

Memo

To: Board of Regents
From: Kevin McRae, Director of Labor Relations and Human Resources
Date: October 28, 2009
Re: **Item 145-110-R1109**

I recommend approval of the following labor agreement between the Montana University System and the Montana Tech Faculty Association.

The agreement covers 60 faculty members in Butte.

The agreement includes a two-year salary freeze through June 30, 2011.

Tentative Agreement
between the
Montana University System
and the
Montana Tech Faculty Association

The following revisions shall be incorporated into the collective bargaining agreement:

- **PREAMBLE (added language)**

In all provisions regarding actions to be taken within a specified number of days, days are counted as normal working days within the faculty member's contract period unless specified as calendar days. Holidays days shall not be counted within a specified number of days unless calendar days are specified.

- **ARTICLE 2 UNION DUES (deleted and added language to paragraph 4)**

~~Representation fee payers may become MTFAs members and MTFAs members may become representation fee payers at any time by making the necessary arrangements with the MTFAs office.~~ Status as a fee payer or a member dues payer is continuous from year to year unless changed by written notice to the MEA-MFT President and MTFAs President during the termination period of August 1 through September 30 of any year. The MTFAs Officers shall notify the employer of specific amounts to be deducted each year or of any changes in fee payer or dues payer status.

- **8.200 Computers and Equipment (added language)**

The union and faculty recognize that the Administration has a legal responsibility to ensure that the computers and networks it operates are used appropriately and

consistent with BOR Policy 1303.1 (Effective May 24, 2002). In order to meet its obligations, the Administration may monitor activity on its computers and network consistent with BOR Policy 1302 (effective May 24, 2002). The Administration recognizes that faculty have an expectation for a reasonable degree of privacy in the use of the employer's computers and network. Except for the identification, investigation, and prevention of misconduct, the Administration will not divulge personally identifiable information or other personal information obtained through monitoring.

Faculty may be disciplined for violations of the Board of Regents' computer usage policies. The employer will be required to provide substantial documentation for any such discipline.

In accordance with Regents' Policy, information contained on the employer's computers and transmitted on networks maintained by the employer are presumed to be the employer's property unless otherwise limited by law or contract, but the employer does not thereby gain intellectual property rights to the stored information.

The MTFAs recognize that maintenance and monitoring of the computer system must be performed. In the process of maintaining and monitoring the system all areas of the system may have to be accessed.

- **ARTICLE 9 ACADEMIC FREEDOM AND RESPONSIBILITY**

(added language to paragraph 1)

Members of the faculty are expected and required to nurture, protect and exercise academic freedom and responsibility.

(added bolded language to first sentence paragraph 2)

Teachers are entitled to freedom in the classroom, **on campus, and off campus while in the course of fulfilling their obligations as Montana Tech faculty members**, in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. The intent of this statement is not to discourage what is "controversial."

(added language to end of paragraph 2)

In considering the appropriateness of an utterance in question, the Administration is encouraged to consider relevant associational norms, including but not limited to the norms of the disciplines to which faculty members belong and the norms of other appropriate college and university associations.

(added bolded language to paragraph 5)

The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position, **nor can it constitute grounds for disciplinary/corrective action short of dismissal without just cause.** Extramural utterances rarely bear upon the faculty member's fitness for position. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar.

(added paragraph 6)

Academic freedom applies to both the individual faculty member as well as to the institution.

- 10.100 Procedures

Section 11 **(added bolded language)**

The VCAA/R shall establish and maintain an orientation process for new faculty and ensure that new faculty participate in said program. **This orientation process shall include a brief presentation by a MTFA representative.**

- 14.110 Representation on the Committee **(added bolded language plus deleted language)**

The campus Collegiate Evaluation Committee, comprised of **two** full-time, tenured, full professors and representative of each college of the Institution ~~(and 2~~ **two representatives from the School of Mines and Engineering and two from the College of Letters, Sciences, and Professional Studies,**) will be established each academic year. Each academic Dean will arrange for the election of a **two** representatives from his/her school/college, no later than October 1 and report the name of the representative to the VCAA/R. In addition, each faculty member being evaluated may select a **tenured** faculty representative as a voting member of this committee. (This person need NOT be a full professor). Representation of the one additional member, therefore, may differ with each case being evaluated.

Deans, Department ~~Chairs~~ **Heads** and members of the Academic Freedom and Tenure Committee or of the Grievance Committee, who might hear promotion and tenure appeals or grievance cases, are not eligible for this service.

~~The VCAA/R will call the first meeting (only) for the Committee to elect its chair.~~

- 14.120 Task of the Committee

(added bolded language to paragraph 1)

Following the review of the portfolio of the person seeking promotion or tenure (or both) by that individual's department and school/college, including its Dean, the Collegiate Evaluation Committee, **including the designated faculty representative**, shall examine the faculty member's portfolio and will meet to discuss the materials. Those being evaluated will not be present, but the committee may choose to solicit further information or clarification of information from the individual or his/her colleagues. **All such additional information shall be documented and included in the portfolio.** Ultimately, the committee will write a positive, negative or qualified recommendation to accompany each portfolio under consideration; that packet will then be carried to the VCAA/R for consideration and for the continuation of the evaluation process.

(deleted paragraph 4)

~~A negative recommendation from the VCAA/R may be appealed to the Academic Freedom and Tenure Committee.~~

- 14.210 Faculty Tenure and Promotion Application Deadlines

(added bolded language to November 1 date)

On or before November 1:

Department Head sends the mid-term tenure evaluations, tenure and promotion portfolio to Deans. **Collegiate Evaluation Committee established.**

(added November 15 language)

On or before November 15:

The VCAA/R will call the first meeting for the purpose of the Collegiate Evaluation Committee to elect its chair.

- 14.330 Tenure

(deleted and changed bolded language)

The review prior to granting tenure and the subsequent recommendation to the Board of Regents will normally be made in the sixth year of employment. While normally the ~~eighth~~ **seventh** contract of full-time employment carries continuous tenure status, tenure will not be awarded without appropriate review and recommendation by peers and supervisors. Tenure is awarded for quality of current professional performance and promise for such future performance, not merely for completing a certain length of service. It is equally incumbent on the faculty member and the administration to insure that a tenure review occurs at the proper time. In no event shall the failure to give any notice constitute an award of continuous tenure by default. This section does not diminish any substantive rights for the acquisition of

tenure, which the faculty member may have acquired prior to the adoption of this policy.

- 14.340 Procedures to Apply for Tenure

(added bolded language to paragraph 2)

Faculty members seeking tenure shall prepare a summary evaluation portfolio according to the criteria given in the Departmental Performance Standards or, in the case where no departmental standards have been developed and approved, the **criteria in** General Performance Standards for Evaluation of Portfolios as outlined in this agreement, and submit it, together with supporting documentation, to the respective Department Head.

- 14.430 Application Process and Assessment

(added bolded language to paragraph 1)

Promotion in rank shall require the assessment of instructional performance, research and professional development, institution and public service, and progress toward a terminal degree (by those not holding such a degree) following the criteria and guidelines in the Departmental Performance Standards, or, in the case where no departmental standards have been developed and approved, the **criteria in** General Performance Standards for Evaluation or Portfolios as outlined in this agreement. It is the applicant's responsibility to minimize the subjective or qualitative information in an application for promotion by providing clear, concise statements of fact supported by quantitative evidence wherever appropriate and normally available. Further, it is the faculty member's obligation to demonstrate meeting the requirements for promotion by submitting a complete, timely application that fully addresses the requirements and criteria. Incomplete or late applications shall not be considered. All applications for promotion shall be acted on by the Chancellor.

- 14.440 Accelerated Promotion

(deleted and added bolded language)

Under extraordinary circumstances, a faculty member may be considered for accelerated promotion either one or two years earlier than the normally requisite time in rank. Department Heads shall have responsibility for nominating extremely meritorious faculty members to their Dean according to the ~~above criteria~~ **Departmental Performance Standards, or, in the case where no departmental standards have been developed and approved, the General Performance Standards for promotion and tenure.** Deans formally request that the VCAA/R consider an accelerated promotion for the specified faculty member and

communicate to that faculty member his/her opportunity to assemble a promotion file. From that time, the accelerated promotion shall proceed in accordance with the faculty tenure and promotion application deadlines listed previously in this provision.

- 16.120 Normal Increase (**added and deleted language**)

If a special session of the Legislature is called by the Governor and convenes to appropriate increased state revenue to the Montana University System during the 2010-11 biennium, the parties agree to re-open Article 16 of this Agreement for economic negotiations. The parties otherwise agree that no normal increases will occur in the 2010-11 biennium.

~~Effective October 1, 2007, employees hired on or before September 30, 2007, shall receive a base salary increase of 3.0%. In addition, those individuals who do not receive an equity adjustment as part of the plan referenced below will receive a .42% market adjustment effective on October 1, 2007.~~

~~Effective October 1, 2008, all employees hired on or before September 30, 2008, shall receive a base salary increase of 3.0%. Any funds remaining if the cost of promotions does not exceed .6% of bargaining unit payroll will be distributed as market adjustments across the board.~~

- 16.130 Promotion-Based Increase (**added and deleted language**)

Fiscal Year ~~2005-2006~~ **2010**

Faculty members promoted during the ~~2005-2006~~ **2009-2010** academic year to the rank of associate professor or instructor II, consistent with the promotion procedures of this contract shall have an amount equal to \$4,000 added to their base salary effective August 16, ~~2005~~ **2009**. Faculty members promoted during the ~~2005-2006~~ **2009-2010** academic year to rank of professor or instructor III, consistent with the promotion procedures of this contract shall have an amount equal to \$6,000 added to their base salary effective August 16, ~~2005~~ **2009**.

Fiscal Year ~~2006-2007~~ **2011**

Faculty members promoted during the ~~2006-2007~~ **2010-2011** academic year to the rank of associate professor or instructor II, consistent with the promotion procedures of this contract, shall have an amount equal to \$4,000 added to their base salary effective August 16, ~~2006~~ **2010**. Faculty members promoted during the ~~2006-2007~~ **2010-2011** academic year to rank of professor or instructor III, consistent with the promotion procedures of this contract, shall have an amount equal to \$6,000 added to their base salary effective August 16, ~~2006~~ **2010**.

- ARTICLE 20 GRIEVANCE PROCEDURE AND ARBITRATION

(added bolded language)

20.100 Definition

A grievance is defined as an alleged violation of an express provision of the collective bargaining agreement. **Grievances shall be resolved in accordance with the procedure set forth in this article.**

20.300 Procedures

Step 1 – Informal Grievance Resolution

The intent of any conciliation procedure is to resolve difficulties in an amicable and timely manner. Within five (5) days of the occurrence of the issue being grieved, the grievant and/or MTFA representative should try to work out the difference with the person, department or office involved on an informal basis.

Step 2 – Formal Grievance Submission

If the grievance is not resolved informally at Step 1, a formal grievance shall be presented in writing within ten (10) days following failure to meet informal resolution. The Chancellor or Chancellor's designee and the grievant shall meet within ten (10) days of the Chancellor's receipt of the written grievance. The grievant may choose to bring an Association representative to the meeting. At the meeting, the Association has the right and obligation to present all evidence in support of the grievance. The Chancellor or designee shall issue a written decision within ten (10) days following the meeting. If the Association is dissatisfied with the decision of the Chancellor or designee, the Association may advance the grievance to Step 3.

Step 3 – Submission to President

Within ten (10) days of the issuance of the Chancellor's decision at Step 2, the grievant may submit the written grievance with a copy of the Chancellor's decision to the President. The President or President's designee shall issue a written decision within ten (10) days following the receipt of the grievance. If the Association is dissatisfied with the decision of the President, the Association may advance the grievance to Step 4.

Step 4 – Submission to Commissioner

Within ten (10) days of the issuance of the President's decision at Step 3, the MTFA may notify the Commissioner of Higher Education of the union's intent to advance the grievance to arbitration. Only the alleged violations of the collective

bargaining agreement identified in the original grievance may be considered in arbitration. Upon mutual agreement, the parties may use grievance mediation prior to, or in lieu of, arbitration.

- 22.200 Evaluation of Faculty

(added bolded language to paragraph 3 and 5)

Each faculty member seeking promotion or tenure shall be apprised within seven (7) calendar days of positive or negative recommendations at each step of this process (i.e., evaluation reports by the Department Head, Dean, **Collegiate** Evaluation Committee, VCAA/R). He or she may modify and strengthen the application portfolio or abandon the process at any intermediate step.

Part-time faculty members shall be expected to prepare an evaluation portfolio following the guidelines listed below for evaluation of their **instructional performance only**. This must be submitted to the Department Head for evaluation.

- 22.310 INSTRUCTIONAL PERFORMANCE

(added bolded language to paragraph 2)

All faculty members are encouraged to use the Small Group Instructional Diagnosis (SGID) procedure, or a similar mid-term evaluation or procedure, in at least one course each semester. Ideally, this procedure should be used about mid-term in the semester. **The SGID is a formative and not a summative evaluation tool, and is to be administered by a qualified facilitator of the faculty member's choice.**

- 22.400 Request for ~~Peer Review of~~ Reconsideration of Evaluation Results
(changed title)

(added bolded language)

Prior to the VCAA/R making a recommendation to the Chancellor, faculty members may request reconsideration of the results of their evaluations to the VCAA/R who shall appoint a faculty committee of three consisting of: one faculty member selected by the VCAA/R from a list of three submitted by the faculty member, one member selected by the VCAA/R from a list of three submitted by the Dean, and one member selected by the VCAA/R from the faculty at large. **Deans, the faculty member's Department Head, and members of the Academic Freedom and Tenure Committee or of the Grievance Committee, who might hear promotion and tenure appeals or grievance cases, are not eligible for this service.** The faculty committee shall review the appropriate documents and the subsequent recommendations of the Dean and the evaluation committee prior to the submission of a recommendation to the VCAA/R. The VCAA/R shall determine the results of the request for reconsideration. The individual may subsequently request a review by

the Chancellor of the recommendations of the Dean, peer review committee and VCAA/R.

- 22.500 Evaluation of Department Heads

(added bolded language in paragraph 1)

Department Heads shall be evaluated annually to assure the highest possible level of effectiveness. **All full-time faculty shall have an opportunity to participate in the evaluation. The Dean shall consider these evaluations when making recommendations for renewal or non-renewal as Department Head.**

(added bullet number 5)

5. **Demonstrated ability to uphold the duties of a Department Head as expressed in this contract and the Faculty & Staff Handbook.**

- ARTICLE 24 MERIT AWARDS **(added full article)**

24.100 General Considerations

1. To receive a Merit Award, the faculty member must apply for it. It is the faculty member's responsibility to describe and explain the reasons they should receive a Merit Award. This application must explicitly address the criteria that the Merit Award Committee will use to evaluate applications.
2. A Merit Award shall be granted for exceptional achievement in one or more of the three key areas of a faculty member's work: teaching, service, and scholarship.
3. The activities or accomplishments under consideration for a Merit Award shall have taken place in the immediate three years prior to the application.
4. All Merit Award recipients must rate at least satisfactory in teaching, and it is up to the applicant to demonstrate this rating.
5. Merit Award applications shall be evaluated by an interdisciplinary committee drawn from faculty members that have received Merit Awards in previous years.
6. For the first year, the Merit Award Committee shall consist of the six faculty members that have served on the Merit Plan Committee. It may be necessary to appoint additional members to replace committee members that retire, are on sabbatical, or who otherwise cannot serve.
7. A faculty member serving on the Merit Award Committee shall not be eligible to apply for a Merit Award.
8. A faculty member who receives a Merit Award shall be eligible to serve on the Merit Award Committee for the next two years.
9. A faculty member shall not be eligible to apply for a Merit Award for two years following receipt of a Merit Award. E.g. a faculty member applies for a merit

- award in the 2010-11 Academic Year, receives the award beginning in the 2011-12 AY, and is again eligible to apply in the 2013-14 AY.
10. Funding for Merit Awards shall not be taken from the general salary pool.
 11. Half of a Merit Award shall become part of the faculty member's base salary, and half shall be a single-year bonus. E.g. if the Merit Award amount is \$2,000, then \$1,000 goes to base and \$1,000 is a single year bonus.
 12. Base salary Merit Award increments shall not be considered when making inversion adjustments.
 13. Faculty that have received a formal disciplinary letter within the past three years in the file kept by the Chancellor's Office are ineligible for a Merit Award.

24.200 Merit Award Committee

1. The committee shall consist of six members—three appointed by the MTF A from faculty in the bargaining unit and three appointed by management from faculty not in the bargaining unit.
2. Eligible members will normally have received a Merit Award in the previous two years.
3. The initial committee shall consist of faculty from the Merit Plan Committee.
4. A faculty member who receives a Merit Award shall be eligible to serve on the Merit Award Committee for the next two years.
5. Spouses or immediate family members of any applicant may not serve on the committee.
6. The Merit Award Committee is under no obligation to award all Merit Awards that may be available in a given year.
7. Each year, the Merit Award Committee shall document how it made decisions regarding awards and publish an "Annual Report" explaining the committee's rationale.

24.300 Merit Award Application

1. An application shall consist of:
 - a. A completed official cover sheet—seven (7) copies.
 - b. Ten (10) or fewer pages that address the selection criteria—seven (7) copies.
 - c. Two (2) page brief Curriculum Vitae using the standard Northwest Accreditation format—seven (7) copies.
 - d. Supplementary documentation that supports the application may be included in appendices—one (1) copy.
 - e. Merit applicants are encouraged, but not required, to include a letter of recommendation from their Department Head as part of the Supplementary Documentation. Department Heads that apply for merit are

encouraged, but not required, to include a letter of recommendation from their Dean as part of the Supplementary Documentation.

- f. Applicants are encouraged to explicitly address the relevance of their merit to their Departmental Performance Standards.
2. To receive a Merit Award, the faculty member must apply for it. It is the faculty member's responsibility to describe and explain the reasons they should receive a Merit Award. This application must explicitly address the criteria that the Merit Award Committee will use to evaluate applications as described in the Merit Award Application Packet available from the VCAA/R office.
3. Only full-time, tenure-track faculty members are eligible to apply for a Merit Award.
4. A faculty member shall not be eligible to apply for a Merit Award for two years following receipt of a Merit Award.
5. In a given year, a faculty member may apply for and receive only one Merit Award.
6. A Merit Award shall be granted for exceptional achievement in one or some combination of the three key areas of a faculty member's work: teaching, service, and scholarship.
7. The activities or accomplishments under consideration for a Merit Award shall have taken place in the immediate three years prior to the application.
8. All Merit Award recipients must rate at least satisfactory in teaching, and it is up to the applicant to demonstrate this rating.

24.400 Merit Award Evaluation

1. The committee shall evaluate and classify applications into two groups: recommended and not recommended.
2. Upon request, the committee shall provide feedback to unsuccessful applicants regarding their application. This feedback is intended to provide guidance as to how future applications might be improved.

24.500 Timeline and Decision Process for Merit Award Committee

1. October 1: Committee constituted; committee meets, elects chair.
2. November 1: Merit award applications due.
3. February 1: Draft list of recommended merit awards from committee to VCAA/R.
 - a. Committee meets with VCAA/R and two Deans as necessary to amend the list of awardees.
 - b. The six faculty committee members and three administrators – as a committee of all – shall endeavor to agree upon any changes to the list of awardees.
 - c. If the committee of all cannot agree, then all changes to the original list shall be decided upon based on a vote with simple majority rules.

- d. All decisions by the committee of all are final.
4. March 1: Committee communicates final list of recommended awards to the Chancellor.
5. March 15: Chancellor announces merit awards.

24.600 Number and Value of Merit Awards

No funding for merit awards is allocated for the 2009-10 and 2010-11 academic years. Pursuant to Section 16.120, if a special session of the Legislature is called by the Governor and convenes to appropriate increased state revenue to the Montana University System during the 2010-11 biennium, the parties agree to re-open Section 24.600 of this Agreement for negotiations regarding merit awards. The parties otherwise agree that no merit awards shall be available in the 2010-11 biennium.

- **ARTICLE 25 TERM (added paragraph 2 and changed contract end date)**

This Agreement is effective upon the date of ratification by the Board of Regents and shall remain in full force and effect through the 30th day of June, 2011.

No wage, hour, or working condition subjects are included as a re-opener unless otherwise specified in this contract.

Not included in the contract but part of the tentative agreement is the following:

The parties agree that any member of the bargaining unit employed full-time and whose base salary is \$45,000 or less will receive a one-time payment of \$450 upon MTFA and Regent ratification of this Agreement.