

UUP Labor Management Meeting Notes
Monday, September 19, 2016
1:30 - 3:00 p.m.
AD 712

Present: F. Goldman, B. Kilmarx, S. Massey, B. Roth, S. Ryan, D. Wood, S. DeClemente-Hammoud, S. Doyle, V. Hampton, J. Schultz, Vice President B. Rose

Meeting began at 1:32 p.m.

Benita Roth welcomed everyone to the September 2016 Labor Management meeting. Sean Massey, a UUP Executive Board member will be shadowing at these meetings.

New Items from Management:

Election Day Designation:

Management (Joseph Schultz): Floating Holiday Designation memorandum to UUP.

UUP (Benita Roth): Standard letter you send out.

Management (Joseph Schultz): Same.

Management (Joseph Schultz): Just received discretionary information. 12/14 will be check for discretionary (salary award). Draft of letters, one to faculty and one to staff and supervisors, same as last year. Circulate them to UUP and have them both come back.

New Items from UUP:

Soon to be retirees: We would like to have the names and contact information for those members who are planning on retiring during the upcoming (calendar) year. We would like to offer them the option to stay members. We would like to work with management on how best to get this information in a timely fashion.

UUP (Benita Roth): Is there a way we can get this information?

Management (Joseph Schultz): We would like to get this information, too. Academic departments usually know this information a year in advance. However, the payroll transaction may not be submitted until the end of the semester. Most professionals need to notify within 30 days, which is what the contract says. They may do so, but we don't actually get the letter at that time. We don't really get a lot of advance information on retirements.

UUP (Benita Roth): Somehow when you get their names, can you funnel them to us?

Management (Joseph Schultz): We can when it is entered into employee benefits, health insurance transactions. If we can figure out a couple points in time to gather the list, we can send it

UUP (Benita Roth): You could just tell us in real time. I don't know how Linda O'Branski feels about this.

UUP (Linda O'Branski): Whatever you think is fine with me.

UUP (Darryl Wood): There are certain factors that if they are retired and feepayers, they lose potential for certain benefits. It is important for them to know this before the actual date of retirement. 99.99% of academics retire effective August 31. Would you know this information in March or April?

Management (Joseph Schultz): The department knows, but we might not know it until the summer. With Classified employees, we get forms from retirement. If they aren't in the retirement system, we aren't involved in it. When we receive the payroll transaction, we can drop a note.

UUP (Benita Roth): Doing it in real time would be good. Can you ballpark how many UUP represented retirements there are each year?

Management (Joseph Schultz): Maybe 20. A high would be 40.

UUP (Darryl Wood): There is a statewide UUP retiree representative who can come to campus and do workshops about retirement benefits. Maybe a paragraph in the UUP Newsletter once a year stating if you are thinking about retiring, please let us know so we can help you?

UUP (Benita Roth): We can also reach out to them and contact them.

Planning for the changes in the Fair Labor Standards Act: We would like to know how management is gearing up for the significant changes that will take place in the recategorization of exempt/non-exempt workers in terms of overtime etc. See <https://www.dol.gov/whd/overtime/final2016/> and excerpt below.

Key Provisions of the Final Rule

The Final Rule focuses primarily on updating the salary and compensation levels needed for Executive, Administrative and Professional workers to be exempt. Specifically, the Final Rule:

- 1. Sets the standard salary level at the 40th percentile of earnings of full-time salaried workers in the lowest-wage Census Region, currently the South (\$913 per week; \$47,476 annually for a full-year worker);**

2. Sets the total annual compensation requirement for highly compensated employees (HCE) subject to a minimal duties test to the annual equivalent of the 90th percentile of full-time salaried workers nationally (\$134,004); and
3. Establishes a mechanism for automatically updating the salary and compensation levels every three years to maintain the levels at the above percentiles and to ensure that they continue to provide useful and effective tests for exemption.

Additionally, the Final Rule amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level.

The effective date of the final rule is December 1, 2016. The initial increases to the standard salary level (from \$455 to \$913 per week) and HCE total annual compensation requirement (from \$100,000 to \$134,004 per year) will be effective on that date. Future automatic updates to those thresholds will occur every three years, beginning on January 1, 2020.

We are concerned going forward about how management will work with the units that our members are in about these questions and note that there will be updates required every three years going forward.

UUP (Benita Roth): How will you communicate this to supervisors and employees?

Management (Joseph Schultz): This will be a painful endeavor. The salary amounts to allow someone to be exempted is \$47,000 and change. Professionals will have very few exempt. \$47,000 -- this really is a big deal for us. Outside of the salary piece, most of this is not changing. We have identified about 200 full time employees under that technical salary level, and I think we have a number of different scenarios.. There is a special rule for state agencies and government that basically says somebody will bank comp time and a half up to 230 hours. We are in that group.

Management (Sheila Doyle) After 40 hours, not 37.5.

Management (Joseph Schultz): After 40 hours. You fill out the FLSA. This will require someone to track their hours. The record keeping requires people to track their hours. They will put something out tentatively to nonexempt employees. The last update we got was that there was no update.

UUP (Darryl Wood): It is my understanding from other campuses that it is being done on an exemption basis also.

Management (Joseph Schultz): In a perfect world I would sign up for that. Our understanding is that you actually have to track the hours.

UUP (Darryl Wood): People currently earning overtime.

Management (Joseph Schultz): They will have to record their hours on something. That is a piece of it.

UUP (Darryl Wood): UUP is talking about this with SUNY. My understanding is there is a process already in place that is entirely reception recording. I say I worked less than 40 hours this week, etc. Not I am consistently putting 9-5, 9-5.

Management (Joseph Schultz): That would work for me. One of the difficulties in the scenario, SL-2 SL3 below exempt, \$47,000 above not exempt. One will have to track their hours, one will not. The thought is there are not a lot working over 40 hours on a regular basis. I think we will have a group of people that will become non-exempt because of the nature of job. They won't go over 40 hours. There will be a group who is really close to \$47,000 and change. Some areas -- admissions advisors, etc, are more complex scenarios, which include travel, and things are very complicated.

Management (Joseph Schultz): There are questions of compression, equity issues, etc. Residence Directors come in at entry level. We've been told the calculations is the number of weeks that they work. Taking the annual and dividing by college year. Even doing that, they are still below that amount. Asst. coaches might be as well.

UUP (Benita Roth): Admissions, Residential Life, Health and Safety, Coaches, Advancement people.

Management (Joseph Schultz): \$47,000 and change is not automatic. "Coach" title is interesting. They may fall under the teacher exemption (in the law) I'm going to guess most will fall under teacher exemption. However, if you are a recruiter, then you aren't going to fall under the teacher exemption.

UUP (Darryl Wood): My initial read, the head coaches will fall under a teaching exemption. Unclear about the assistant coaches. They may not be included.

Management (Joseph Schultz): Some clearly will, some won't. If you have two, maybe one of them or the third assistant is going out and doing the recruiting. The concept is the recruitment one is they are not making independent decisions but making suggestions to head coach.

UUP (Benita Roth): Will there be individual counseling sessions, unit to unit?

Management (Joseph Schultz): Approximately 200 people are below the \$47,000.

UUP (Benita Roth): The issues will be with the subsets.

Management (Joseph Schultz): Residence Directors, Admissions Advisors, Coaches.

UUP (Darryl Wood): Also those who will deal with emergency, electrical, mechanically, etc. .

Management (Joseph Schultz): Those are mostly CSEA. There were a very small number of people below that threshold.

UUP (Darryl Wood): 40 Residence Directors, somewhere around, 10-15 admissions counselors who travel -- we are up to 50-60 range.

UUP (Benita Roth): We actually had a question regarding professionals who are told to go to various conferences, trainings or what not. They would be state-funded. They would be outside of 40 hours.

Management (Joseph Schultz): Those are the interesting scenarios. People in Event Center lower level doing logistics behind those events. In the next month, we have the RV show -- you work and your pass days will be Monday and Tuesday. Some of this, which comes down to the travel if it is falling under a normal workday, 9 to 5 with extra stuff at night, you are not going to be compensated for those at night. We are still working on this.

UUP (Darryl Wood): If a campus is supporting it with money -- it is state funded.

Management (Sheila Doyle): You don't want to put a supervisor in the position. It would be difficult for a supervisor.

UUP (Benita Roth): If the supervisor is requiring they attend it is state funded.

UUP (Darryl Wood): The professional development money. I make a request, it gets funded. Thursday to Saturday you guys have said it is important.

Management (Joseph Schultz): That is the most complicated piece. The travel and conference piece. More than likely non-exempt letter to the supervisor, outlining, you are not authorized to just work over 40. Other piece in the timing is the contract. Year one. Go through a cycle and see how it plays out. Maybe contract gets negotiated. Makes sense to bump up.

UUP (Darryl Wood): The federal government allows you to bank your first 160 overtime hours, -- once you hit that banked amount you get paid for time and a half.

UUP (Benita Roth): In practice it really is banking them?

Management (Joseph Schultz): Goes up to 240 (banked hours). Use it or it just sits there and the person gets paid at some point in time.

UUP (Benita Roth): We have a lot more accruing up to 240. Then there is going to be a lot more people if you have the ability to use it whenever you want.

Management (Joseph Schultz): Use it as a bucket of time off. The difficulty is that bucket is currently not going to be used much. At this point in time the only exception of banking of 240 are with those who are funded by grants. The grant would have to pay them in real time for the time and a half.

UUP (Sean Massey): Could be more than just annually?

Management (Joseph Schultz): Payoff would be upon separation. The 240 remains. You use it as paid time off or when you separate you get paid at salary when you retire or separate.

UUP (Darryl Wood): In hospitals where they do this, they are actually clocking in and out. Pretty straight forward for them. Since all of these have a professional obligation, how are you going to figure that?

Management (Joseph Schultz): The contract defines 8 hours is a work day for compensation of part time.

UUP (Darryl Wood): Two clearly above 40. Since they have a professional obligation and a normal workday does not get to 40 how are you dealing with that?

Management (Joseph Schultz): Answer that in a different way. What we often go round and round. It's hard having a scenario where nothing is defined. You may be scheduled for 37.50 hours but a lot of departments are saying you don't expect them to be working more than 40.

UUP (Darryl Wood): Those individuals who do earn overtime. In another world that is called gap time. Between 37.50 and 40..

Management (Joseph Schultz): Between 37.50 and 40, you get nothing. The comp time memo after FLSA exempt. Between 37.50 and 40 there is nothing. There will be some problems. The other one: If you take a person who makes \$90,000 a year, and they say I'd like to go ½ time per year. That \$45,000 would have to track their hours. They would be non-exempt and will have to track their hours. None of this applies to teachers. Teachers are exempt. Under FLSA they are required to track their hours.

UUP (Darryl Wood): Again I've read what the Department of Labor has put out. My understanding is either \$913 a week. If you are making less than \$913 a week (you are non-exempt).

Management (Joseph Schultz): If you are nonexempt, you are going to have to track your hours.

UUP (Benita Roth): Please keep us informed. We are anticipating that this is going to cause confusion. Also we want to note the new regulations say that it is going to be

revisited every three years. We want to keep informed. We anticipate that we will get a lot of queries.

Management (Joseph Schultz): I think we are going to end up with sessions specific to supervisors, and others that just want to come. Biggest piece will be SUNY and UUP and how they are going to agree upon this tracking of hours.

UUP (Benita Roth): Sounds like travel as well.

Management (Joseph Schultz): There was a nonexempt paper time sheet.

Management (Sheila Doyle): Difficult for supervisors, and people have to get approval for over time. Right now people are just doing their own time.

Management (Joseph Schultz): Probably they will be given the benefit the first time but will be reminded not to do that again. You can volunteer to do something that has nothing to do with your job, such as volunteering to work Commencement.

UUP (Benita Roth): A lot of doing volunteer things. We are hearing that. Keep us informed and we will do the same thing for you.

Making things easier for employees seeking to apply for consideration under the Americans with Disabilities Act (ADA)

Currently it is unclear how an employee can begin a process of being seen as disabled. Although this is apparently something that ODEI handles, there is currently no link to the kinds of forms that apply to requesting accommodations that appear on the HR webpage and reference ODEI (see <http://www.binghamton.edu/diversity-equity-inclusion/policies/index.html> and <https://www.binghamton.edu/human-resources/forms/index.html>, respectively). This is confusing for members. Is there a way to make the entire process make more sense?

UUP (Benita Roth): Val and I have had some discussions. Here is the question. Recent situation someone wanted to begin the process of being seen as disabled. I told the person to go to HR. HR said to go to Val's office. It appears on line the forms they have to fill out are only on the HR website. Why did they go to ODEI in the first place?

Management (Joseph Schultz): There is a statewide form.

UUP (Benita Roth): It is confusing to them, confusing to Val.

Management (Valerie Hampton): I am the ODEI coordinator and HR isn't necessarily involved at all.

UUP (Benita Roth): But right now they can't find the forms under ODEI but they can find them on the HR website. Is there a quick fix?

Management (Valerie Hampton): Yes. There is a disconnect going on. More of a technical problem. Doing so is just the 1, 2 3 steps. If someone is looking for it. From historical perspectives, it happens right at the ground level. Very few require me to do anything. Very few and far between.

UUP (Benita Roth): Do they all have to fill the forms out?

Management (Valerie Hampton): Yes and no. If supervisor says yes. Ok. You can do this. This is the first step. If it is no, then I become engaged in it.

UUP (Benita Roth): Are we going to have some walking through? I clicked on the forms and wasn't sure I know exactly what to do on line.

Management (Valerie Hampton): Yes, 1, 2 3 steps. If you get a no response, circle back to me.

UUP (Benita Roth): There are some employees that want to forego talking to their supervisor.

Management (Valerie Hampton): If you want to share, you can. If not, you do not.

UUP (Sean Massey): Seems like it has been around for decades. I am wondering if this is always where it has been.

Management (Joseph Schultz): I started in 1998. More complex now. Quite often HR might be dealing with scenarios with that person. Historically, we thought let's have someone be a neutral person. We've always said, that goes over there, pass the supervisor.

UUP (Benita Roth): One fix on your (ODEI) website and actually that the forms appear on your website.

Management (Joseph Schultz): We can just put Val's link on our website

UUP (Benita Roth): We would like to see your 1, 2 3 steps before it goes up on the website.

Management (Valerie Hampton): Sure.

UUP (Benita Roth): It has come up lately. I said to go to HR and then HR said to go to ODEI. Do you have a time line on number of changes you plan to make to your website?

Management (Valerie Hampton): This piece I can make sure in the next 30 days.

UUP (Darryl Wood): Here is a concern: You go to this really nice supervisor, new chair, and then you have other supervisors who are less accommodating. I am thinking about all the other times that employees go to supervisors, who are not interested, don't go their. Lives can become miserable by that supervisor. Ideal world: Sure, let's explore. Another supervisor that is really negative that kills any individual from seeking accommodations. My concern is the negative supervisor who will stop someone who should have the opportunity because they are afraid.

Management (Valerie Hampton): I can't tell these employees what to do. People have a choice. Also I can speak to supervisors.

UUP (Darryl Wood): Do employees know upfront that they have that right to go to you? That is because they went to your website. I think at the very least some information that goes out at the beginning of the year. If there is a need for accommodations, go to this website. Literally a couple of sentences. Maybe there is something we can do. I get concerned about: "I don't want to rock the boat."

UUP (Sean Massey): As faculty, we get extremely strong letters (about accommodating students with disabilities). Do supervisors get those as well?

Management (Joseph Schultz): Not regularly.

UUP (Benita Roth): How many ask for accommodations a year?

Management (Valerie Hampton): On high end less than 10. Has more to do with a particular group of employees that work in a particular area. If they give me the right information, they get accommodations.

Management (Joseph Schultz): Mostly classified service.

UUP (Benita Roth): Sounds like it would be a good idea to send a global letter.

UUP (Darryl Wood): For professionals, maybe May. This global email that talks about it. Academic side Trying to think of a cycle.

Management (Valerie Hampton): Are you hearing from people that have issues?

UUP (Benita Roth): More the fear issues.

UUP (Darryl Wood): We don't hear because they are scared.

UUP (Beth Kilmarx): I don't think they know they can make that request. Some have received the movable desks – the ones that go up and down. One person made the request, and the others got it. A lot of times they just don't know (what's possible).

UUP (Benita Roth): Giving people the information because they don't have it is important.

Management (Valerie Hampton): I'll look into it.

UUP (Benita Roth): We'll bring it up at the next Labor Management meeting.

Ongoing items from UUP:

Smoke-free campus query: We would like specifics on the plans to make the campus smoke-free. We are especially concerned about questions of enforcement and any penalties that members might suffer. How will management handle enforcement and sanctions?

UUP (Benita Roth): Susan Seibold-Simpson has resigned. Beth Kilmarx will replace her as the UUP representative on this committee. We are concerned about enforcement, penalties, and how is management doing to handle this after August 2017.

Management (Joseph Schultz): My update is I'm working on training with EAP, and Human Resources on how to address the issue if you are a supervisor. How are we going to handle what will evolve...

Management (Sheila Doyle): The task force is still meeting.

Management (Joseph Schultz): Really good progress on everything.

UUP (Darryl Wood): My guess is that a situation will occur with an individual, and that we will have a conversation about it. As long as that (penalty) is not the first response, I think we're good.

UUP (Benita Roth): Are you going to have campus police looking for people smoking in cars?

Gym memberships: We are still waiting to hear about how the computer systems that keep track of gym memberships can be engineered to allow members free times at the gym and Fitspace. We have so far not been given adequate explanations as to why our members cannot be offered free access during off peak hours.

UUP (Benita Roth): Putting together a Fitspace perk tends to be the sticking point in all of this. We have been told about software we have used about a month's free membership or access during off-peak times. Some type of discount. I belong to Riverwalk, and I get a discount for being a SUNY employee. We don't accept that because of software, this can't be done.

Management (Joseph Schultz): Fitspace and we moved to the ability to offer a reduced rate for nonpeak times. Software cannot accommodate it.

Management (Vice President Brian Rose): There are times when Fitspace doesn't get as much use as at other times. If we can figure out a way to offer a reduced rate or a limited access membership aimed at those times of the year. We use a biometric system. It ties into financial and university ID system, and we have to be PCI compliant, credit cards. There are basically two vendors who have products we can use. We are in conversation with a vendor on how to create a mechanism for a so-called limited membership that we just described. We don't have something to develop. If we can, we would be happy to develop it.

UUP (Benita Roth): Facility should be self-sufficient? (that is pay for itself?).

Management (Vice President Brian Rose): Correct. Charge students. The reality is when we have the opportunity we can do something we can do something pretty nice or membership model or stay with what we had room consisted oversubscribed. Students do pay.

UUP (Benita Roth): You could do something like that for faculty.

Management (Vice President Brian Rose): We won't.

UUP (Benita Roth): You are talking to this vendor about the issue and how much time will it take? During peak times it backs people up (the biometric scan).

UUP (Fran Goldman): Some can't use a fingerprint. I can't get a good scan on mine to get into the door.

UUP (Benita Roth): And there are those who object to the use of biometrics itself.

Management (Vice President Brian Rose): We are going to continue to use it.

UUP (Benita Roth): I'm not objecting personally. Timeline?

Management (Vice President Brian Rose): I don't know if we can figure out a way that is good for us. Having discussions with the vendor. We would love to be able to do it next year.

UUP (Fran Goldman): Over the summer, you offer summer memberships for free.

Management (Vice President Brian Rose): Trial period over, we extend it. We give people access when they come with an ID. A small number of days.

UUP (Darryl Wood): Is someone at the door then keeping track?

Management (Vice President Brian Rose): Keep track of how many people come in. Doesn't work during peak times.

UUP (Benita Roth): Sounds like volume is an issue?

Management (Vice President Brian Rose): Volume, minimum wage, and staff we have in the building, regular academic year. When we went to biometrics, we now have an easy, authentic method, and we are going to stick with it.

UUP (Benita Roth): We are talking about off peak times for our members.

Management (Vice President Brian Rose): Talking about off peak utilization of Fitspace. Not talking about other times...

UUP (Benita Roth): Our idea is for reduced membership during off peak hours.

Management (Vice President Brian Rose): A combination of issues. If we can, we will but we aren't arguing about the desirability of doing it.

UUP (Benita Roth): Once could rewrite the software to make it more user friendly.

UUP (Susan Ryan): If you can charge people a reduced rate, what if it was an honor system?

Management (Vice President Brian Rose): Not interested in fraud. People sharing IDs, people forging IDs. I need to have a system that identifies you, limits your access to Fitspace for a particular amount of time. We need to be able to identify you at all times or during particular times. Software needs to have the flexibility to see what we could. Saturday morning, limited time.

UUP (Benita Roth): What has the vendor told you?

Management (Vice President Brian Rose): I don't know. Don't have that information.

UUP (Benita Roth): We would like to know what the vendor has told you. Rewrite software that distinguishes between on and off peak time.

Management (Vice President Brian Rose): Interested in doing it. Exploring with vendor one of several other issues. Not our first priority but not out last priority. We will let campus recreation describe what the priority is. Once we figure it out, we will be happy to make an announcement.