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Panel: Overtime Compensation an Pay Equity in Higher Education (CLE)

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Overtime and Pay Equity: A Union View of the Issues

**Center for the Study of Collective Bargaining in Higher Education
and the Professions Annual Conference**

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Outline of Approach

- Eligibility for Overtime Pay is only one way of providing Pay Equity for workers.
- NEA supports efforts to broaden that eligibility.
- The vast majority of our members across all levels of education are teachers and faculty, and thus exempted from overtime eligibility.
- So we look for a variety of approaches to provide pay equity.

Education Support Professionals

- NEA represents a wide variety of staff in all levels of education, which we group as Education Support Professionals (ESPs.)
- ESPs are eligible for overtime pay, and the current income limits on that eligibility are too low.
- We would like to see the rule instituted by the last administration reinstated.

NEA Policy Documents

- NEA's policy is determined, and reviewed each year by the delegates to our annual Representative Assembly.
- Resolutions express the sense of the Association as to what ought to be. Our Legislative Program commits us to a particular action.
- Following are some sections on Pay Equity.

NEA Policy - Resolutions

Pay Equity/Comparable Worth

- The National Education Association believes that all workers should be paid on the basis of the requirements, skills, and worth of their jobs using nondiscriminatory practices.
- The Association supports all efforts to attain accurate and unbiased forms of job evaluation and to raise the pay of those jobs that are presently undervalued. The “market value” means of establishing pay cannot be the final determinant of pay scales since it too frequently reflects the race and sex bias in our society.
- The Association encourages efforts by education employees and others of the work force to gain salary levels appropriate to the skill, value, responsibility, and requirements of their jobs. (1982, 2015)

NEA Policy Legislative Program

School Employee Rights

- ***NEA supports:***

- a federal statute that would guarantee meaningful collective bargaining rights to the employees of public schools, colleges, universities, and other postsecondary institutions, and that allows for the continued operation of state statutes that meet federally established minimum standards;
- improvement in the federal employment compensation law for public education

employees;

NEA Policy

Legislative Program

School Employee Rights

- ***NEA opposes:***

denying employees bargaining rights solely because they participate in a site-based decision-making program, a faculty Senate, or other system of collegial governance;

Pay Equity in Higher Education

- While pay equity affects many in higher education, two major groups of employees face the most difficulties:
 - Academic Staff
 - Contingent Faculty
- I don't mean to downplay faculty and staff in public institutions who have not seen raises in recent years because of the economy (and state budget choices.)

NEA Actions

- NEA has run salary campaigns for ESP locals, as well as joining in efforts to raise the minimum wage, and fighting for Living Wage Settlements.
- Vicki Rosser of University of Nevada, Las Vegas has written about the status of Higher Education ESP salaries in relation to living wage standards in the NEA Almanac of Higher Education.

Concerns over ESP Wages

- Even had the new overtime regulations issued by the Obama Administration remained in force, two major concerns remained:
 - Laying off positions
 - Reducing hours
 - Privatizing or Outsourcing

Faculty Issues

- Faculty, including contingent faculty are not eligible for overtime pay, so under current conditions that is not an effective method of addressing pay equity.
- One approach might be to repeal the teacher exemption, but besides being extremely unlikely in current political environment, has some practical problems.
- How do you count the hours?

Faculty Issues

Counting the Hours

- Faculty work consists of a traditional three part responsibility:
 - Teaching
 - Research
 - Service
- Faculty do not punch a clock, and the number of hours can vary considerably depending on the discipline and individual faculty member.

Counting the Hours

- Contingent Faculty are predominantly paid only for teaching.
- Even teaching hours have proven controversial.
- In the implementation of the Affordable Care Act, Treasury developed rules on how to count hours for employees who did not work traditional hours – including contingent faculty.

Counting the Hours

- NEA believes, along with most academics, that for every hour in the classroom, faculty spend an additional two hours of work. Both NEA and AFT made that argument in the rulemaking process.
- Institutions argued that one credit hour meant one hour of work.

Counting the Hours

- The Department rejected both arguments (although they were more eloquent in their rejection of the one hour argument.)
- Final compromise was that for every hour of classroom work, faculty were to be credited with one and one quarter of outside work.
- Practical effect was to keep contingent faculty who taught four 3-credit courses under 30 hours.

Counting the Hours

- Four 3-credit hours under NEA view:
 - $4 \times 3 \text{ credits} \times 3 \text{ hours per credit} = 36 \text{ hours}$
- Four 3-credit hours under employer view:
 - $4 \times 3 \text{ credits} \times 1 \text{ hour per credit} = 12 \text{ hours}$
- Four 3 credit hours under Treasury rule:
 - $4 \times 3 \text{ credits} \times 2 \frac{1}{4} \text{ hours per credit} = 25 \text{ hours}$

Need Alternatives to Reach Pay Equity

- Organize.
- Bargain better contracts.
- Recognize that all faculty need to support each other. Contingent and Tenured/Tenure Track Faculty need each other.
- Need to work legislatively, at the table, on the campus, and in the court of public opinion.
- As Ben Franklin said, if we don't hang together, we will most assuredly hang separately.

Overtime and Pay Equity

- Pay Equity is the goal
- Overtime pay can help, but don't want a situation where everyone is working overtime.
- Educational employees already working more than the set number of hours.
- The Obama rule should be reinstated.
- The Obama rule will not be reinstated in the present environment.

In Closing

You see things and you say
“Why?” But I dream things
that never were, and I say
“Why not?”

George Bernard Shaw
“Back to Methuselah”