



## Notes

Labor Management Meeting  
September 28, 2020, 1:30-3 p.m., Zoom Conferencing

Present: Renee Andrews, Donald Kunkel, Sean Massey, Darryl Wood, Sara DeClemente-Hammoud, Joseph Schultz, Pamela Mischen, Provost Donald Nieman

Sean Massey called the meeting to order at 1:33 p.m. He welcomed all to the September Labor Management Meeting.

### **Items From Management**

#### ***Election Day Memo***

Sara DeClemente-Hammoud (Management): The memo with a designation of a floating holiday. There is an update to the language from last year regarding Election Day. Last year's memo granted either four hours before or at the end of a shift with approval of a supervisor at least three days in advance. They have changed the language. The language has changed dramatically this year but employees are still granted a little flexibility. I will be working to get the memo out in the next week or so along with that language.

Darryl Wood (UUP): Sounds like you are ok. Again, the State mandate is to provide the time off to vote. As long as it is adhered to, you are ok.

Sara DeClemente-Hammoud (Management): I will send you a copy of the memo before it goes out.

Sean Massey (UUP): You will cc all of us?

Sara DeClemente-Hammoud (Management): Yes.

#### ***UUP COVID Testing Update***

Joseph Schultz (Management): It's really a weekly number thing. For UUP 90-100 people who we expect to be tested on a weekly basis. Invitations for testing were sent out Friday, and 43 people have scheduled their test. Sara and I are receiving emails from employees requesting exemptions. 90% of them said they are working remotely and don't come to campus. It is a cumbersome process, but we will get through it. We are working on the exemptions and getting them out that they were approved.

Sean Massey (UUP): There are a minimum mandatory number of tests you are doing? Darryl, do you know this number?

Darryl Wood (UUP): I don't remember seeing a number. Whatever the process is for testing students is exactly the same percentage number thing done for UUP members. If it is one in ten students, than it is one in ten UUP employees. Whatever it is for the students, it is the same for UUP.

Joseph Schultz (Management): The number we are using is 5%. It is 5% students, 5% CSEA, and 5% UUP.

Sean Massey (UUP): It was suggested that I make sure we are in compliance. The idea that the number of total tested is within one time period. Weekly. So 43 people actually went in and scheduled their appointment.

Joseph Schultz (Management): This would be the first day. We are working out the process. After going back to Kim we've approved 40. She needs to pick another 40 or pick another 60. We will work out the science behind it.

Sara DeClemente-Hammoud (Management): I have dealt with the exemptions and almost all have responded back. Twenty of those say I'm remote but I still have to come to campus. Most kind of work themselves out.

Sean Massey (UUP): I don't "come to campus", but I actually do sometimes. If you claim this exemption are you forbidden to come?

Joseph Schultz (Management): I don't want to come, so tell me I am forbidden to come.

Darryl Wood (UUP): If someone says I'm looking for an exemption. I work remotely 100% of the time. I have to come in every Friday. I will be in that pool?

Sara DeClemente-Hammoud (Management): You indicated you are not coming to campus. Have you or will you be coming to campus from August to December 31?

Donald Kunkel (UUP): We are all coming back to work next week anyway.

Sara DeClemente-Hammoud (Management): There has been no extension of the work from home agreement.

Sean Massey (UUP): Could be any minute now. There is a vigorous effort to extend that.

### **Items From UUP**

#### **Explanation of the process for updating COVID dashboard**

***Members have questions regarding the updating of the COVID dashboard. A clear explanation on the relationship between pool testing, NYS/County notifications, and updates to the dashboard would be helpful.***

Sean Massey (UUP): We have received questions on a variety of topics related to the COVID dashboard and pool testing

Pamela Mischen (Management): We are reporting surveillance testing Monday through Friday. We get those numbers processed in the evening as fast as we can so we can report it the next morning. Our dashboard has changed again today. To accommodate questions we are getting, the SUNY dashboard has changed. We will look at our COVID dashboard together. (Dashboard screen was enabled.) Friday there were 189 tests, with two positive, 1.1% positive and 98.9% negative. This week right now surveillance testing is students with cumulative numbers since September 2. Twenty positives. New York State required a number of different things. We created a threshold of two weeks. We designated two-week periods. Two week rolling, cumulative.

Sean Massey (UUP): Why aren't your numbers matching SUNY's?

Pamela Mischen (Management): What SUNY is interested in is they ask us to report daily on surveillance testing and PCR pool testing. We haven't been doing pool testing. We did one batch and all came back negative. To be included they need to work, take classes or live on campuses. Fully remote hasn't happened yet. We don't have to report them. Staff members working fully remotely are not included in the numbers. We are recording, but not asking. September 26, we are at 0 data from 25 people. All of these were tested on campus, Decker Health Services, 10 10 and 3, but 25 is the correct number. We are missing 2. We will continue to modify these during every two-week period. All are two-week periods. So that is what our system looks like. Any questions?

Sean Massey (UUP): How do you get the numbers... what is the path the test has to follow before you get notified of positive results?

Pam Mischen: Our surveillance and we are the ones that know the positives. We administer tests, get positive results, check student's record, determine if they are an on or off campus student, maintain a database and it gets reported to the Health Department. If Decker has a student who is not feeling well, they will do the screening and will do the PCR test that day.

Sean Massey (UUP): When positive results come back from Decker, who would put them into the Dashboard?

Pamela Mischen (Management): Eventually they get to me. Kim Elsener, Dr. Moose. Kim enters it into the spreadsheet on campus testing. I upload that to the SUNY site and to Communications and Marketing. I am the person in the middle. I go through Sara and Joe.

Sean Massey (UUP): We don't wait for the Department of Health?

Pamela Mischen (Management): The Department of Health tells us nothing. The Health Department will not tell us. Unless the person reveals the information to us. If they tell us then we add it to the dashboard.

Sean Massey (UUP): They have to tell us according to the agreement on campus.

Pamela Mischen (Management): To live on campus surveillance.

Sean Massey (UUP): They have to fill out that questionnaire every day.

Pamela Mischen (Management): That is correct, but it only asks them if they have symptoms.

Sean Massey (UUP): We are missing that data if they don't self-report.

Pamela Mischen (Management): Students are utilizing it much faster. I'm guessing they might go. They could go someplace else and not tell us.

Sean Massey (UUP): The new MOU of testing employees. The MOU between UUP and NYS, they follow the same protocol as students. They are more likely to get their tests done off campus.

Pamela Mischen (Management): If they have not been surveillance. The students would have to let us know. Assuming it all goes back to HIPA.

Sean Massey (UUP): I'm ambivalent about what to do.

Pamela Mischen (Management): Mandatory disclosure is a scary thing.

Sean Massey (UUP): We have the other item on here, which is about the contact tracing of the students. Could we bring that up here in case it has any kind of connection?

Joseph Schultz (Management): What the university can and cannot do is outlined in the Provost's memo that went out.

Sean Massey (UUP): I understand.

Pamela Mischen (Management): The SUNY dashboard?

Sean Massey (UUP): One of the things that it gives, it gives all the other testing information.

Pamela Mischen (Management): Yes and no. We aggregate a little differently. The top one is the total positive trigger. We can choose the different 14-day periods. If we click

all, it will also include testing during move in. If someone tested positive, we sent them home. I feel that is a little bit misleading. This is an incorrect number. We were asked not to include positives from this period. It was positive from the move in.

Sean Massey (UUP): It should match up to the rest.

Pamela Mischen (Management): Campus administered testing breaks it down by what kind of test. And what is interesting about this is this does not include the off campus testing. This is only Decker and surveillance testing.

Sean Massey (UUP): The top number does include them. With employees the top number would include employees present on campus and their off-campus testing.

Pamela Mischen (Management): The number does match up. These are our quarantine isolation data.

Sean Massey (UUP): This kind of detail. I found it very helpful in the approach that we have for students using our testing, quick and great but I don't know how well it is going to work for employees if it does not include off campus testing. I think we do need a conversation about this. If it is only people who are more likely to get tests and surveillance testing will misrepresent that.

Pamela Mischen (Management). Potentially. It is really a conversation to have with the Department of Health.

Sean Massey (UUP): It will include the Department of Health tests for employees.

Pamela Mischen (Management): That is only information that I feed. Let's double check. Let's look at it again. Positives and non-tested "to the extent known." Only data that I report.

Sean Massey (UUP): On the Statewide Chapter Presidents' call they suggested that is not the case.

Pamela Mischen (Management): Unless we have had 0 off campus faculty and staff reported by the Department of Health, this number has matched exactly with ours.

### **Concerns about contact tracing of students who test positive**

*Members are concerned that faculty and students who share a classroom with students who test positive are not being informed. Some have argued that BU should follow what many public schools are doing — if a student tests positive, the class should be moved online until everyone's been tested and has earned a clean bill of health.*

Sean Massey (UUP): Contact tracing. When you have two students testing positive in a class, word will get out. That happens yet the faculty member and students will not be informed officially. No one is asked to test or self-quarantine. Some classes are an hour

or an hour and a half, others can be three hours long. Six feet apart, social distancing, and wearing a mask and all of that is good. People are freaking out. Multiple students have tested positive and they have had an outside affiliation with them. It has happened in that environment to both faculty and professional staff. They are supposed to trust they are safe. The Department of Health is getting information delayed because it is coming from us. A student leaned over and talked with someone, two students went through the door together, or a student touched the door handle after rubbing their eye.

Pamela Mischen (Management): I get the point. The whole contact tracing thing is the Department of Health. It is their rules we are following. We are not allowed to divulge information about students. It can be very easy to see who the positive was without revealing their identity. I understand the concern. Contact tracing is not within our purview. Anything resulting from in class contact. I am assuming with the positives we are getting there is a likely place that it occurred and it was not in the classroom. If it were, we would have heard something different.

Sean Massey (UUP): Don, Darryl, Renee any thoughts, questions?

Pamela Mischen (Management): Call or send me an email. I'd be happy to respond.

Sean Massey (UUP): I thought I still have ambivalence to contact tracing. I think there is more latitude than what we are doing. There are levels of risk in terms of disclosure. There are campuses who are responding differently. Online if there is a positive test. I actually don't know.

Renee Andrews (UUP): When you are put into that position you suddenly realize how unnerving it is and how important it is to have that information and how more comforting it would be,

Sara DeClemente-Hammoud (Management): At least daily. If you get a student, one of the first questions was were they in person or were they not. Those tracers are very good at what they do. Based upon the situation, they have been sharing that information. It does make its way back quickly like the others.

Sean Massey (UUP): The information doesn't get back. One of the popular student frequented bars in the area got a positive case. We don't know if a class has a positive case. Law but what is happening is hearing informally nothing officially and nothing to make this distrust happen other than that. I don't know that we can solve it. It is going to be a big problem. People don't trust they are being taken care of. The step from the Provost. One step towards but I'm sorry we don't have any responsibility here. One other thing. NYU for example where my son goes and I told Joe this. They have assigned seating and you have to stay in the assigned seating. A positive is you know who is sitting around them. You know they are sitting next to them. Levels of different places are doing different things in terms of management.

Donald Kunkel (UUP): The importance of practicing social distancing, was their contact tracing. That's key. Everyone does what they are supposed to do. In the building I am in that is occurring and it is good to see.

**Contingent offer letter**

***Concern about the move to reference non-specific teaching obligations in temp/short term contingent offer letters. Due to current health crisis, asking anyone, especially parents to commit to any course any day and any time is an unreasonable expectation and hardship.***

Sean Massey (UUP): Basically what is happening is we have chairs who are sort of strong-arming contingent faculty into accepting open ended, non-specific agreements without an offer letter to teaching particular courses at particular times. They are being forced to agree to terms when they don't know what they are. It is kind of an unreasonable treatment and is fairly disrespectful. You offer someone a particular course and they agree or disagree and that is the agreement. You have to agree to teach whatever course or at whatever time I want you to teach.

Provost Donald Nieman (Management): My sense is that most department chairs within most schools with contingents and all faculty in fact is to find a course or courses that they will teach and the days and times they will teach them in ways that are mutually agreeable and meet the needs of both parties. Obviously a department chair needs a slate of courses offered and so is there a particular issue with this, is there a bad relationship here?

Sean Massey (UUP): This is not the first person who has complained about how this department chair has treated contingents. At least four or five and we have brought it to the attention of HR and we've brought them to labor management before. It is a particular chair with views about how adjuncts should be treated, but this is the worst case I have seen. I have provided Joe with the information. Basically the contingent was told you have to agree to any class at any time or thank you very much your services will no longer be needed. They had to say these words in an email back to a chair. Great as soon as she sends me an offer letter. Basically you have to say these exact words in an email or I'm not moving forward.

Provost Donald Nieman (Management): Anything the person said is not binding. They're definitely saying I have you over a barrel. I am happy to talk with the Dean.

Joseph Schultz (Management): I talked with the Dean last week prior to it coming on the Agenda. The Dean was going to get in contact with the chair and get back with me.

Provost Donald Nieman (Management): I can raise that with the Dean as well.

Sean Massey (UUP): This environment that we are in including budgetary concerns imposed upon departments is aggravated this problem.

Provost Donald Nieman (Management): Sure, right.

Sean Massey (UUP): What I would like to see is at least some kind of leadership guidance from administration about the kind of respect and climate we should be having in our departments with faculty and staff. They are not just reams of paper. They have given years to the department.

Provost Donald Nieman (Management): Yes, right. The fact that this may be the exception. I think most department chairs understand the contributions that contingent faculty make. I think it is our culture and they really do consider them part of the department and do everything within their power to accommodate them just like they do with tenured.

Sean Massey (UUP): I think that there are a number of departments that have a problem. I think it is important not to write it off. It is not just faculty it is contingent professionals as well. They are vulnerable as well and are reluctant to come forward. When we can expose the problem we will but sometimes they are afraid.

Provost Donald Nieman (Management): I understand.

**Update UUP evaluation process**

***Discuss possible update to Online Evaluation Forms for Professionals to include a “contribution to mission” section. Doing so would strengthen the existing evaluation by better balancing the consideration of existing duties while providing an additional section that branches out to showcase thoughtful/innovative ways the unit is supported by talented UUP staff. It can be an optional section, but available none the less, and would provide a better balance and a more holistic, insightful, complete evaluation.***

Sean Massey (UUP): With the telecommuting agreement and because there is an extra burden placed on professionals who are facing a number of challenges within their professional obligation efforts and the work they are putting out, it was suggested that we modify our online evaluation form. Renee, Darryl, Don please feel free to jump in. This would be a modification that creates a place for contribution to mission above and beyond the performance program, which would allow for more accurate listing of their performance. It would be fairly easy to add and would emphasize their efforts to supervisors while they are evaluating them.

Provost Donald Nieman (Management): Are you referring to evaluation of people who haven't yet received permanency?

Sean Massey (UUP): I think it would be both. It would definitely be for people who have not.

Provost Donald Nieman (Management): Joe and Sara is their anything that is set in stone?

Joseph Schultz (Management): I don't see any issue in creating it, but basically defining it. Creating a section that covers the concept. I think we would just have to define it.

Provost Donald Nieman (Management): I don't have any objections.

Sean Massey (UUP): We'll make a more formal proposal.

Joseph Schultz (Management): Yes, that sounds like a plan.

Donald Kunkel (UUP): If included in the evaluation it needs to be part of their performance program, something that adds these duties to the performance program.

Darryl Wood (UUP): Brainstorming, I know that there is the mission of the university that has been broadly defined in different areas. In the strange world we live in today because of COVID. Both of these areas should be noted. The University mission and role and that should be specific to make it broader, such as emergency situations that occur and how an individual would respond to that.

Sean Massey (UUP): We will brainstorm that and get it to you to consider.

**University funding for Drescher applications**

***We appreciate that the administration has clarified that Drescher applications should be decided on merit and not budgetary concerns. However, in order to make these instructions tenable in practice, we are suggesting that administration commit to cover the required 40% campus contribution rather than requiring Departments/Programs to identify those funds in their already limited budgets.***

Sean Massey (UUP): Don, you guys did a great job. Quick response, very clear. Then the chairs freak out and say I don't have the money to pay for it. It still comes down to a fiscal constraint. Many campuses are administratively funding on a different level than the department. I encourage the university to do this. It is a joint labor management program. Supports the missions of the University, President and you as well Don about encouraging the success of underrepresented on campus. Four to eight of these at 40% of basically an adjunct. It is not that huge an outlay but is for a small department or program. I would encourage the administration to say I will cover that 40%. You decide on merit, and we will cover that 40%.

Provost Donald Nieman (Management): Happy to do it. I think the way this has been operated in practice in the dozen years I've been here is that the Dean's Offices will support Dreschers, especially in departments that don't have the IFR resources to do that. Psychology has very healthy IFR's and Comparative Literature, they have earned them. Don't bat an eye, they are fine with that. I'm feeling that the Dean's Office is going to support that, if a department doesn't have the resources to.

Sean Massey (UUP): I will give you a department.

Provost Donald Nieman (Management): I think the Dean was pretty clear they would support that effort.

Sean Massey (UUP): A Dean usually knows what resources they have.

Provost Donald Nieman (Management): We will never lose a Drescher over funding.

Sean Massey (UUP): I know that. I also know there can be consequences for departments that don't have resources.

**Presidential Diversity Post Doctoral Fellowship recipients not leading to tenure track offer**

***We recently became aware that the Presidential Diversity Post Doctoral Fellowships recipients are being told that there is no expectation of renewal. This is concerning as the fellowship have been proposed a method of increasing the recruitment and retention of under-represented faculty on the Binghamton University campus and the current posting states that it may lead to tenure track. Without a plan for transitioning these post-doctoral fellowships into Binghamton positions, they cannot be said to contribute to this goal.***

Sean Massey (UUP): We were told one of our recipient's contract is ending after two years. They got a two-month notice and I understand we understand that this is not a contract that has an expectation of renewal in a formal sense. However I read the ad and there is a chance for tenure and yet there is no change near as I can tell.

Provost Donald Nieman (Management): There was one Presidential last year that was changed to tenure. Not the luck of the draw, it is the decision of the department and schedule. Just like hired by the department and school, meets their needs and has performed at a level that makes them someone that is successful to the tenure track.

Sean Massey (UUP): If the department basically said that they would get a line.

Provost Donald Nieman (Management): Even in this climate.

Sean Massey (UUP): How does this happen?

Provost Donald Nieman (Management): It is a fine line to walk but you reference in the job ad that there is a potential for a tenure track but on the other hand I don't think that we can hire someone as a post doc and then guarantee them a tenure-track job. That is not how we hire a tenure-track. The idea is we want departments to recruit aggressively for post docs and we want departments to know that if they want to convert this person we will do that but it has to be their judgment that this person meets the criteria for tenure track. One department with respect said we would like to go out and advertise and the post doc can compete. No. We made it clear to this person there is a possibility so you make a decision on this person, not give us a line and we will see.

Sean Massey (UUP): If a program has a post doc and chair said we want to hire this person on a tenure track line?

Provost Donald Niemen (Management): Refine that. Not just the department chair, also the faculty. The chair took it to the Dean. It would be the normal process in hiring a tenure track.

Sean Massey (UUP): I might have this wrong and don't want to say names. As I understand it is that the chair did research who is on leave and didn't get a response or found out a few months that sorry we don't have a line available for you.

Provost Donald Niemen (Management): Anyone who is on a Presidential post doc should assume when the contract is up it is up in the absence of the department making an affirmative offer of a new position. In this case I know that the department did not support.

Sean Massey (UUP): There was a process that happened.

Provost Donald Niemen (Management): What this individual wanted was an extension of six months or something like that.

Sean Massey (UUP): I guess my last question on this is this process and the timing of it. If you have a two-year post doc if any of this is going to happen are you going to or not needs to be decided. It is not a contractual decision maybe?

Provost Donald Niemen (Management): I think it is a good idea. Probably what we need to do is make a formal mechanism to communicate with the Dean where this is going by December of the second year. Does that sound reasonable, Joe?

Joseph Schultz (Management): Sounds reasonable.

Darryl Wood (UUP): Yes. There is specific language in the Agreement. If the process started sometime in December, it would allow for that appropriate notice period.

Sean Massey (UUP): I think it would be better with the goals of this program and especially to know if there is funding. Departments think if I take this I will never get another one ever.

Provost Donald Niemen (Management): I would put it the other way. Departments think too often if I hire an underrepresented faculty member that really shouldn't count as a faculty member. SUNY cut our funding for this program. They just informed us last spring that they are taking the money away. We are funding it to support them through the end of their post docs. It has been taken over by PRODiG. When we took over, PRODiG didn't exist. But with PRODiG in place with many respects in the fiscal circumstances we are in, it is better for us, but.

**Treatment of Contingent and Non-Tenured/Non-Permanent Colleagues**

***We are still receiving complaints from members about some supervisors and chairs using the budgetary crisis as justification for heavy-handed and disrespectful negotiations for workload assignments, creating a hostile workplace climate.***

Sean Massey (UUP): We are receiving complaints from members about some supervisors using the budgetary crisis as justification for heavy-handed and disrespectful negotiations for workload assignments, creating a hostile environment. If you are a contingent or a non-tenured or non-permanent employee you cannot advocate for yourself. I really think again some leadership; some climate setting tone from the administration is needed. Look we are in all of this together we need to treat each other with respect. I gave you an example before but a lot of us have heard. Every one of us has heard from different areas.

Renee Andrews (UUP): It has the potential of becoming a larger problem. Heading off at the beginning but would be nice to hear.

Provost Donald Niemen (Management): Ok.

Darryl Wood (UUP): Clearly mid-level administrators, chairs, deans when they hear something from you Don they listen. Sending out a clear message regarding the issue of the Drescher.

Provost Donald Niemen (Management): I probably should have put something out about the Drescher that we are facing financial difficulties but the Drescher will not be sacrificed for that. I probably should have.

Sean Massey (UUP): Where they are sort of on the edge, treat them decently.

Provost Donald Niemen (Management): One thing, Karen Jones and I are planning workshops for department chairs. This is something we can include in the conversation there.

Donald Kunkel (UUP): At the Professional Staff Senate meeting it was discussed about professionals being asked to take on additional duties and responsibilities. Professionals work 100% but things are being added and others are not coming off. This tends to happen given the climate we are in now. If the focus changes and duties are added here and something is not taken off, we need to know if they are being compensated. If supervisors have the conversation, it is difficult to have with their employees. I am going to work on this, and I don't have to worry about these. Sometimes it happens, but when they come to me it usually doesn't.

Sean Massey (UUP): They are being asked to squeeze as much out of people given the crisis. They have not been getting the additional message to follow the rules.

Provost Donald Niemen (Management): I have a meeting with the Deans on Thursday and will talk with them about these issues. I have signed off on Also Receives and Extra Service as a result of people taking on additional responsibility. I have also worked with Deans and others in my area. Often times there are things they can let go of. There are a lot of things we aren't doing. An example that comes to mind is people who work in study abroad advising. We aren't doing a lot of that right now. I don't want to pick on them and the things they are typically doing. But I will talk to the Deans about both of these things.

Darryl Wood (UUP): Don regarding signing off of individuals taking on additional responsibilities, there is a view out there for professionals that Also Receives is not an appropriate mechanism for them to receive for the additional work they are doing. There are state limits up to 20% of salary for Extra Service but not for Also Receives. A couple of individuals were bumped up to the Extra Service limit and were told we don't do Also Receives for professionals. There is no state prohibition that a person receives Also Receives. It may be selective. Just so you are aware of this as well.

Provost Niemen (Management): I can't tell you if this was Also Receives or Extra Service.

Darryl Wood (UUP): There is misinformation out there unless I am incorrect that professionals can receive Also Receives.

Sean: It would solve a couple of problems we have had to deal with.

Joseph Schultz (Management): You can under special circumstances. SUNY came up with an actual policy. I will dig that out.

Meeting ended at 2:55 p.m.