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To: UMBC Graduate Assistants

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Subject: Collective bargaining in the University System of Maryland: Current state of legislation and implications for UMBC graduate assistants

Executive Summary

The purpose of this document is to describe the position of the GAAC at UMBC on HB 270, the Graduate Assistant Collective Bargaining Fairness Act, and to provide the reasoning for our position. GAAC arrived at its position on the matter by taking four points into account:

- (1) Unclear benefits from the contracts that would be negotiated under collective bargaining, an issue which GAAC will investigate further,
- (2) Additional GA expenses that may arise from passage of the bill,
- (3) The impact of unionization on existing relationships, and;
- (4) Political considerations of the proposed bill.

In light of the considerations of the above and through the present document, GAAC advises GAs that it is our opinion that the proposed right to collective bargaining as it is contained in HB 270 does not carry the expectation of benefits for GAs at UMBC in excess of the risks that it would have GAs incur. We therefore do not support the bill moving forward as it is currently drafted.

Introduction

The below analysis is accurate to the best of our abilities. GAAC is staffed by full-time UMBC graduate students who are neither attorneys nor salaried legal analysts. Thus, the analysis below is couched in expectation (“likely”, “possibly”, “potentially”) and reflects our reasoning based on our admittedly limited legal knowledge. We indicate below the issues on which more information will be forthcoming to allow us to reassess this analysis, if warranted. Because it is difficult for us to predict the time horizon when the effects, both positive and negative, of HB 270 and unionization would be felt, we assume that all the effects could be felt in the immediate future and impact those of us who are currently GAs.

On January 25, 2019, the Graduate Assistant Collective Bargaining Fairness Act (HB 270) was introduced to the Maryland State House. Briefly described, HB 270 seeks to provide collective bargaining rights to graduate assistants (GAs). The full text of the bill can be found here <http://mgaleg.maryland.gov/2019RS/bills/hb/hb270f.pdf>. This bill was largely brought forth by graduate students at University of Maryland College Park, although graduate student governments from other universities, through their respective elected officials (e.g., University of Maryland Eastern Shore and Bowie State), have also supported the bill. The first hearing for this bill was held on February 5, 2019. As per communication between one of the Delegates who

sponsored the bill and graduate student government leadership, a subsequent hearing of another bill that is cross-filed with HB 270, Senate Bill 0491, is scheduled for March 7th, 2019.

Are Graduate Students at UMBC unionized as of now?

No. Graduate students at UMBC and other institutions of the USM are represented by the respective Graduate Assistant Advisory Council (GAAC), within the context of a policy known as “Meet and Confer”. In 2012, the USM adopted Meet and Confer (M&C) guidelines in an effort to improve the status of GAs (more information can be found here: <https://www.usmd.edu/regents/bylaws/SectionIII/III711.pdf>). M&C allows GAs to engage in formal discussion with university administrators over issues relating to salaries, benefits, etc.

At UMBC, GAAC is a standing committee of the Graduate Student Association (GSA) whose Chairperson is democratically elected by senators of the GSA. GAAC’s purpose is to serve as a democratic, transparent organization that puts graduate students in touch with campus resources, actively collects feedback which it collates and relays to GSA and the UMBC administration, and to advocate for the interests of GAs in general.

How might HB 270 change the status of GAs?

It is important to note that the bill in question, HB 270, does not automatically create a union of Graduate Assistants at any campus of the USM. Rather, as the bill is currently drafted, it confers graduate students in all the USM campuses the right to vote on whether they want to pursue collective bargaining.

Collective bargaining refers to the process of negotiation between employers and an organized body (e.g., union) of employees. Negotiations typically occur around salaries, working conditions, and other worker’s rights issues. The goal of collective bargaining is for employers and employees to create a collective agreement or a written contract which is then enforced. Should collective bargaining be implemented at UMBC, GAs would likely be legally considered both as students and university employees.

If the bill passes and GAs at UMBC voted to unionize, the impact of unionization would be felt across several facets of GA life, which are covered in more detail below.

Are there more details about the expected effects of HB 270?

(1) Legally binding contracts:

There is a key distinction between M&C and collective bargaining: agreements formed through collective bargaining are legally binding once the agreement is made. Agreements made via M&C are not legally binding, but they can be formalized as policy and documented as such. Proponents of collective bargaining argue there are many benefits to be recognized as employees such as, legally binding contracts, right to pursue unionization, and eligibility for benefits provided to other employees (e.g., unemployment if assistantship is terminated). A legally-binding contract between a GA Union and University Administration that includes a standardized stipend for all GAs could raise the stipend amount that a funded graduate student receives.

A higher GA stipend, however, would reduce the number of funded teaching and research assistantships that UMBC can offer if university revenue remains constant or is unable to quickly catch up with the additional expense. This would especially impact assistantships in disciplines that are not funded through grants, but who receive their funding from their departments. Furthermore, in reducing the number of doctoral students, the research competitiveness of UMBC would likely suffer as a result.

(2) Additional GA Expenses:

There are three expenses that GAs would likely incur as a result of unionization. The first is the payment of union dues, to which GAs would be subject regardless of whether they supported collective bargaining or not.

Second, there is concern that if GAs were to be considered university employees as a result of unionization, they would lose their FICA exemption. FICA (Federal Insurance Contribution Act) is a tax typically taken out of paychecks to fund Social Security and Medicare. As full-time students without employee status, GAs are exempt from FICA, which means this tax is not removed from GAs' paychecks. GAAC and others are concerned about the potential financial burden placed on students if GAs' FICA exemption is eliminated. Losing the FICA exemption would result in approximately a 7.65% cut in GAs' annual pay. It is unclear whether the FICA exemption would be threatened by HB 270 because, as discussed above, the bill does not automatically create a GA union and instead only confers the right to unionize on GAs. However, how the benefits of the bill could be achieved without the formation of such a union is also unclear. This issue has been brought to the attention of a bill sponsor during a call on February 5, 2019. GSA received more information on FICA this week and we are still reviewing it.

Similarly, GAs could start to have to pay for their health insurance plan out of their paycheck. UMBC employees generally pay about 20% of their plan premiums out of their paycheck, whereas GAs at UMBC currently do not pay for their health plan out of their paycheck. If GAs were to be considered university employees, it is likely that GAs would be offered the same employee health plans that non-GA employees receive and would no longer be offered a health plan specific to GAs. As was the case with the possible loss of the FICA exemption, it is possible that GAs being conferred the right to collective bargaining through HB 270, absent actual unionization, could also lead to GAs being considered employees. All of these expenses may be mitigated to some extent by potentially higher stipends that could be set by a union.

(3) Impact of Unionization on Existing Relationships:

We cannot comment on how M&C is or is not working at other USM institutions, but we can provide a few examples that exemplify the state of the existing relationship between UMBC Administration and the student governance bodies that represent graduate students and graduate assistants at UMBC, the GSA and GAAC:

- Within the context of M&C, UMBC Administration is not obligated to act on the concerns raised by GAs through GAAC. However, in the Fall 2018- Spring 2019 Academic Year, senior-level Administration officials have made themselves available to meet with GSA and GAAC representatives when we have requested such meetings.

- In 2017, miscalculations in GSA budgeting led to a budget deficit of almost \$21,000. As part of a Memorandum of Understanding signed by the Administration and GSA, the Administration essentially lent funds to the GSA free of interest in order for the GSA to make itself whole while giving GSA the opportunity to better manage its budget over the following two years to repay the debt. This allowed GSA to continue its grants programs and other initiatives that support graduate students at UMBC. The agreement, drafted by GSA, was called a, “[M]easure of good faith that should now and always exist between the Graduate School and the GSA”. GSA expects to have repaid the Administration in full by the end of March of 2019.
- Also in 2017, GAs faced an increase in their cost of health insurance of \$714.00 per student per year. However, GAAC was able to poll students on how this would impact them, collate data, discuss with UMBC administration and Graduate Program Directors (GPDs), and as a result of the communication and information sharing, UMBC administration was able to internally reallocate funds and cover the increase in full, thus saving graduate students from the additional expense.

Several studies suggest that collective bargaining does not deleteriously impact student-administrator relations (for example Rogers, Eaton, & Voos, 2014). However, if approved at UMBC, collective bargaining would replace the existing system of M&C. At UMBC, M&C has allowed for flexibility in how the Administration and graduate students work together, as evidenced by the interest-free assistance that GSA received from the Administration without any penalty, and M&C has also allowed for funding of GA health benefits by GPDs in excess of what they had originally agreed to cover. We take the above as evidence that the existing level of flexibility and the mutual investment in the well-being of GAs by the Administration and the bodies of graduate student governance at UMBC are generally functioning well for GAs under M&C.

What, if any, are the political considerations of the proposal?

The first telephonic meeting between a sponsor of the bill and representatives of graduate student governance other than from College Park occurred on February 11, 2019, organized by the Legislative Concerns Committee at UMBC. At that meeting, UMBC expressed our concern that this teleconference was happening *after* the bill was submitted.

GAAC is of the opinion that because bill sponsors have access to paid legislative analysts, the sponsors could provide, and could have already provided in advance of bill submission, a written assessment of HB 270 to the graduate student government bodies across the USM¹. While we recognize that sponsors of HB 270 and similar bills that preceded it may have the best interests of GAs at heart, we are unimpressed that the provision of comprehensive, objective documentation by bill sponsors has not happened. Moreover, other bills proposed over the last two legislative sessions that also attempted to confer collective bargaining rights to GAs (HB 1250 in 2017 and HB 0199 in 2018) were submitted *without* the said documentation being provided in those cases, either. We worry that offering GAs a “right” such as the right to collectively bargain without first providing the above analysis is disingenuous at worst and naïve

¹ GSA received written information on FICA from one of the bill sponsors this week.

at best, relying on the expectation that anything that confers GAs a new “right” will be supported by GAs without careful analysis of its impacts *on us*.

Conclusions

The present document, as stated above, reflects our current understanding of the aspects of policy impacting GAs that would be affected by a change from M&C to collective bargaining. One purpose of GAAC is to serve as a liaison between GAs and the Administration, providing perspective for both parties in as an objective and empirical way as possible. In light of the proposal of collective bargaining rights for GAs, GAAC is providing this document to GAs and will also confer with UMBC Administration on the potential risks that GAs may be exposed to by the non-legally binding nature of agreements made under M&C.

The current position of the GAAC *at UMBC* is that before supporting HB 270, we would need to see more evidence from proponents of the bill to show that the anticipated benefits of collective bargaining are not only in excess of those provided to us already by M&C, but also sufficiently substantial so as to justify that GAAC advise GAs at UMBC to accept the risks that HB 270 entails. Specifically, some of the risks are losing our FICA exemption, paying for a portion of our health insurance out of our paychecks, and losing a system of relationships that has, in many ways, worked well for us so far. We fail to conclude that advising GAs to incur such risks is justified at this time.

GSA has requested input on the position of graduate students regarding collective bargaining and shared the input received with GAAC. Feedback on this issue and others can be provided at the monthly meetings of the Graduate Senate, about which more details can be found here, <https://gsa.umbc.edu/graduate-senate/>, as well as at the weekly meetings of the GSA Executive Council, which occur on Thursdays at noon in Commons 308. Both GSA and GAAC remain open to additional feedback from GAs on conditions of their employment, and we can be reached at gsa@umbc.edu and gaac@umbc.edu.

Meet & Confer