

Unit Ties

Promoting Quality Higher Education - An Investment in Oregon's Future

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Dues Structure Change for New Hires

At its July 16, 2010 summer retreat, the Executive Council voted unanimously to alter the PSU-AAUP dues structure for New Hires. Members of PSU-AAUP need to ratify this change. The online ballot will open September 15 and close September 30 for a change effective October 1, 2010.

Members who have been at PSU more than four years will not be impacted by this change. Members who have been at PSU less than four years will see a gradual increase in their dues until they become regular members in their fifth year of employment rather than the abrupt doubling of their dues in their fifth year.

The current dues structure calls for "entrants," who are non-tenured bargaining unit members in their first four years of employment at PSU to pay a subsidized dues rate of .375%. Dues rise abruptly to the normal .75% in year five, or when tenure is granted.

The dues structure change eliminates the "entrants" category and the .375% rate. New members of PSU-AAUP after October 1, 2010 will be regular members at the .75% rate.

Current "entrants" will see a gradual rise of their dues until they become regular members in their fifth year of employment. Dues will no longer double for existing "entrants" at year five.

The current population of entrants will have all transitioned to the regular member category by 2015.

A number of factors led to this decision:

- When this dues structure was put in place in 1978, new hires were paid less than regular employees, salaries grew over time, and the Oregon University System

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Dues Structure Change (*continued*)

received appropriate state allocations. This is no longer the case. Faculty salaries have stagnated and we have compression and inversion: often, new hires make more money than long-term employees, and that imbalance can last an entire career. The Executive Council feels it is no longer appropriate for long-term employees to continue to subsidize entrants when entrants make more money than long-term employees.

- The Executive Council needs to correct a structural imbalance in Association finances. The Association is in its third year of deficit spending due to the rising costs of National AAUP affiliation and required services. It makes sense to eliminate this subsidy so as to prevent further deficit spending.
- The abrupt jump from the subsidized rate to the regular dues rate upsets many entrants, and many call to complain. Most do not realize their dues were set at a reduced, subsidized rate.

The specifics of the change are as follows:

- Effective October 1, 2011 new hires who become members of the Association when they commence employment, and Fair Share Fee Payers who become members in their first four years of employment (previously these “entrant” members designated as “D2” by payroll) will be designated “D1” regular members. Their dues will be at the regular dues rate of .75% effective upon ratification of the dues change.
- Current D2 members will experience a gradual increase of the D2 rate until they reach year their fifth year of employment, when their dues will adjust to the “D1” regular dues rate. The D2 rate will change as follows:
 - October 1, 2010 .45%
 - September 1 2011 .525%
 - September 1, 2012 .6%
 - September 1, 2013 .675%
 - September 1, 2014 .75% (or the D1 rate at the time)

This gradual increase will apply only to current “D2” entrant members and the D2 rate will apply for as long as they were originally expected to remain in the entrant category: until they achieve tenure, or reach year five of employment. Only those hired in 2010 prior to ratification of the dues structure change will experience the five tiers in the D2 phase out above.

In accordance with PSU-AAUP Bylaws Section 6, ratification of this dues structure change is required. Members should look for an email on or before September 15, 2010 inviting them to the Ballotbin.com online election. The ballot will close September 30, 2010.

Salary Reopener Update: \$1 Million Disbursement Planning

Since the ratification of the Salary Reopener agreement in April, the Collective Bargaining Team has been working to finalize arrangements for disbursing the \$1 million settled upon through negotiations. As you will recall, the \$1 million figure represents the University's salary savings from 5 months of pay cuts from PSU-AAUP bargaining unit members' salaries between November 2009 and March 2010. The \$1 million distribution will indirectly return the 2009-2010 AAUP salary reductions as equitably as possible through investments that the PSU budget would not normally cover.

The April Salary Reopener stipulated that the \$1 million would be disbursed as follows: \$400K for the library, \$200K for professional development, \$200K for travel, and \$200K for computers and software.

Plans for library funds, professional development funds, and travel funds are nearly complete and are awaiting University approval. Plans for computer and software expenditures are still in sub-committee.

Library

Current draft plans call for library funds to be used for acquisitions. Special funds will be held in reserve for use by Academic Professionals. In the near future, bargaining unit members will be encouraged to contact their subject librarian with materials requests. A list of subject librarians is available at <http://library.pdx.edu/appointments.html>. Academic Professionals will be encouraged to send their requests to Sarah Beasley at beasleys@pdx.edu or contact her by phone at 503.725.3688.

In addition, two "demonstration projects" await University approval, including a faculty reading room and the extension of subscription to a popular film data base.

Professional Development

The \$200K for Professional Development will be distributed through the Faculty Development Committee (FDC). Due to the large number of qualifying applications in the 2009-2010 Faculty Enhancement Grant program, \$34,111 from the Reopener funds were used to fund 6 additional proposals. The current proposal under discussion calls for a further \$8,125 to be spent to send 25 Academic Professionals to a national conference sponsored by Student Affairs Administrators in Higher Education that will be held in Portland next year. Plans propose that the remaining \$157,764 go into a pot of money to be disbursed by the FDC. This proposal provides that these additional funds are available to cover professional development expenses such as:

- Membership dues to professional organizations
- Licensure fees
- Certification and recertification fees
- Continuing education fees
- Bar Association fees
- Expenses for travel and meals will be excluded from consideration

This fund will open to all of our bargaining unit members. Application materials will be made public as soon as the Administration and PSU-AAUP finalize the procedures.

Several additions are also in the works for the administration of the long-standing Faculty Enhancement Grant (FEG) program, which will be distributed alongside the one-time funding this year. A database is being developed where bargaining unit members can access sample successful FEG proposals, and PSU-AAUP will, in conjunction with the FDC, hold a series of workshops in the fall to discuss how faculty who have not in the past applied to these funds (such as Academic Professionals and Fixed-Term Faculty) could fit their scholarly interests into a suitable application for funding within the existing program.

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Salary Reopener Update, (continued)

Travel

The Professional Travel Grant (PTG) Program yearly provides \$200,000 for PSU-AAUP bargaining unit members to attend professional meetings and conferences to present their scholarly work. Provisions in the current PTG program disqualify travel applications by bargaining unit members who wish to attend professional conferences, but who do not have scholarly work to present.

As a result of the Salary Reopener, over the 2010-2011 academic year there will be an additional one-time \$200,000 fund of travel money to be administered by the Faculty Development Committee (FDC). All members of the PSU-AAUP bargaining unit will be eligible to apply. The working plans for this fund propose that eligibility will be broadened by removing the stipulation that travelers must present scholarly work at their

destination.

The proposals suggest that individual bargaining unit members will be eligible to receive one travel grant from each of these funds over the 2010-2011 academic year. Funds for both pots of travel money will be disbursed on the same schedule. Application materials will be made public as soon as the Administration and PSU-AAUP finalize the procedures.

Notification about Application Procedures

As soon as disbursement implementation decisions are finalized, PSU-AAUP and the University will inform all bargaining unit members of the procedures for applying for the one-time Professional Development and Travel funds, and notices about all Library purchases will be available online.

University Planning to Create 64 Faculty Positions for Enrollment Growth

The Legislative Emergency Board on June 15, 2010 authorized the addition of 166.7 FTE to PSU. In a response to an Article 6 information request about those positions, the University advises that 64 of the positions are tenured or fixed term faculty and 18.3 FTE are Academic Professionals. Our bargaining unit will grow by 82.3 FTE.

Of the 64 faculty positions, 57 are tenure track positions and 7 are fixed term positions. This represents one of the largest increases in tenure track employment than we have seen in a decade.

The tenure positions to be added: 12.5 FTE in CLAS; 3 FTE in CUPA; 5 in FPA; 1FTE in GSE; 2FTE in MCECS; 3.49 FTE in OAA (these are non-teaching administrative faculty); 2.5 FTE in OSA; 3.5 in UGE (to complete the staffing transition in University Studies); 4 FTE are in pre-recruitment planning to be placed once the greatest capacity need is determined; and 20 FTE will be allocated in 2010-11 to address the 3% enrollment growth expected this Fall.

The fixed term new hires are in the following areas: 1 FTE in CLAS; 1 in OAA (Academic Administration); 1 FTE in OIA; 1 FTE in Research; 2 FTE in SBA; and 1 FTE in SSW.

Thirteen (13) FTE Academic Professionals will be added in OSA for Advising; 1 FTE will go to OAA; 1 FTE has been added in GSE; and 3 FTE will be added to Financial Aid.

We've frequently been asked about the overall growth of administrative positions relative to teaching positions. The planned hiring mix is consistent with the recent growth of the administration at PSU and other higher education institutions. Of the 64 tenured and fixed term faculty, 5.46 FTE are administrative and not in our bargaining unit. 34.5 FTE of the additions are unclassified, unrepresented administrative employees ("UnUn" category). The total non-bargaining unit administrative increase is 39.99 FTE, or 34.3%. As 20 tenure positions will not be added until later in the academic year, the current increase is 41.4% administrative. Seven (7) FTE in the UnUn category are being hired in the President's Office.

Dispute Resolutions

Copyright Lawsuit and Resolution

Four faculty members and PSU were named in a complaint against SMART COPY on SW 6th Ave for copyright infringement in the production of course packets. PSU-AAUP participated in the settlement through its promise to disclose the suit and outcome to the membership as a caution.

SMART COPY had never used a copyright clearinghouse, and the copyright holders brought the suit to bring SMART COPY, along with PSU professors who previously benefited, into copyright compliance.

The Settlement includes a payment to the copyright holders of \$25,000. One half is paid by the University, the other half is paid by SMART COPY. While the University went to bat for the faculty in this lawsuit, it was not legally required to do so. The copyright policy of the University (www.lib.pdx.edu/copyright/copyright_guide.php) mandates copyright compliance as a condition of employment. This settlement was not precedential and PSU will not defend faculty against copyright infringement lawsuits in the future.

SMART COPY, in turn, has agreed to always use copyright clearance in the future.

Discipline Complaints against Faculty

This Academic Year the University filed discipline complaints against four faculty members through Article 27 Section 3 of the Collective Bargaining Agreement. PSU-AAUP was integrally involved in the settlements of the complaints.

Of the four settlements, one complaint involving research impropriety was converted into an oral reprimand and dismissed at the administrative hearing level. One complaint for absenteeism resulted in a written reprimand.

Two complaints involving relations with students required protracted negotiations, as provided for in Article 27, Section 3(c), and resulted in settlements that enabled these faculty members to retain their positions.

To understand what conduct can lead to a complaint, faculty should consult: the PSU-AAUP Collective Bargaining Agreement: Article 27 Section 1 (Just Cause); Article 4 (Responsibilities of members); the PSU Professional Standards of Conduct policy (<http://www.pdx.edu/hr/professional-standards-conduct>), and the underlying Faculty Conduct Code (OAR 580-021-0325 and OAR 577-041-0010)

Promotion and Tenure Denial with Numerous Procedural Errors Reversed, Tenure Clock Extended Two Years

PSU-AAUP helped a tenure track employee change a denial of tenure into a two year deferral.

(Summary submitted by Grievant)

I am a tenure track faculty member at PSU who was up for Promotion and Tenure in this past academic year. In December 2009 I was surprised to receive reports recommending denial of Promotion and Tenure from both the department and P&T committee chairs. The reports contained some issues that are very unreasonable and questionable. I immediately sought advice from PSU-AAUP, legal professionals and trusted colleagues, and submitted requests to the department and committee chairs for them to reconsider their recommendation. However they did not change their recommendation.

Subsequently, although I submitted a letter of rebuttal to the dean, the dean upheld the recommendation.

I am very grateful to the PSU-AAUP Grievance Committee and to Phil Lesch for their support and work in facilitating the resolution of my Promotion and Tenure case, which was deeply flawed both procedurally and substantively. They have been instrumental in the process that resulted in achieving an informal resolution with the university in the form of a settlement

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Dispute Resolutions (continued)

agreement.

PSU-AAUP filed a contractual grievance on my behalf, which details multiple violations of the Collective Bargaining Agreement by the department chair and promotion and tenure committee in the evaluation process. These violations include requesting external letters for promotion to a higher rank (they told the reviewers I was going up for full professor, not Associate Professor), improper use of my scholarly agenda, absence of an independent review of my scholarship by the department chair (the department chair actually devoted his negative critique to advising!), improper handling of peer reviews (all the good ones were removed from the file), and use of inappropriate criteria and inconsistent standards for promotion and tenure. In total there were fifteen substantive procedural errors. The grievance was nine pages long.

The standards for my Promotion and Tenure review were inconsistent and increased without my knowing. There have been significant changes in the committee's evaluation criteria compared with those communicated to me in the Notice of Appointment, its Supplementary letter, and previous reviews. The Departmental P&T committee's report contains an extensive list of evaluation criteria that were not previously communicated to me, some of which are unreasonable and unrealistic in my field. It was a surprise to see these expectations since I was not previously informed of them, nor to my understanding were these expectations of other PSU colleagues in their promotion and tenure considerations!

After the grievance was filed, PSU-AAUP and I worked with the administration towards achieving a resolution of the grievance. At the same time I continued to work with an attorney. Following a series of lengthy negotiations with the Dean, who consulted with both the Provost's office and the Department, we eventually

arrived at a settlement, under which my tenure clock has been adjusted, and I have a revised timeline for promotion and tenure consideration. The evaluations from the current review will be expunged and will not be considered in the new evaluation. Further, the department chair and P&T committee members will be required to receive training the P&T process, and the appropriate criteria to use in their review.

A set of more reasonable, yet still rather open and subjective, set of expectations for my research and scholarly activities will serve as criteria in the next review.

Achieving this informal resolution at level 1 was a relief for the Administration, PSU-AAUP and me. While the outcome of the P&T process is not ideal and the outside legal expenses are not reimbursed, it allows me to move on and gives an opportunity for things to improve. I am very glad that the ordeal is over, and I certainly hope that this contractual grievance is my first and last one. Again, my heartfelt gratitude to the wonderful work of PSU-AAUP - I could not have done it without them!

Premature Dismissal and Reinstatement; Lack of Reasonable Accommodation under ADA; Creative Resolution

A tenure track faculty member was prematurely dismissed prior going up for tenure due to an alleged "lack of progress" caused or compounded by the University's not providing reasonable accommodation under the ADA. PSU-AAUP was able to reverse the dismissal and facilitate a novel settlement to bring the faculty member back to work.

A tenure track faculty member was hired with a disability that required a unique accommodation. Over the course of eight to nine years, when the University did not provide the accommodation, the lack of the accommodation exacerbated the disability and led to significant additional medical issues requiring further accommodation, substantial medical leave, and a reduced work schedule. As required by the contract, the University extended the faculty member's tenure clock to compensate for the approved FMLA leaves, but

that did not cover all of the medical leave, and did not deal with the devastating impact the exacerbated illness had the faculty members ability to sustain her research program. The situation culminated in a 2008 letter from the Dean not renewing the faculty member for her (then) sixth year as a tenure track faculty member where the Dean states the faculty member was unlikely to be successful in achieving tenure.

PSU-AAUP has been involved with this case since 2004. The sheer amount of data, and the difficulty in tracking cause and effect, left both Association and Administration representatives confused. PSU-AAUP was able, however, in July 2009 to plot out an intricate Cause of Action Spreadsheet that mapped the full history and laid out clearly the extent to which the University's lack of accommodation resulted in the failed research program and the Dean's non-renewal.

Initial attempts at resolution were stymied by the University's attempt to have the faculty member waive her rights to redress and remedy under ADA. The faculty member was living with a permanent disability that had been made worse over time by the lack of accommodation. It made no sense to the faculty member, or PSU-AAUP, for her to waive any right to re-dress since she did not have indefinite employment with the University, and the University was unwilling to agree to any settlement that would award tenure without an appropriate P&T review.

Talks languished through Fall 2009 as the faculty member prepared to separate from the University on December 30, 2009 as mandated. Then in November 2009, after the faculty member had lined up a research project out of the country, the Dean issued a letter of reinstatement with a minimal one-year extension of the tenure clock.

The faculty member was already committed to a 3-month project overseas. The University, PSU-AAUP and the faculty member reached agreement that she would come back in Spring 2010 to an assignment that provided the appropriate reasonable accommodation.

Departmental leadership, however, did not honor that agreement. Citing a telecommuting policy that the Department asserted applied to the faculty member's absence, the faculty member was asked to return to campus to attend a meeting with a graduate student who the faculty member had previously advised. The faculty member was forced to incur substantial expenses to change her return airplane ticket, and was forced to abandon her efforts to secure funding with the NGO she was courting overseas.

Between October 2009 and March 2010, the faculty member and PSU-AAUP had little contact. Had the faculty member been in communication with PSU-AAUP while overseas, we could have challenged the recall and alerted the Department to its inappropriate application of the telecommuting policy.

When the faculty member returned to campus with the re-appointment letter in hand, PSU-AAUP rejoined the case with the hope to find a creative solution. She did not understand how she could be expected to proceed in achieving tenure given the stalled research program and the six months she was given to prepare her P&T packet. She also despaired that the expectation that she be prepared to achieve tenure this year did not at all account for her need to have considerably more time due to the prolonged illness she suffered as a result of not receiving accommodation. It seemed the only way she would be able to address the lack of accommodation issue was through a lawsuit against the University- something no one wanted.

In the end, we arrived at a novel solution- or perhaps it might be better to say it was a next step. The faculty member decided it most prudent to concentrate on research only. We reached a solution where the faculty member agreed to relinquish her tenure track position in exchange for a research only fixed term appointment with two years of start up. This two-year start up period will be followed by support afterward for an indefinite period of time for research projects that are funded externally.

The Next Phase of OUS Restructuring

With the adoption of the Chancellor's Governance proposal by the State Board of Higher Education, OUS restructuring has entered the next phase.

It is now up to the Legislative Higher Education Task Force to embrace the plan, or offer an alternate plan, that will become the legislative concept that leads to an OUS restructuring, or more likely a Higher Education Restructuring Bill.

The Chancellor's proposal calls for OUS to shed its State Agency status and become a statewide Public University System that looks like a Community College District in status, funding, and structure albeit with individual campuses retaining a level of autonomy (not complete autonomy) to face their unique challenges and capitalize on their unique opportunities.

While the Chancellor's proposal goes far in addressing the needs and interests of OUS, according to Western Interstate Commission for Higher Education (WICHE) Executive Director David Longanecker and the National Center for Higher Education Management Systems (NCHEMS) President Dennis Jones, consultants hired by the Higher Education Task Force to review the proposal, it does not go far enough to address the need for the State of Oregon to create a systemic, holistic approach to Higher Education that includes the community college system. The Chancellor's proposal will likely be substantially re-worked by the committee, but even at this stage it is clear that the legislative concept will contain a number of key attributes. All these changes will have a substantial trickle down impact on faculty.

Shifting Focus from Enrollment to Success

The consultant's report a move in higher education nationwide to an outcomes based approach to funding and delivery of services. For OUS, this would include changing the point at which funding is allocated from the 3rd week in the term to the end of the term; creating "momentum points" in a student's progress toward their degree (based upon the Washington model) that provides support toward completion, and most importantly, shifting funding priorities to those programs and student populations where degree completion can be emphasized and supported. We are witnessing the beginning of this wave in the

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Executive Director available for Department Meetings

This Fall, we will see movement in Salem regarding OUS restructuring, at PSU in preparation for negotiations, and at PSU-AAUP with the Dues Structure Change for New Hires. If you'd like to discuss these issues and more contact Phil Lesch at phil@psuaaup.net to schedule him at the tail end of your department meeting (schedule permitting).

PSU mandatory advising initiative; we expect the dialogue over more faculty engagement in student success to greatly expand.

Shifting Focus from Process Control to Outcome Accountability

The State's focus to date has been controlling the "how" of higher education through regulations: Oregon Administrative Rules (OARs), internal management directives, and Statutes. While Oregon has not been alone in its approach to education through regulation, the consultants suggest it has gone beyond most other states in the level of regulation it has achieved. Further, no outcome measures are in Statute, not even the 40-40-20 goal that the State has used as the foundation-stone in its education policy. This will change.

The consultants give high marks to the Chancellor's proposal to shift funding to a block grant in exchange for the achievement of specific and measurable outcomes from the system and each institution. The State's key challenge is creating policy and statutes that identifies outcomes and gives the flexibility as necessary to the system and institutions to produce those outcomes.

"Who gets to decide" will change. OUS hopes to retain a coordinating board overseeing the other institutions that create will set goals and policy to meet State outcome requirements (as cited in the new compact with the State). This may or may not include the creation of individual university boards. The Chancellor's proposal retains the responsibility to hire, evaluate, and fire institution presidents while the PSU proposal is for a PSU local board to have that responsibility. The consultants did comment that PSU's desire to have taxing authority like community colleges (and one reason to have a local board) does not exist at any other public 4-year institution in the country and is a hard sell to voters.

Of concern to faculty is how working conditions might change in a system where the

underlying Oregon Administrative Regulations (OARs) for employment policy and practice could disappear. Collective Bargaining Agreements in Oregon are noticeably weak in areas where the underlying OAR's legislate employment conditions that fall within the mandatory subjects of bargaining; these areas include academic freedom, student and faculty conduct, employee leaves, intellectual property rights, and a myriad other issues that directly apply to faculty.

Many of these areas can be dealt with in collective bargaining and through the respect and enforcement of the Past Practice provisions of Article 8 in our Collective Bargaining Agreement. This is where the rubber meets the road for faculty; our collective bargaining agreement is 32 years old and this community has institutionalized the principles of past practice. These principles are our insurance policy as we face a landscape that could change radically.

Faculty in non-collective bargaining institutions, however, do not have past practice protections and could be particularly vulnerable to changes in employment practices.

It should also be noted that the consultants to the Higher Education Task Force recommended a "holistic" approach to Oregon higher education. That means somehow integrating all the institutions and the community colleges into one system. With widely disparate cultures, labor environments, and needs, that is a tall order.

PSU-AAUP is most concerned with promoting quality higher education as an investment in Oregon's future. Our voice in the restructuring conversation is crucial to balance the input of these consultants and OUS leaders who, for the most part, do not understand the issues from the perspective of faculty and staff on OUS campuses. We will continue to be an active part of the discussion at the OUS and State discussions.

Looking Forward: Executive Director Summary

The 2010-11 academic year was one of many challenges and many accomplishments. This year we experienced growing pains that are forcing the University to become an institution that acts more like a large, government agency than the comfortable folksy place it has been for so long. With that I cite a number of important events:

- For the first time in memory, the University sought disciplinary sanctions against our members through the Contractual Disciplinary process. As government agencies get larger they tend to struggle with consistent application of work rules; that is especially true when they do little training for lower level managers. I believe we will see more use of the disciplinary process to address employee problems.
- As government agencies grow, they generally become more dependent on bureaucratic processes and managers are generally given less discretion to handle issues informally. As the University approaches the size of a small city, I expect the bureaucratization of most processes except in those places where informal resolution is ensconced as part of a bureaucratic process.
- The restoration of our salary on April 1, 15 months early was a turning point for the University. It was the first time the University ever agreed to re-open, and then re-opened a contract. It was the first time that the University acted independently of instructions received from OUS and legislators to reach agreement with its faculty. This represents a significant evolution in PSU-AAUP's labor relations relationship with the University, one that has been paralleled in successful dispute resolutions (see above). As our relationship continues to evolve, I expect the Association and the University will find ways to do collaborative work, and creative problem solving, in more and more areas of shared interests.
- The settlement from the re-opener- \$1 million toward Professional Development, Travel, Computers, and Library purchases - is also path breaking as it represents the first significant monetary settlement we've made outside the mandatory scope of bargaining. This paves the way for the Association and its members to have greater influence in shared governance than has been afforded through Article 12 of the Collective Bargaining Agreement.
- As the University grows, and the bargaining unit grows in size, so do the demands on our Association. We have to be careful not to get lost in the demands of day to day business and lose our focus on long term strategies that require steady resolve and continuing efforts. As the largest organized faculty unit in Higher Ed in Oregon, and the only faculty organization in the state dedicated solely to Higher Ed faculty, we must make sure faculty are

heard in Salem and beyond. It is not just an opportunity lost if PSU-AAUP is not heard; it is a strategic failure that could have long term negative consequences on every higher education faculty member in the State.

- Many faculty members view the future uncertainty in higher education and restructuring with little hope and a sense of powerlessness. We, however, are not powerless and there is much reason to hope. Through PSU-AAUP the faculty at PSU is an active participant in the process. In the coming year, I ask that every PSU faculty and staff member:
 - Pay attention to the news at PSU, OUS and the state that could impact faculty
 - Encourage co-workers and others in your life to support the work of PSU-AAUP to promote quality higher education in Oregon through our efforts to promote and support the interests of higher education faculty in the politic process
 - Help us in our efforts when asked
 - Exercise your right to vote in PSU-AAUP elections