

AMERICAN ARBITRATION ASSOCIATION

**AMERICAN ASSOCIATION OF
UNIVERSITY PROFESSORS,
UNIVERSITY OF CINCINNATI
CHAPTER**

Claimant

**ARBITRATION DEMAND OF
AMERICAN ASSOCIATION OF
UNIVERSITY PROFESSORS,
UNIVERSITY OF CINCINNATI
CHAPTER**

and

**THE UNIVERSITY OF
CINCINNATI**

Respondent

1. The American Association of University Professors, University of Cincinnati Chapter (AAUP), is party to a collective bargaining agreement with the University of Cincinnati (the University) that contains a provision calling for binding arbitration of certain disputes. The relevant provisions are attached hereto as Exhibit A.
2. Lengthy discussions between the University and AAUP have failed to resolve a dispute on the interpretation of contract language concerning the calculation of salary increases when a Faculty Member is promoted. The AAUP therefore demands arbitration pursuant to Article 32.1 of the UC/AAUP Contract. (Ex. A.) At issue are the meaning, intent, and interpretation of Article 10.2 of the current contract. Relevant to that interpretation is corresponding language from Articles 9.1.B, 9.2.B, and 11 of the 1984-86 Collective Bargaining Agreement (Ex. B.) and from Articles 10.1.2 and 12.1 of the 1986-89 Collective Bargaining Agreement (Ex. C) in which the current language first appeared. The AAUP's position is detailed below.
3. Through the 1984-86 Agreement, the provision for promotional increase in Article 9 stated "This promotion increase shall be in addition to whatever increases may be received because of the across-the-board increase, but prior to determining whatever increase may be necessary to establish the minimum salaries for the particular rank provided in Article 11, Minimum Salaries." Article 11 stated "Any Bargaining Unit member's salary which is below the specified minimum after effecting the across-the-board salary increases and promotional increases shall be brought to the appropriate minimum." Under this earlier contract, the two articles complemented each other and the order of salary adjustment was: (1) add across-the-board increase; (2) add promotional increase, if any; and (3) if necessary, raise to the minimum salary.

4. In the 1986-89 Agreement, the language in both articles was changed. The 1986-89 Agreement, in Article 10, stated “This promotion increase shall follow determination of minimum salaries for the particular academic rank provided in Article 12, Minimum Salaries.” Article 12 stated “Each member of the Bargaining Unit who was a member of the Bargaining Unit on June 30, 1986, shall, as of September 1, 1986, be raised to the minimum salaries indicated below, on top of which any across-the-board, merit, and promotion increases shall be added.” It was again clear that the two articles complemented each other. Further, under the new agreement the order of salary adjustment was: (1) if necessary, raise to the minimum salary; and (2) on top of the minimum salary (or current salary if adjustment to the minimum was not required), across-the-board, merit, and promotional increases were to be added. The language in both articles was changed, reversing the order of adjustment established in the previous agreements.

5. The language in Article 10 has remained virtually unchanged from 1986-89 through the current Agreement. The only change has been from “promotion increase” to “promotional increase.” The current wording is “This promotional increase shall follow determination of minimum salaries for the particular academic rank provided in Article 12, Minimum Salaries.” The meaning remains the same: the adjustment to the minimum salary comes first; then the other adjustments are added. (Ex. D.)

6. The AAUP was unaware of any problems with the application of this language until the summer of 2003. The issue was raised by a Faculty Member who was promoted effective September 1, 2003. His college improperly applied the salary increase language. Shortly thereafter, the AAUP became aware of some other cases arising in 2001 and 2002 in the same College, where the language had been improperly applied. The AAUP raised the issue with the Vice Provost who is the University Contract Administrator. While the Vice Provost initially verbally concurred with the AAUP’s position, she later changed her mind. Since then, there have been continuing discussions between the Vice Provost and the AAUP Consultant, including attempts to obtain additional information and negotiate a possible resolution. During those discussions, it became clear that the provisions in question have not been uniformly applied and that additional colleges have violated the contract. The AAUP gave the Administration a deadline of January 16, 2006 to resolve the dispute. A settlement was not reached by that date.

7. The failure of the University to raise the salaries of newly promoted Faculty Members to the new minimum before applying the promotional increase violates the contract between the AAUP and the University.

8. The remedy sought by the AAUP includes prospective correction of the University’s application of promotional increases, retrospective correction of increases improperly applied in the past, and retrospective back pay for Faculty Members whose salaries were incorrectly calculated in the past.

9. The AAUP requests that the American Arbitration Association (AAA) prepare a list of arbitrators for submission to the University and the AAUP for the selection of an arbitrator, pursuant to Article 32, Section 32.3 of the UC/AAUP Contract.

Donald J. Mooney, Jr.
Ulmer & Berne LLP
600 Vine Street, Suite 2800
Cincinnati, Ohio 45202
(513) 698-5070
(513) 698-5071 (Fax)

Attorneys for Claimant American
Association of University Professors,
University of Cincinnati Chapter

CERTIFICATE OF SERVICE

A copy hereof has been served upon Monica Rimai, Esq., Special Assistant to the President, University of Cincinnati, ML 0623, University of Cincinnati, Cincinnati, Ohio 45221-0623, by ordinary U. S. Mail this ____ day of January, 2006.

Donald J. Mooney, Jr.