

Youngstown State University

Report of Labor-Management

Review Panel



January 12, 2006

Reader Advisory: This Report should be read in its entirety and with care so that the reader will acquire a full and accurate sense of the Panel's findings and recommendations. Randomly selected citations may give an incomplete or distorted understanding of the Panel's intent

YOUNGSTOWN STATE UNIVERSITY
REPORT OF THE LABOR-MANAGEMENT REVIEW PANEL

The Youngstown State University community was deeply shaken by separate strike actions voted by classified employees and by faculty members in August 2005. Although these strikes were settled in time so that fall semester classes were able to begin as scheduled on August 29, 2005, it was apparent to all parties that the unsuccessful contract negotiations that preceded these strikes reflected profound and longstanding issues in labor-management relations on the campus. The aftermath of the strike demonstrated a palpably adverse impact on employee morale and deep-seated resentments that continue to exist amongst university employees.

Following resolution of the strike actions, President David Sweet appointed a Labor-Management Review Panel (the "Panel") to assess the current labor-management environment at Youngstown State University and to make recommendations on needed improvements. The Panel consists of seven persons:

1. Ms. Eugenia Atkinson – Executive Director of Youngstown Metropolitan Housing Authority and former Y.S.U. Trustee
2. Mr. Jim Graham – President of G.M. Lordstown, U.A.W. Local 1112;
3. Mr. Dennis Haines – Partner in the Law Firm of Green, Haines, Sgambati Co., LPA;
4. Dr. Robert K. Herbert – Y.S.U. Provost; (Panel Chairperson)

5. Dr. James Morrison – Emeritus Chair of the Department of Psychology and former Chair of the Academic Senate;
6. Mr. John Pogue – Vice Chair of the Y.S.U. Board of Trustees; and
7. Dr. Thomas Shipka – Chair of the Department of Philosophy & Religious Studies and Chair of the Academic Senate;

President Sweet formally charged the Panel on October 10, 2005, to conduct a broad-ranging inquiry into the state of labor-management relations on the YSU campus and to develop a set of recommendations. The President's charge centered around 4 questions:

1. Why did the negotiations process break down this year?
2. How was this round of negotiations different from previous rounds?
3. How can we make sure that the next round will be better?
4. How should the process be changed to produce better results?

The Panel held two organizational meetings to establish a plan of work and to set ground rules for its investigation. An invitation was extended to all segments of the campus community to provide written or oral input to the Panel.

The Panel convened on 14 occasions, heard testimony from more than 40 individuals and received 30 written submissions. The Panel received input from all segments of the Y.S.U. community including students, faculty, staff, administration and trustees.

The testimony provided to the Panel was candid, insightful and often emotional, and it led the Panel to several clear conclusions. First, it was apparent that all participants shared a strong commitment to the University and a desire to advance its interests. Second, the strike took a significant toll on campus, resulting not only in economic loss, but also tremendous damage to respect, trust and communication between the parties. Third, the origins of these effects precede the most recent round of negotiations, and they have the potential to linger long after the settlement unless some dramatic changes are effected. The advent of the North Central

Association Higher Learning Commission's site visit and the university's centennial celebration in 2008 mandates that an improvement in labor relations be recognized as a urgent priority. Fourth, although the Panel originally sought to limit the scope of its inquiry to structural concerns, all members agreed that it would not be possible to exclude attention to particular individuals and the roles that they have played in the evolution of the current campus climate.

Given this environment, the Panel believes that several specific steps will be required in order to re-establish a working relationship among the faculty, classified employees and the administration. These recommendations stem from observations contained in the testimony before the Panel, and they include the following:

1. Time is of the essence; corrective action must be taken quickly.
2. There is an expectation on campus that the President will take the lead in labor relations; the delegation of his authority is not working.
3. The personality, relationship and history of the current participants in labor matters require that several key parties be replaced.

The President's decision to explore the cause and effect of the strike was the right one. Changes need to be made. The conclusions and recommendations which follow are intended as a first step in restoring a positive working environment on our campus.

Our report follows the guiding questions presented to us by President Sweet. In each instance, we will set forth our response to each question followed by our recommendations for change.

Question 1:

“Why did the negotiations process break down this year?”

Answer:

Following a relatively normal start to faculty negotiations in February, the negotiating process for both unions broke down in the month of May for the following reasons:

A. ACE Negotiations:

- (i) ACE perceived the wage comparison study initiated and published by the administration as a negotiating tool designed to embarrass and diminish them;
- (ii) The nonrenewal of Chris Domhoff's contract was perceived to be an intentional act of retaliation by the administration to disrupt negotiations and to intimidate the union;
- (iii) The failure of the parties to reach a blackout agreement was perceived by ACE to be intentional and malicious, particularly since such an agreement was voluntarily made part of the ground rules for negotiations with faculty; the leak of ACE's first proposal to the press caused them to cease putting any contract offers in writing;
- (iv) The delay in the start of negotiations with ACE was seen as a tactic to pressure them into taking whatever the faculty agreed to;
- (v) The very different tone and conduct in the administration's negotiations with ACE and with the faculty union led ACE to believe that they were not respected as key members of the YSU campus community;
- (vi) ACE presented an unusually ambitious and broad range of proposals which sought major changes in virtually every article of the labor agreement.
- (vii) The very late emergence of the Early Retirement Incentive Program proposed by the administrative team caused needless tension and misunderstanding among all parties, including the negotiating teams, the trustees, and employees, both during and after the negotiations.

B. Faculty Negotiations:

- (i) The faculty negotiating team was internally divided and the participants changed on August 1st.
- (ii) The faculty team perceived the key players on the administration team to be disrespectful, wanting to win, and seeking “payback” for the 2002 negotiations;
- (iii) The faculty team perceived the administration proposal to be too broad, as it touched on virtually every economic aspect of the contract.
- (iv) The faculty leadership was distressed by the treatment that classified workers were receiving at the bargaining table, and that distress brought the two unions into closer cooperation.

Two other factors also contributed to a negative negotiating environment. First, there was an obvious breakdown of the grievance process with regard to ACE; more than 35 grievances were unresolved at the start of negotiations. The Panel believes that the fault for this extraordinary number of unresolved grievances cannot be attributed to ACE alone; the University has shown little interest in resolving issues and concerns before they escalate to full-blown grievances. Second, the changes to the President’s contract in the spring of the year, as well as the wage increase granted to exempt employees were also perceived by both unions to be arrogant and insensitive in light of the bargaining positions subsequently taken by the Administration.

The Panel makes the following recommendations for improvement in the next contract negotiating round:

1. Change participants on all sides. It is clear that some of the personalities involved in these negotiations can no longer work together. Different parties at the table, in and of itself, will not solve the trust and respect issues between the parties, but it is a necessary first step.

President Sweet must make visible to the campus his commitment to improving the environment by taking the first step in this direction.

2. Do not include lawyers on the negotiating teams. The Panel believes the campus contains the necessary interest and talent to successfully negotiate labor agreements. The cost of retaining outside counsel has also become a burden for the University. The use of external counsel as chief negotiator in one set of negotiations and not the other was interpreted as another manifestation of the administration's lack of respect for classified employees.

3. Open the University's economic circumstances to scrutiny from all parties well before negotiations commence. Greater transparency of financial information and, hopefully, agreement on what it means, needs to be reached before contract proposals are prepared.

4. Carve out health care as a separate item which the University would discuss with all unions and resolve as a separate issue from the other items in the contract. The parties should also try to find other areas of uniformity to facilitate labor relations and to reduce costs and administrative complexity.

5. Ground rules for future negotiations should include a news blackout.

Question 2:

“How was this round of negotiations different from previous rounds?”

Answer:

There were a number of differences in these negotiations from previous negotiations which can be summarized as follows:

- (A) The Board of Trustees was much more actively engaged in these negotiations.
- (B) The administration's proposals included health care contribution for the first time.

- (C) ACE and the faculty union were more aware of and more supportive of one another's situation.
- (D) The continuing decline in state support for the University gave the Trustees and the Administration justification for seeking significant economic concessions.
- (E) The Early Retirement Incentive Program and the lower wage scale for new employees were perceived as punitive measures by ACE and the union did not believe the Administration fully understood the ramifications of these proposals.
- (F) Both unions felt that the Administration was dismissive of their proposals for contract changes. Both unions felt that the administration deliberately withheld information and did not engage in good faith bargaining.
- (G) All parties agree that the appointed federal mediator was not effective in this round of negotiations.

In order to address the differences as set forth, the Panel recommends the following:

1. All parties must commit to resolving work related matters without resorting to the grievance procedure. The volume of grievances, particularly from ACE, is excessive, and the hard line approach taken by the Administration does not allow for problems to be resolved. Human Resources should not look on grievances as a "win or lose" proposition. The approach that has been adopted by Human Resources and by the Administration only breeds more grievances.
2. The Director of Faculty Relations should report to the provost, not to the President, and a new Director of Faculty Relations should be appointed. The Director of Faculty Relations should also not be a participant in the contract negotiating process.
3. The President should appoint an Ombudsperson for non-faculty employees to parallel the function served by the Director of Faculty Relations. Human Resources has failed

badly in this regard. The Ombudsperson should not be a participant in the contract negotiating process.

4. The President should constitute a standing Labor-Management Council whose membership will include the President and elected representatives of relevant campus constituencies. This Council should make regular reports to the Internal Affairs Committee of the Board of Trustees.

5. The President of the University must take the lead in re-establishing a relationship with the Unions, and he must be involved in the rehabilitation process. It is the recommendation of this Panel that neither Mr. John Habat nor Mr. Hugh Chatman can serve effectively at the University in any capacity. It is not possible to separate personalities from process: the administrative process has broken down over the past several years in some significant measure due to the personalities entrusted with this responsibility. The possibility of restoring good relations to the campus is severely compromised at present.

6. Health, safety, and environmental concerns need to be accorded greater priority in the university's administrative structure.

Question 3:

“How can we make sure the next round will be better?”

Answer:

In addition to the recommendations already made, the Panel would suggest the following to improve negotiations in 2008:

A. Involve the provost in the negotiating process with the faculty, as well as department heads as needed for non-economic issues.

B. Hold the parties responsible for misinformation. The University cannot mandate that union leadership communicate more openly with its members or that requests for secret ballots on important issues should be honored. In future negotiations, all parties should agree on a mechanism for rumor control. Union leadership should communicate regularly and accurately with bargaining unit members and important votes should be taken by secret ballot.

C. Provide a vehicle for the President, with or without other administrative officers, and the Union representatives to have regular contact. This responsibility should not be delegated.

D. The administration and union negotiating teams should limit their proposals to a handful of key issues and not seek to completely rewrite existing labor agreements, particularly when there is no demonstrable and reasonable basis for the proposed change.

E. The Panel recommends that Ms. Christine Domhoff be rehired. Further, the Panel recommends that both Ms. Domhoff and Mr. Maldonado voluntarily withdraw from primary leadership roles in ACE for at least one round of negotiations. A change in personalities will recognize the need for a fresh start from all sides of the table.

F. Parties should complete negotiations fully at the table. All wording should be recorded and accepted before negotiations are concluded. The confusion, stress, and suspicion that occurred after the most recent negotiations served no one's interest. Moreover, the lack of a finalized document to date is evidence of such confusion.

G. The Panel recommends that the portfolio of the current Vice President for Administration be divided as it was previously and that separate executive officers for University Services and for Human Resources be appointed. National searches for each of these positions

should be undertaken. However, the President may make interim appointments until these searches are concluded.

Question 4:

“How should the process be changed to produce better results?”

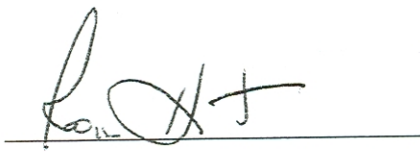
Answer: The process of contract negotiations, like the relationship among the parties, must become less adversarial. Good minutes should be kept of every negotiating session and provided to all parties in a timely fashion. Consider using neutrals in the process that are selected by the parties. Mediation can work, but both parties must respect the mediator. The Trustees should adopt the improvement of the labor relations climate on campus as a long term goal, and give the administration the resources needed to achieve this goal.

There is, of course, no simple fix to the improvement of the relationship between labor and management. History tells us that even in the best of circumstances the relationship is cyclical. The key is recognizing when the relationship is broken and doing something about it. The “top down” management style of the administration and the “controlled” aspect of the ACE governance tend to isolate the parties from the necessary contact and input of interest groups and employees whom these parties represent. The resulting vacuum facilitates confrontation and makes negotiations personal. This approach is unacceptable on a college campus, if we are to have the working relationship and environment which we deserve. It is the Panel’s expectation that the immediate implementation of our recommendations will aid in reconstituting an effective relationship between the administration and the unions.

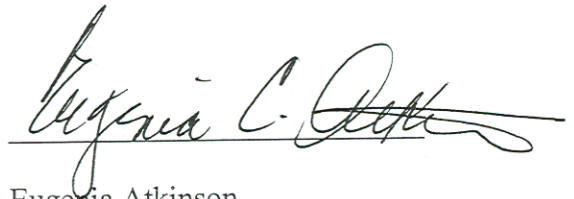
In closing, we wish to reaffirm our respect for President Sweet’s decision to constitute an independent panel to investigate labor-management issues on the Y.S.U. campus. Re-

establishing trust and respect on the campus will be a lengthy and difficult process. The vast majority of persons who provided input as well as all members of the Panel have confidence in the President's ability to lead effectively. This Panel stands ready to assist the President in any way that he should deem helpful and appropriate.

January 12, 2006



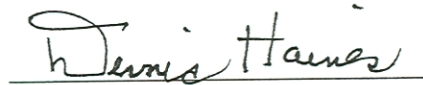
Robert K. Herbert



Eugenia Atkinson



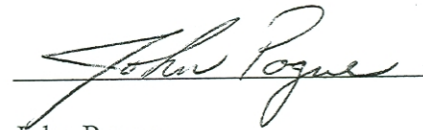
Jim Graham



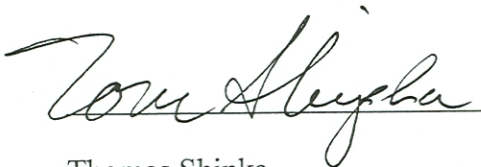
Dennis Haines



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