

DCE NEWS

DCE Notes

Edited from DCE Coordinator
Joe Rizzo's Fall 2001 report

General Trends

Implementation of Salary Step 4

The new DCE contract implemented last fall provided for a new Step (4) on the salary scale. This new pay step is predicated on having 8 years or more of DCE seniority whereas Steps 1-3 is based on teaching a requisite number of courses in DCE. It appears that oversights are occurring in making the Step 4 calculation at some campuses and for certain individuals. There does not appear to be a set pattern to these omissions, and they are usually rectified when found. The September MCCC Newsletter article on

DCE contract salary provisions seems to have caused many unit members to discover these errors.

Full time Positions

There are a growing number of grievances concerning the filling of full time positions. These cases have been commonplace in the day contract and the same contract language giving priority of consideration to DCE faculty that has been in place since 1996. These cases bring special challenges to the MCCC because the grievant needs to be counseled as to the viability of their case. The contract provides that the priority of consideration applies when the unit member is equally best qualified.

Another dimension to these cases occurs when the MCCC has a new unit member whose appointment is under

contest. Sometimes more than one position is in question, or there is more than one grievant for the same position. A further complication to this is that MCCC unit members often serve on the screening committees. Our MTA Consultants are composing a letter that will be sent to unit members that are affected by such a grievance so that they may be given the opportunity to be heard by the MCCC in the event that the case is under consideration for certification to mediation or arbitration. Information requests are made by the MCCC early in the process so that all involved can be adequately advised.

Selected Grievance Resolutions and Outcomes

Roxbury Community College

Last month this newsletter outlined difficulties at RCC. On a positive note, some issues have been resolved:

- A class action grievance was settled concerning the conditions of employment articulated in a DCE Letter of Agreement. A number of the items in the letter were in violation of the DCE contract. The college reworked that document so that it did not contravene the provisions of the collective bargaining agreement.

- Another chapter grievance was settled in mediation concerning several required DCE faculty meetings during the fall 2000 semester. The college agreed that it would not require more than one such meeting per semester as provided in the contract.

- The college did not issue the DCE seniority list on August 15 as specified in the agreement. A grievance was filed and was resolved soon thereafter when the list was sent to the MCCC.

There are on-going discussions with the college and the Community College Counsel's Office that will hopefully ameliorate many of the most serious issues.

Middlesex

Outside Entities – Paraprofessional Program / Step-up Program - Lowell Public Schools

A grievance was resolved at mediation regarding a grant funded program that provides educational opportunities for the paraprofessional staff of the Lowell Public Schools. The college treats the courses to be outside entities as provided in the DCE contract. Middlesex grants college credit for the courses, and all of the instructors are paid by the college. Some of the instructors of these courses are Lowell Public School teachers. The college considers the faculty in these programs to be MCCC unit members except for those who are also Lowell public school teachers. The college's position is that the Lowell teachers are employees of the outside entity and, therefore, not MCCC unit members. The position of the MCCC is that the Lowell teachers have signed contracts with Middlesex, are paid by the college, and, therefore, are Middlesex employees in regard to teaching the courses in the Step-Up Program. The instructors in this program are paid by the college at less than the DCE salary rates. Although the contract allows off scale salaries for outside entity faculty, this is the first known case of individuals making less than scale. In addition, the college has not notified the MCCC chapter of these outside entity teaching opportunities and did not report these outside entities as contractually required.

The mediated agreement calls for the

college to acknowledge the unit status of all of the faculty in this program commencing in the fall 2001 semester and all pertinent provisions of the contract will be followed with regard to outside entities.

Holyoke

Discipline and Workload

A chapter and individual grievance were filed when a DCE nursing instructor was reprimanded for refusing to perform non-instructional work, such as, curriculum design and filing reports. The DCE contract only requires the duties of course preparation, assessment of students, classroom performance, availability to students, and one faculty meeting each semester. DCE workload does not include the non-instructional duties of full time faculty, although it is not uncommon for DCE faculty to be hired to advise students or engage in other college activities under separate contract.

The grievance was resolved at the college level where the college will compensate non-instructional activities in the nursing area utilizing an agreed upon method. However, the disciplinary letter will remain in the unit member's file until December 2001.

Impact and Interim Bargaining

Fifth Course

As reported last spring, the new DCE contract provides for regularly scheduled system level meetings between representatives of labor and management to meet, discuss, and negotiate potential interim bargaining and other issues. The MCCC proposed a plan that would minimize the impact of the fifth course on DCE by allowing full time faculty who have reappointment rights in DCE to voluntarily teach their fifth course in the evening. This would give the dual unit member (day full time and DCE) greater scheduling flexibility and potentially provide greater job security since all courses offered by a department would be available to constitute a full time workload. The proposal would benefit DCE unit members by reducing the number of course sections taken from DCE as a result of the increase in the full time workload. It would also spread out the impact of the fifth course throughout the DCE offering. Currently, the day DCE faculty bear the full impact of the reduction in available work by the newly implemented five course full time load.

The Community College President's Council rejected this proposal citing concerns relating to BHE and possibly a statutory conflict with the laws enacted in the early 60's that gave rise to the Division of Continuing Education on each campus. Although these concerns appear valid, this stance seems inconsistent with existing policies and philosophy. The community colleges have touted the notion of a "One-College Concept" for the past decade and there are various day contract twelve-month programs have existed for years without any challenge to their legitimacy.

Conferences

University of Massachusetts-Boston Community College Conference, October 26

MTA Consultant Michelle Gallagher and Joe Rizzo co-presented on the topic of faculty empowerment and the use of part time faculty.

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MTA Consultant Michelle Gallagher, DCE Grievance Coordinator Joe Rizzo, and Susan Dole, past MCCC President at UMass Boston October 26th for presentation "Faculty Empowerment and the Impact of Part Time Employment."

Department of Employment and Training Unemployment Benefits

A number of MCCC DCE unit members prevailed in their appeals with the MTA legal assistance. Several of these cases had implications for the future in regard to unemployment benefits for purely adjunct DCE faculty. The colleges involved include Bristol, Massasoit, Bunker Hill, Holyoke and, Mount Wachusett. Particular note should be taken of the following cases:

- A DCE unit member at Bunker Hill Community College won the initial appeal concerning his eligibility for unemployment benefits and was again successful at the DET Board of Review when the college pursued the case further. The issue was whether the claimant had a reasonable assurance of future employment. Only educational employees are subject to this eligibility requirement. Normally, being unemployed is the central issue in an unemployment case. For educators, one must be unemployed and not have reasonable assurance of future employment. If such assurance exists, the educator is considered to be on a hiatus and ineligible for benefits. The MCCC/MTA position has been that the tenuous nature of DCE course offerings does not constitute such assurance. The Community College Counsel's Office appealed that decision to the courts in order to overturn the determination of benefits. The Employer's argument was that the claimant teaches computer science courses that are in a high demand area. The courts denied the management appeal, and the eligibility of benefits was affirmed.

- A DCE unit member at Massasoit and Bristol Community Colleges was denied unemployment benefits under the assumption that she had reasonable assurance of future employment. Each case was processed separately where she was found to

have no reasonable assurance at the college where she had reappointment rights, and she was found to have reasonable assurance of future employment at the college where she did not have reappointment rights. These separate decisions were in contradiction with each other and the matter proceeded to the DET Board of Review. The Board found her to be eligible for unemployment benefits. ■

S1425 Progressing Communiqué from MTA Higher Ed lobbyist Arlene Isaacson

After intensive lobbying by Jack Flannagan, MTA's bill to provide health insurance benefits to Part-Time Higher Ed faculty (S1425) received a favorable vote from the Public Service Committee this past week. Sen. Brian Joyce (D-Milton), Chair of the Public Service Committee, pushed very hard in support of the bill. Despite having some initial reservations about the bill, the House Chair, Rep. Brian Dempsey (D-Haverhill) seconded the motion to give the bill a 'favorable' vote.

Notes of thanks to the Public Service Committee members and most especially to Sen. Joyce and Rep. Dempsey would be very much appreciated by those legislators.

The bill has now been sent to Senate Ways & Means. Senate Ways & Means is currently tied up dealing with the state budget and changing economic forecasts. However, they will at some point begin to look at the financial ramifications of the bill. The results of their research will tell us much about how best to proceed with lobbying the bill in the future. ■