm and a Washington DC consultant to concoct a sophisticated legal strategy that would allow them to circumvent the bargaining process, virtually eliminate the union's voice in the workplace, and secure a degree of power over employees that is unprecedented at WGBH. While the Board has not yet determined whether it believes management's actions were unlawful—and there is no guarantee they will ultimately agree that it was—the decision to refer the matter to its Washington DC headquarters for further review, instead of dismissing the charges as the Regional Director could have done, indicates that we have successfully convinced her that there is at least reason to suspect management crossed the line."

With the referral to Washington, the NLRB's Division of Advice will now have responsibility for determining whether to recommend a complaint be issued against WGBH for violating the National Labor Relations Act and the stage set for management to be brought to a hearing. "It is important to note, however," adds Weinstein, "that none of this is really about punishing management; it's about bargaining in good faith. Getting a recommendation from the Division of Advice could take several more months and our preference is to get back to bargaining and negotiate a contract."

Union Acts to Restart Bargaining

AEEF Delivers Proposal to Management

In an effort to restart bargaining, the AEEF has sent management a new proposal and formally requested that the parties resume negotiations. It is a proposal that frankly gives up rights and benefits that we believe our members both need and deserve and that are the product of agreements the Union and management have honored for decades. However, because WGBH's current management insists that without wide-ranging concessions there can be no contract, leaving the parties embroiled in legal battles and leaving AEEF members

without any say over the terms and conditions of their employment, we are offering to end the imposed bargaining impasse. It is the Union's hope that this proposal, which accepts much of management's final offer and proposes only those modifications members have identified as critical, will lead to meaningful negotiations which result in an acceptable agreement.

Continued on page 2

Union Offers Concessions

Adopting management's framework as the basis for its proposal, AEEF's proposal offers concessions on almost every aspect of the workplace, including:

- Wage increases of .5%, and 1% (in FY2011 & FY2013) would be paid only to those members at or below the top of their pay range who have a performance rating of 1 or greater. No wage increases will be paid in FY2012.
- The 403(b) retirement plan match would remain reduced, from 8% to 4%.
- Performance ratings would have a more substantive and direct effect on layoff, recall, termination, and wage increases.
- Layoff and recall of staff employees would be conducted by department instead of across the Foundation.
- Project contract employees lose the security of knowing they will be employed for the length of their contract, or, in the event of a layoff, paid the balance of their contract (or

severance, if higher, for eligible employees).

- Full-time employees could be reduced to part-time, with no option for a layoff with full severance.
- The recall period for staff employees on layoff would be reduced from 12 months to nine and recall would be limited to the same job in the same department, but only if the employee is the "most qualified" applicant and has received "3" or greater on his or her performance review.
- The grievance procedure would no longer apply to all disputes about the contract's language or terms and members would be prohibited from engaging in many types of job actions to assert their rights, even on issues that are no longer covered by the grievance procedure.
- The time allowed for filing a grievance would be reduced from 30 to 15 days.

Proposed Improvements to Final Offer

Using management's final offer as a starting point, the Bargaining Committee has modified the terms to address issues identified by members as being critical to establishing a minimal level of fair working conditions. **Taken together, the union's proposal would make modest, reasonable, and necessary changes to management's final offer as follows:**

1. **Members who are paid above their pay range** would receive an annual lump-sum bonus equal to the dollar value produced by applying the percentage increase received by the rest of the unit to the top of the over-range employee's respective wage range. (Employees whose pay is within the ranges of their classification would receive the wage increase described in the previous section.)

The imposed terms provide over-range employees no wage increases.

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2. Full-time employees designated as **“Exempt” from overtime pay** assigned to work on a sixth or seventh day would have the option of receiving pay at their regular rate of pay or a compensatory day off at the employee’s choice. Part-time employees designated as **“Exempt”** would receive their regular rate of pay for any hours they work in addition to their regular work schedule.

The imposed terms offer no additional compensation and effectively result in a wage cut for full-time exempt employees who regularly work six or seven days.

3. Under management’s proposal for **“Artistic Discretion,”** employees working in the following job titles could be terminated without cause: Reporters, News Anchorpersons, Correspondents, TV Directors, TV Announcers, Radio Producer/Announcers, Radio Board Operator/Announcers, Radio Reporter/Announcer, World Editor/Reporters, World Radio Studio Directors, World Reporters, and World Senior Radio Producer/Hosts. In the event of such a termination, these employees would be given a minimum of four weeks written notice (or pay in lieu thereof) and severance pay of four weeks for each year of service up to 20. These employees would not be terminated for arbitrary, capricious or discriminatory reasons or in the absence of programming changes that, in the good faith judgment of the Employer, render the employee unsuitable for his/her position. In addition, under the Union’s proposal, they would have the right to be recalled to vacancies for which they are qualified, pursuant to the contract’s recall provisions.

The imposed terms do not list all the job titles that perform or direct on-air work and are subject to “artistic discretion” terminations; management reserves the right to add new job titles to that list. Severance pay, which caps total severance pay at 12 weeks, can be discontinued or withheld by the Foundation if it offers the affected worker reemployment in a similar position, even if the employee does not accept the offer.

4. Management would be permitted to **subcontract** national television production work performed away from WGBH. Severance-eligible employees separated due to such subcontracting would receive four weeks severance pay per year of service up to 20 weeks. In addition, management could subcontract other bargaining unit work if the subcontracting does not displace or reduce the regular hours of bargaining unit members. If management intends to subcontract such work it would provide advance notice to AEEF, the reason for subcontracting the work, and sufficient opportunity for AEEF to discuss with management the effect of the decision on bargaining unit members and, if possible, to propose any alternatives, before the Employer implements its decision to subcontract.

The imposed terms allow management to subcontract any bargaining unit work. Employees who are laid off as a result of the subcontracting receive a maximum of 12 weeks of severance pay. As with the “artistic discretion” terminations, severance can be discontinued or withheld by the employer if it offers the affected worker reemployment in a similar position, even if the employee rejects the offer.

5. Eligible **project contract employees** whose full-time services are required in the same job and the same project beyond three years will be made staff employees after three years. All project contract employees whose contracts are not renewed due to the end of a project or other reasons not the employees’ fault, will be eligible for severance pay after three years of working for at least 16 hours per week in the same production unit. Severance pay for a project contract employee who has been laid off will be discontinued only if the employee returns to work.

The imposed terms require 5 years service to be eligible for these benefits.

6. **Union and non-union employees could perform each other’s work** “on a limited basis,” when temporarily filling in for an absent Employee, during emergencies and other unanticipated situations, training employees, when necessary to complete work on a deadline or when performing work using new

technologies while the process is still experimental.

The imposed terms place no restrictions on the performance of such work except that it shall not constitute a majority of the employee's time on a permanent basis.

7. In the event management requires **Media Access Group** employees to use their vacation time or take an unpaid leave of absence due to a lack of work, employees would first be asked to volunteer for the leave. If a leave is imposed, leave time would be rotated among employees who perform the same work in an attempt to equalize the impact. If more employees volunteer for a leave than there are openings available, the leaves will be granted to employees based on their length of service.

The imposed terms allow management to decide who would be furloughed in these circumstances.

8. Employees would be free to arrange temporary schedule adjustments through discussions with their supervisors, but any change to the regular **work schedule** would require two week's notice. The union rejects the idea that an employee's performance should be the basis for a schedule change.

Under the imposed terms, a supervisor changing an employee's schedule is only required to provide notice "as soon as possible," may change

an employee's schedule for performance-related reasons, and the supervisor's decision is final.

9. **Volunteers** would be permitted to perform union work when in the good faith judgment of management it would not displace a current employee, reduce his or her non-overtime hours, or avoid the hiring of an employee into the bargaining unit, the same standard that has historically applied in the use of interns.

The imposed terms contain no limits on the ability of volunteers to perform bargaining unit work. Under the previous contract, the use of volunteers to perform bargaining unit work, with certain exceptions, was only permitted with the union's permission.

10. The union agrees to new terms requiring AEEF to **indemnify WGBH** for any claim arising from an error in collecting dues.

The imposed terms not only require AEEF to indemnify WGBH, but requires the AEEF to pay the costs of any counsel WGBH chooses to employ.

11. Management would continue to **supply the Union with the information** that is necessary for it to maintain membership records and monitor the administration of the contract, similarly to the processes established under the expired contract.

The imposed terms include no obligation for management to provide regular information to the union.

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