



State of Ohio  
 State Employment Relations Board  
 65 East State Street, 12<sup>th</sup> Floor  
 Columbus, Ohio 43215-4213  
 (614) 644-8573  
 MED@SERB.ohio.gov

Mon, 01/07/2019 09:33:09 AM SERB

Case No.

2017-MED-02-0172

2019-STK-01-0001

**NOTICE OF INTENT TO STRIKE OR STRIKE AND PICKET**

**INSTRUCTIONS:** This document is to be sent to SERB and the other party electronically in read only format. A party lacking the capability for electronic service may file a motion for relief from electronic filing requirements pursuant to OAC 4117-1-02(F). See ORC 4117.14(D)(2) and 4117.11(B)(8), OAC 4117-13-01, and related SERB unauthorized strike determinations.

<b>1. (Check Intention)</b> Notice of Intent to Strike Only <input type="checkbox"/>	Notice of Intent to Strike and Picket <input checked="" type="checkbox"/>
<b>2. Date and Time when Intended Strike will commence:</b> January 22, 2019 @ 8:00 am	<b>3. Date and Time when Intended Picketing will commence:</b> January 22, 2019 @ 8:00 am
<b>4. Name of Employer where Strike or Picketing is to occur:</b> Wright State University	
Address: 3640 Colonel Glenn Hwy.	Telephone: (937) 775-1000
City, County, State, Zip: Dayton, OH 45435	Email :
<b>5. Name of Employer's Representative:</b> Daniel J. Guttman	
Address: 200 S. Civic Center Dr.	Telephone: (614) 462-4740
City, State, Zip: Columbus, OH 43215	Email : dguttman@bakerlaw.com
<b>6. Name of Employee Organization recognized as Exclusive Representative of Employees who Intend to Strike or Strike and Picket:</b> AAUP Wright State University Chapter	
Address: 113 Medical Sciences Bldg, Wright State University	Telephone: (937) 775-3608
City, State, Zip: Dayton, OH 45435	Email : aaupwsu@gmail.com
<b>7. Name of Employee Organization's Representative:</b> Martin Kich, President AAUP-WSU	
Address: 113 Medical Sciences Bldg, Wright State University	Telephone: (937) 775-3608
City, State, Zip: Dayton, OH 45435	Email: aaupwsu@gmail.com
<b>8. Bargaining Unit: (Please attach)</b>	
<input checked="" type="checkbox"/> State Employment Relations Board Certification (Current) – for Board-Certified units (or)	<b>9. Approximate Number of Employees in Unit:</b> 564
<input type="checkbox"/> Copy of collective bargaining agreement recognition clause – for Deemed-Certified units	

Notice of Intent to Strike or Strike and Picket (ERB 1016 - 5/18)

10. **Collective Bargaining Agreement:** Are the employee organization and the employer currently parties to a collective bargaining agreement?  Yes  No

If yes, state expiration date: (1) of agreement June 30, 2017 (2) of extension \_\_\_\_\_ (if any)

Is this regarding negotiations for a REOPENER of the collective bargaining agreement?  Yes  No

If yes, designate: (1) date on which negotiation period ends: \_\_\_\_\_

(2) section of re-opener provision: \_\_\_\_\_ (attach copy of provision)

11. **Description of efforts made to resolve the dispute, including Statutory or Alternative Dispute Settlement**

Procedures: See attached.

**DECLARATION**

I declare that I have read the contents of this Notice and that the statements it contains are true and correct to the best of my knowledge and belief.

*Susannah Muskovitz*

January 7, 2019

Signature of Person Confirming the Content of Form

Date

Susannah Muskovitz

Print or Type Name

**THIS NOTICE WILL NOT BE ACCEPTED FOR FILING IF THE PROOF OF SERVICE IS NOT FULLY COMPLETED AND SIGNED BY A REPRESENTATIVE OF THE EMPLOYEE ORGANIZATION.**

**PROOF OF ELECTRONIC SERVICE**

I certify that an exact copy of the foregoing Notice of Intent to Strike or Strike and Picket has been sent electronically to:

Daniel J. Guttman, 200 S. Civic Center Dr., Columbus, OH 43215, dguttman@bakerlaw.com

(Name, complete address, and email address of employer representative)

Sent via electronic mail at approximately: 9:25 A.M. (time)

this 7th (day) of January (month), 2019 (year).

*Susannah Muskovitz*

Susannah Muskovitz

Signature of Person Confirming Service of Form

Print or Type Name

**AAUP-WSU attachment to Notice to Strike, Section #11:**

The current Collective Bargaining Agreement expired on June 30, 2017. The parties have been negotiating since February, 2017.

A Fact-finding hearing was held on April 3, April 4, May 22, and May 23, 2018.

After the final day of Fact-finding and before the Fact-finding Report was issued, the AAUP-WSU offered to negotiate in order to reach an agreement. There were two meetings held with a small group from both sides, including AAUP-WSU President Martin Kich and Wright State University President Cheryl Schrader. During those meetings, Dr. Kich identified areas in which the AAUP-WSU was willing to make concessions in order to achieve an agreement. The parties returned to the table and participated in two negotiation sessions on Oct. 8 and 9, 2018. Again, the AAUP-WSU outlined areas in which they were willing to make concessions. No agreement was reached.

The Fact-finding Report was issued on October 29, 2018. The Board of Trustees voted unanimously to accept the Fact-finding report. The AAUP-WSU members voted to reject the Fact-finding report on Nov. 7, 2018 by a vote of 95% of all eligible voters. That same day, the AAUP's chief negotiator, Rudy Fichtenbaum, notified Dr. Schrader of the results of the vote and stated: "We are ready to negotiate." On Nov. 8, Dr. Schrader thanked Dr. Fichtenbaum for the message and stated she would forward the offer to negotiate to the Board of Trustees. She also stated that the administration, including the Board of Trustees, will want to meet with the AAUP-WSU to discuss "next steps." However, that never occurred.

Also on Nov. 8, Dr. Fichtenbaum sent an information request to the University's General Counsel, Larry Chan, in order to assist the AAUP-WSU with the upcoming negotiations. Each of the items requested by Dr. Fichtenbaum related directly to the areas in which the AAUP-WSU indicated it was willing to make financial concessions during the October 8 and 9 negotiation sessions.

On Nov. 29, 2018, President Schrader's senior executive assistant, Teresa Bedwell, contacted Dr. Kich and asked to schedule a phone call. That same day, Dr. Kich responded as follows:

Teresa:

Please pass this response on to President Schrader.

Since my efforts to jump-start negotiations through informal conversations have produced no substantive results whatsoever, our Executive Committee has decided that, especially at this late stage in the process, all communication that is at all related to the contract should occur within the framework of actual negotiations.

We are prepared to offer proposals that we believe take into account the university's financial situation, and we are very willing to listen to proposals or counter-proposals from your side. But, at this point, our members simply will not accept the idea of trading

off one unacceptable proposal for another, especially not when we will be back at the table negotiating the "next" contract in January 2020. (Surely, as you are reading the previous sentence, it sounds as insane to you as it does to me.)

Although I believe that it is very unfortunate that things have reached this point, I will remain hopeful that reason will prevail and that we will reach a contract that both sides can live with, even if they aren't actually happy with it.

At the risk of stating the obvious, if we end up on a picket line, it is going to be much more difficult to convince our members to accept compromises.

Marty

On Dec. 3, 2018, Mr. Chan responded for the first time to Dr. Fichtenbaum's information request by sending a copy of the monthly summary notes from Horan for September and October, 2018. He then asked Dr. Fichtenbaum to explain the need for the remainder of the information requested. The summary notes were not even remotely responsive to the request.

On Dec. 5, 2018, Dr. Fichtenbaum responded to Mr. Chan and explained the need for the information requested. Dr. Fichtenbaum also stated:

As we mentioned in the informal talks that President Kich and two other members had with President Schrader [before the Fact-finding report was issued] and at our last meeting at the negotiating table [on October 9, 2018], there are areas where we might be willing to make financial concessions in health care and other areas such as summer teaching and overloads that would provide the University some temporary financial relief. The information we requested is needed so we can cost out these items.

This communication from Dr. Fichtenbaum indicated the clear intent of the AAUP-WSU to negotiate.

On Dec. 7, 2018, Mr. Chan responded to Dr. Fichtenbaum and said he would provide the information requested. However, the information has never been provided. Dr. Fichtenbaum followed up with an email on Dec. 21, 2018 and again on Jan. 4, 2019 but to date, has never received a response.

January 4, 2019 was winter break at the University. (Classes are not scheduled to resume until January 14.) However, on that day, Dr. Kich, Dr. Fichtenbaum, and other AAUP-WSU bargaining unit members read a newspaper article in the Springfield News-Sun, which stated that the Board of Trustees had implemented its "last, best offer" on terms and conditions of employment to the school's faculty union after failing to reach a deal on a contract. The Board of Trustees' attorney is quoted in the newspaper article at stating that the Board "[did] not believe that any continuation of discussion with the AAUP would be fruitful at this time."

After reading about the Board's alleged "last, best offer" in the news media, President Kich received a letter, via email, from Mr. Chan with a copy of the resolution that had been passed by the Board of Trustees and a copy of the labor contract that the Board was unilaterally implementing. The Board resolution, as well as the "last, best offer," had been communicated to the new media before being communicated to the AAUP-WSU.

In fact, the Board's purported "last, best offer" *has never been offered* to the AAUP-WSU. In addition, the unilateral implementation of this "last, best offer" is substantially worse than the Fact-finding report that the Board of Trustees unanimously approved and constitutes regressive bargaining. Below are some examples:

1. Merit Pay – The Board's unilaterally implemented "last, best offer" includes provisions that the Fact-finder rejected in his report.
2. Non-Tenure Tracked Appointment and Promotion - The Board's unilaterally implemented "last, best offer" includes provisions that the Fact-finder rejected in his report.
3. Health Care – The Board's unilaterally implemented "last, best offer" waives the rights of all faculty to negotiate health care, a mandatory subject of bargaining.
4. Furloughs – The Board's unilaterally implemented "last, best offer" allows the administration to require faculty to work for free by implementing "cost-saving days" with no corresponding reduction in workload or other responsibilities. Although there was language to this effect recommended by the Fact-finder, the "last, best offer" eliminated the recommended cap on the "cost-saving days" and allows the administration to require faculty to work for free without any limitations.

As a result of the action of the Board of Trustees to (1) unilaterally implement a "last, best offer" which was never offered to the AAUP-WSU; (2) negotiate in public by presenting its "last, best offer" to the news media before presenting it to the AAUP-WSU; (3) refuse to provide information requested which is critical to allowing the AAUP-WSU to present an offer that could meet the financial needs of the University; and (4) unilaterally implementing a collective bargaining agreement which is even worse than the Fact-finding report which the Board unanimously approved, among other actions, the AAUP-WSU has no choice but to go on strike.

The above actions by the Board of Trustees constitutes an Unfair Labor Practice. Under separate cover, the AAUP-WSU will be filing a ULP Charge against the Board of Trustees for its failure to bargain in good faith.