Subject: Developments in SPA Salary Negotiations

As you know, the 1973 session of the Legislature adjourned on May 28 without acting on a salary increase for the members of the Professional Services Negotiating Unit. SPA had declared impasse in April and, following unsuccessful mediation, PERB appointed a three-person factfinding panel: Walter E. Oberer, Clara H. Friedman and Lewis B. Kaden. After two days of hearings in New York, the panel delivered its report on May 18; a copy of that report is attached.

You will note that the factfinders made three basic recommendations: (1) that 1 1/2 percent of payroll be set aside to provide increases for meritorious service; (2) that SPA's claim of salary inequities, based upon the existence of salary differences, is not justified and that no portion of the settlement be allocated to adjust salary differences; (3) that an across-the-board amount be included in the settlement, and that 5 percent of payroll be allocated for this purpose.

In a message to the Legislature on May 22, Governor Rockefeller concurred with the first two recommendations of the panel, but rejected the third. While agreeing that the settlement should properly include an across-the-board component, the Governor recommended that an across-the-board increase of 3.5 percent of payroll be implemented. In conjunction with the 1 1/2 percent of payroll for merit, this would have resulted in a settlement of 5 percent.

The Governor also introduced legislation which would have effected this proposed 5 percent settlement, in the interest of maintaining State University salaries at their present highly competitive level, adequate to meeting our needs during the 1973-74 year.

SPA accepted the factfinder's recommendation of 5 percent across-the-board; accepted the 1 1/2 percent merit increase, provided that increase was paid to every member of the negotiating unit; and rejected the factfinder's conclusions concerning inequities, maintaining that such inequities do exist and must be corrected.
May 24, 1973

Mr. Harold Newman
Director of Conciliation
Public Employment Relations Board
50 Wolf Road
Albany, N.Y. 12205

Dear Mr. Newman:

This is an official response to the report and recommendations of the fact-finding panel in Case #M73-177 (In the matter of the dispute between the State of New York (State University of New York) and the Senate Professional Association). As you know, SUNY/United is the successor organization to the Senate Professional Association, and I am its president.

Our position is as follows:

1. We accept the recommendation of the panel as to the 5 per cent increase across the board for all employees in the bargaining unit.

2. We accept the recommendation of the panel as to the 1½ per cent increase, and state that this money should be made available to each employee in the bargaining unit in an equal per capita amount.

3. We reject the fact finders' recommendation on salary minima. We contend that money should be made available to correct salary inequities within each rank.

Sincerely,

[Signature]
Lawrence A. DeLucia
President
May 18, 1973

John Hanna, Jr., Esq.
State of New York
Office of Employee Relations
State Capitol
Albany, New York 12224

Mr. Philip A. Encinio
Executive Director
Senate Professional Association
State University of New York, Inc.
15 Computer Drive
Albany, New York 12205

Re: The State of New York
(State University of New York)
and
The Senate Professional Association

Gentlemen:

Enclosed herewith is a copy of our Report and
Recommendations in the matter of The State of New York (State
University of New York) and The Senate Professional Association.

Very truly yours,

Walter E. Oberer
Chairman

cc: Harold Newman
STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Dispute
between
THE STATE OF NEW YORK
(State University of New York)
and
THE SENATE PROFESSIONAL ASSOCIATION

Introduction

The undersigned were appointed by the Public Employment Relations Board of the State of New York to serve as fact-finders in this proceeding. Hearings were held in the City of New York on May 8th and 9th. The State was represented by its Office of Employee Relations, Melvin Osterman, Director, and John Hanna, Jr., Counsel. The Senate Professional Association was represented by Robert B. Granger, President, Philip A. Encinia, Executive Director, and Alan D. Willcox, Chief Negotiator. Both parties had full opportunity to introduce exhibits, present evidence through witnesses, and make statements for the record.

Negotiations began under a provision in Article XIX--B--
of the collective Agreement between SPA and the State. The provision, titled Reopener for Basic Annual Salary, gives SPA the right to reopen negotiations "solely to amend this Agreement with respect to changes in employees' basic annual salary...as of June 30, 1973..." The Agreement became effective on July 1, 1971, and will expire on June 30, 1974; the first reopener, in the second contract year, covered salary changes as of June 30, 1972.

Negotiations under the second reopener commenced in November, 1972. Meetings were held during the following months until impasse and appointment of a mediator by PERB. Mediation, which began in April, 1973, did not produce agreement.

The contract reopening affects about 14,000 faculty and non-teaching professionals in some 30 campuses of the State university system, encompassing 4 University Centers, 14 Arts and Sciences Colleges, 3 specialized Colleges, 5 contract colleges, and 6 Agricultural and Technical Colleges.

Positions of the Parties

At the beginning of the Fact-Finding hearings, the parties set forth their current positions. SPA seeks a settlement of 9% of current payroll, to be distributed as follows:

1. 3% to all members of the bargaining unit, as a cost-of-living adjustment;

2. the equivalent of 3% or approximately $475 per
individual, for what SPA calls "an equal service recognition sum";

3. a fund equivalent to 3%, of approximately two million dollars, distributed in accordance with SPA's formula. The formula would provide what SPA terms the beginning of "a more equitable salary program." Salaries would be increased only for those members of the bargaining unit who earn less than the median for their respective rank in the Arts and Sciences Colleges.

The State's proposal for a 5% settlement was introduced for the first time at the outset of fact-finding. The 5% would be distributed as follows:

1. 3-1/2% to all members of the bargaining unit;
2. a fund amounting to 1-1/2% of payroll, for merit increases at the discretion of the Chancellor.

During the hearings SPA introduced numerous exhibits of salary arrays within the unit, in support of its argument that internal inequities exist, and that their correction requires the fund allocation sought by SPA. SPA submitted a computer printout of November, 1972 salaries, by professional rank, for University Centers, Arts and Sciences Colleges, and Agricultural and Technical Colleges. This was accompanied by a series of analytical tables SPA had prepared, showing quartile distributions by rank and by campus. Also submitted were exhibits on "Guidelines on Consultation for Discretionary Salary Increases," and
on cost of living changes recorded by the Consumer Price Index.

The State submitted comparisons of average salaries, by professional rank and type of institution (such as 2-year or 4-year college), in public and private institutions of higher education, in New York State and in other areas throughout the country; data were presented on percentage increases in average salaries, in SUNY and in other academic institutions, for successive 2-year periods beginning 1970-71. With respect to non-teaching professionals, the State offered salary comparisons for positions where duties were comparable, at SUNY and other academic institutions in New York State and elsewhere, by type of institution. The State listed average salaries of selected SUNY non-teaching professional positions and of equivalent positions in the New York State Classified Service, where comparable duties had been established. The State also introduced exhibits comparing increases in the Consumer Price Index (U.S. Cities Index) with increases in average salaries of SUNY faculty, and also with increases in SUNY non-teaching professionals' salaries. Further, the State reported settlements it had reached with other units of State employees this year. The State argued for continuation of the SUNY "merit pool" which has been in effect during the current year, pursuant to the parties' settlement under the 1972 reopener.
Discussion

Although the legislative time-table requires a very speedy report and recommendations from the Panel, we have carefully reviewed and analyzed all the data and testimony presented during the hearings. We have had differences in arriving at our recommendations; the assessment of criteria does not yield an answer with the precision of a mathematical equation. But in the interests of unanimity each of the Panel members felt that a viable solution, to the issues presented to us, is embodied in the recommendations we have agreed upon.

In determining the overall amount of the appropriate salary adjustment, we have considered particularly the impact of the rising cost of living, and the level of settlement the State has reached already with its other bargaining units. Both these criteria are especially relevant in the context of a 1-year wage reopening. No claim was made that SUNY salaries lag appreciably below the level of salaries in comparable institutions of higher education; the data submitted on comparable salaries indicate that average salaries in SUNY ranked among the highest in the nation in the fall of 1972.

In evaluating the appropriate distribution of a salary adjustment, the Panel has considered the justifications advanced by the State and SPA for their divergent proposals. The State proposes that 1-1/2% be a pool for merit increases. It points
to past practice in SUNY, and in institutions of higher education traditionally. It stresses the urgent need for a flexible salary structure to retain and attract the most qualified personnel in developing the State's highly diversified university system during the period of change. The Panel believes such an allocation is justifiable, and accordingly recommends that 1-1/2% of payroll be set aside for the sole purpose of salary increases for meritorious performance.

SPA has urged a different type of pool, consisting of one-third of the wage settlement (i.e., of the settlement SPA proposed), to alleviate alleged salary inequities. It asks that the amount be allocated by formula to employees earning less than the "median" for their respective rank. Under SPA's formula, the "median" would be the median in the Arts and Sciences Colleges, regardless of the employees' respective category of institution (such as University Center, or Agricultural and Technical College). The Panel has not been persuaded of the validity of the concept that salary inequities can be inferred simply from salary differences, without first determining how they are affected by such variables as differences in employees' length of service, educational preparation, pedagogical responsibilities, and the like. Absent evidence to support SPA's proposal and claim, the Panel recommends denial.

On the matter of general increases, in addition to the 1-1/2% merit pool, the Panel finds that the facts support more
than the 3-1/2% proposed by the State. Simply with reference to cost of living changes -- apart from what may loom ahead for the upcoming year beginning June 30, 1973 -- the State's own calculations show that a rise within the range of 3.8% to 4% has already occurred in the 12-month period since the last salary adjustment was granted.

The Panel recommends a general increase of 5% across the board, in addition to the 1-1/2% it recommends for the merit pool. The total of 6-1/2% recommended for this second and final reopener, in the last year of the Agreement, is in line with the other settlements for State employees in other bargaining units, most notably the major recent settlement with CSEA for a 3-year contract. Obviously differences in the terms of different Agreements, and in the totality of conditions of employment, must be reflected in the level of the settlements. Uniformity would be neither appropriate nor feasible. The Panel believes that its recommendations for the SUNY reopener are consistent with the particular circumstances here, and with the relevant considerations.

Recommendation

Accordingly, we recommend an increase of 6-1/2%, consisting of 5% applied across-the-board, and a fund equal to 1-1/2%
of payroll for the sole purpose of salary increases for meritori-ous performance.

Dated: May 18, 1973

Walter E. Oberer, Chairman

Dr. Clara H. Friedman

Lewis B. Raden, Esq.
Governor Rockefeller today sent the following Message to the Legislature pursuant to the Taylor Law:

May 22, 1973

TO THE LEGISLATURE:

Pursuant to section 209 of the Civil Service Law, I am submitting to your Honorable Bodies the Report of a Fact-Finding Panel concerning an impasse which arose in the course of collective negotiations under the Public Employees' Fair Employment Act of 1967, as amended (The Taylor Law), between the Executive Branch and The Senate Professional Association (SPA) which represents faculty and non-teaching professional staff in the Professional Services Negotiating Unit of the State University of New York. Mediation having been unsuccessful, the Public Employment Relations Board appointed a three-member Fact-Finding Panel consisting of Walter E. Oberer, Chairman, Clara H. Friedman, and Lewis B. Kaden. The Fact-Finding Panel held hearings in the City of New York on May 8 and 9 and delivered its report to the State and SPA on May 19, 1973.

The present collective negotiations and the resulting impasse arose out of a provision in the current agreement between the State and SPA, relating to changes in employees' basic annual salaries for the last year of a three-year agreement. The provision is as follows:

B. Reopener for Basic Annual Salary

1. SPA shall have the right to reopen negotiations on or after November 1, 1972, solely to amend this Agreement with respect to changes in employees' basic annual salary as of June 30, 1973, such change, if any, to take effect on July 1, 1973, or July 14, 1973, or September 1, 1973...." (State-SPA July 1, 1971 - June 30, 1974 Agreement, Article XIX, as amended.)

Three issues were presented to the Fact-Finding Panel. These issues covered the subjects of discretionary increases for meritorious performance, across-the-board general increase, and special salary adjustment for "inequities".

The Taylor Law requires me to submit to your Honorable Bodies my recommendations for settling the dispute, together with a copy of the findings of fact and recommendations of the Fact-Finding Panel. The Executive Branch is prepared to accept two of the Panel's recommendations and to reject one recommendation; however, with respect to such rejection the Executive Branch is prepared to make an alternative recommendation.

I recommend that your Honorable Bodies settle this dispute on the basis set out below:

- more -
1. Discretionary Increases for Meritorious Performance

The State had recommended to the Fact-Finders that 1.5 per cent of payroll be allocated for discretionary increases for meritorious performance. SPA had rejected merit increases as a component of the Fact-Finding award.

The Fact-Finding Panel recommended:

The Panel believes such an allocation is justifiable, and accordingly recommends that 1½ per cent of payroll be set aside for the sole purpose of salary increases for meritorious performance. (Report, p.6)

I concur.

2. Inequity Salary Increases

SPA had sought a $425 flat dollar increase to be distributed to all faculty and staff irrespective of salary level plus a pool of 3 per cent ($2 million) to be distributed to only those members of the faculty and staff who earn less than the median salaries in the Arts and Sciences Colleges for their respective rank. This was necessary, SPA argued, to redress alleged "inequities" in the SUNY salary structure.

The Fact-Finding Panel recommended:

The Panel has not been persuaded of the validity of the concept that salary inequities can be inferred simply from salary differences, without first determining how they are affected by such variables as differences in employees’ length of service, educational preparation, pedagogical responsibilities, and the like. Absent evidence to support SPA's proposal and claim, the Panel recommends denial. (Report, p.6)

I concur.

3. Across-the-Board General Increase

The Fact-Finding Panel's recommendation appears to be a compromise between the State’s total offer of 5 per cent (3½ per cent across the board and 1½ per cent merit) and SPA’s position in fact-finding of a total settlement package worth 9 per cent of payroll. The Fact-Finding Panel’s only bases for its recommendation are cost-of-living changes (totalling 3.8 to 4 per cent in the present year of the Agreement) and the first year increase of a three-year settlement between the State and the Civil Service Employees' Association, Inc. of 6.5 per cent.

Among the reasons for rejecting the Fact-Finding Panel’s recommendation are the following: (1) The Panel itself found that No claim was made that SUNY salaries lag appreciably below the level of salaries in comparable institutions of higher education; the data submitted on comparable salaries indicate that average salaries in SUNY ranked among the highest in the nation in the fall of 1972. (Report, p. 5); (2) The average salaries in this negotiating unit are far higher than for other State employees, particularly those involved in the three-year settlement with The Civil Service Employees’ Association, Inc.; (3) The settlement with The Civil Service Employees’ Association, Inc., is not comparable since it involved a three-year agreement on all terms and conditions of employment and not merely reopened negotiations limited to salaries for the last year of a three-year agreement; and (4) The Panel’s recommendation does not recognize other one-year settlements involving State employees.

(more)
I recommend that an across-the-board increase of 3.5 per cent be implemented. This increase in conjunction with the recommendation of the Panel that 1.5 per cent of payroll be available for meritorious service will be sufficient to maintain salaries in the State University of New York at a highly competitive level, adequate to meet needs of the State University in the forthcoming year.

I am forwarding to your Honorable Bodies proposed legislation to implement my recommendations.

My representatives will be pleased to explain these recommendations to your Honorable Bodies or such committee as you may authorize to hear this matter.

(Signed) NELSON A. ROCKEFELLER

-30-
To: Presidents, State-operated Campuses

From: Office of the Vice Chancellor for Personnel and Employee Relations

Subject: Memorandum to Presidents, Vol. 73 No. 17 Re: Developments in SPA Salary Negotiations

Attached is a letter signed by Lawrence A. DeLucia, President of SUNY/United, which was inadvertantly left out of the above mentioned memorandum.

Please include this letter in your copy of the memorandum.

Kenneth M. MacKenzie

Attachment

cc: Chancellor Boyer

bc: Executive Staff