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Sent: Monday, January 28, 2013 10:11:40 PM
Subject: Urgent request ffor immediate trusteeship of United Faculty Coalition

January 28, 2013

Dennis Van Roekel
President, National Education Association
1201 Sixteenth Street NW
Washington, DC 20036

RE: Urgent Request for Immediate Trusteeship Of United Faculty Coalition and
The Washington Education Association for the Purpose of Correcting Corruption and Financial Malpractice, Restoring Democratic Procedures, and Violation of the Duty of Fair Representation

Dear Mr. Van Roekel:

We are writing this formal complaint to request your urgent assistance because the union rights of NEA members are being systematically violated by the United Faculty Coalition (UF) of Green River Community College (GRCC) and the Washington Education Association (WEA), both NEA affiliates. We believe that immediate harm will befall NEA members should you fail to act quickly to correct the systematic corruption that is now taking place at Green River Community College.

We are facing an immediate deadline of February 1, 2013 for the United Faculty to inform the Green River administration of its decision to arbitrate the two grievances we filed with the college on November 26, 2012. Both grievances were denied by GRCC Vice President Derek Brandes; both of our appeals were denied by President Eileen Ely.

We wrote to Mark Millbauer, UF President, on January 3, 2013. We asked the UF to inform the college that the union wished to arbitrate the two grievances and that either the NEA and/or AFT provide us with an independent attorney to represent us in the arbitrations (see Document 1).

The UF, which had 15 calendar days to decide (January 11, 2013), asked the college for a three week extension (until February 1). With only a few days left for a decision, we still have not received a decision from the UF and we cannot afford to wait any longer. Whatever their decision should be, it will not solve the many violations we have documented in this complaint.

If the UF does not take these grievances to arbitration by February 1, then we will have exhausted all of our internal remedies. We wrote to the UF board again on January 17, 2013, reiterating our two requests (see Document 2). We also documented the many conflicts of interest within the union leadership. We believe the United Faculty is unable to act because it lacks a quorum of executive board members who do not have conflicts of interest, and because the executive board has not in fact been elected.

It is therefore imperative that the NEA take over the UF local union this week, inform the administration of your

intention to arbitrate our two grievances, and then provide us with independent legal representation for arbitration.

We have two main reasons to believe that the UF does not want to successfully arbitrate these two cases: (1) Conflicts of Interest between Division Chairs, who hold managerial responsibilities, and the adjuncts they supervise, and (2) Hostility toward us because of our advocacy on the part of adjunct faculty.

We have documented these two issues in several places: Our January 17, 2012 letter to Mark Millbauer, UF President (Document 2); our July 30, 2012 letter to Tom Campbell, Chair, GRCC Board of Trustees (Document 3); our August 29 letter to Christine Gregoire, Governor (Document 4).

The United Faculty Coalition of Green River has systematically violated its own Constitution, the WEA Constitution and Bylaws, and the NEA Constitution and Bylaws.

Union officers have repeatedly failed to fulfill their constitutional duties.

We have attached a spreadsheet documenting these numerous violations (see Document 5). We have also attached a copy of the United Faculty Constitution (see Document 6). This spreadsheet seems to show that the UF has no respect for its own constitution, let alone the WEA and NEA Constitutions.

In this letter, I wish to summarize several of the major categories of violations, which involve (I) Financial Corruption and Cover Up; (II) Lack of Democratic procedures, including improper elections; (III) Conflicts of Interest; (IV) Denial of Information; (V) Denial of Legal Representation (VI) Discrimination, Harassment, and Retaliation; and (VII) Duty of Fair Representation/Failure to Represent; (VIII) Washington Education Association—Higher Education Council; (IX) Jack Longmate's Complaint to the NEA (2011); and (X) Conclusion.

We are requesting that the NEA immediately place the UF and the WEA into Trusteeship, inform the college of its intent to arbitrate by February 1, provide us with independent legal counsel for the arbitration, and appoint an independent investigator with mutually agreeable credentials as an adjunct advocate to investigate the UF's and WEA's treatment of adjunct faculty.

The NEA has the authority and responsibility to act under Sections 8-12 of the NEA Bylaws (pages 155-58) from the NEA Handbook reads (in part):

8-12. Trusteeships over State Affiliates. a. The Association may establish a trusteeship over an affiliated state association for the purpose of (i) correcting corruption or financial malpractice or (ii) restoring democratic procedures. b. If the Executive Committee determines, by a two-thirds (2/3) vote, that there is adequate cause under section (a) of this Bylaw to establish a trusteeship, it shall recommend to the Board of Directors that a trusteeship be established.

I. Financial Corruption and Cover Up

The Adjunct Advocate magazine (AdjunctNation.com) has devoted four investigative stories to the financial corruption that has taken place within the United Faculty Coalition (see Documents 7, 8, 9, & 10). The Current, the Green River student newspaper, has also published an article in which Phil Ray Jack, the former union president, admitted to improperly embezzling from the union coffers (See Document 11).

While the amount of money cited has changed, it appears that a total of just under \$10,000 was taken over a period of 18 months. As union members of the Green River Community College United Faculty, we do not know when the United Faculty Executive Board first learned of the theft, when it took place, or exactly what

they have done about it. Though Mark Millbauer, UF President, has made a few limited announcements, much information has been withheld from the membership.

When we first heard of the theft of union funds, we asked Mr. Millbauer for detailed information, including copies of any and all financial audits of the union, audits of the theft, minutes of union meetings and documentation of what actions the union had taken against Mr. Jack, including police reports.

The UF refused to provide us with this information. Indeed, it appears that the union decided not to report the matter to the police; its actions appear to have shielded Mr. Jack, the former president, from any and all criminal prosecution. When we filed a report with the Auburn police, Mr. Millbauer refused to cooperate and would not release any audits to the legal authorities. The union's behavior has stopped the criminal investigation. Mr. Jack has since moved out of state.

We did write to Ms. Mary Lindquist, President of the Washington Education Association, and ask for her assistance, including legal counsel. She refused to help us in any way.

She cited an agreement with the United Faculty that allows its members to pay regular dues to the WEA, even though the WEA does not provide services in return. The United Faculty has not made this agreement public to us or to the other members of the union.

Since we are required to pay dues to the WEA and NEA, but we are not receiving the full services of either organization, we believe this arrangement may constitute a failure to represent UF members; in effect, it is taxation without representation.

We also wrote to Sandra Schroeder, President of AFT Washington, seeking legal help, which she too denied us. For several years, Phil Jack was the Vice President for Legal Affairs for AFT Washington and worked closely with Ms. Schroeder, receiving payment for his services from Schroeder. We have not been told if the AFT Washington conducted an audit of Phil Jack's payments and expenses, and if so, what they found out. We have also not been told of the role, if any, of AFT Washington in discovery and investigation of Jack's conduct.

In her November 10, 2012 article, "When the Powerful Victimize the Weak: Penn State as a Morality Play About PT Faculty," Adjunct Advocate editor Pat Lesko wrote:

"Green River Community College union president Mark Millbauer does not want to turn over emails between himself and state-level union officials that discuss the faculty member who reported the crime or the United Faculty union president who embezzled the money. I believe this may be because the rot outlined in the emails we've been able to examine thus far may extend up the ladder to the state affiliate, headed by Sandra Schroeder, who is also a VP of the national American Federation of Teachers. Did Schroeder know about the embezzlement of union funds by a man she appointed as VP of Legal Affairs for her own state affiliate board? Was she apprised of Mark Millbauer's decision to refuse to cooperate with the local police concerning the embezzlement charge?" (see Document 10).

Mr. Dmitri Iglitzin is the attorney for both the United Faculty and AFT Washington. He is also an officer of the court, with specific obligations. We do not know what his role has been in this case. We do not know what he has been told, and what he has advised, and what actions, if any, he has taken to correct this situation.

Mr. Millbauer and the executive board have denied us documents we are entitled to have as members. Especially in light of details about the embezzlement that have been uncovered by AdjunctNation from the Freedom of Information Act requests, we have no reason to believe the appropriate actions have been taken both to achieve justice for our members and to prevent any further misdeeds in the future.

The Adjunct Advocate cites several contradictory statements by Mr. Millbauer, who succeeded Phil Ray Jack as President. Mr. Millbauer has had ethical problems of his own. On January 13, 2006, the Washington State Ethics Board agreed to certain stipulations of fact and law and reached an agreement to settle a claim against him.

These facts included “that Mark Millbauer had made extensive use of the college auto body shop to repair nine personal vehicles between September 1999 and September 2003. In July 2002 Mr. Millbauer ordered, through the college auto shop, \$977.03 in parts to fix one of his personal vehicles. During the October 2003 audit, it was discovered that Mr. Millbauer had not reimbursed the college for the cost of those parts” (See Document 12: No. 04-044, Washington State Executive Ethics Board).

Mr. Millbauer did pay \$1,787.56 in restitution to the college. He also paid the Ethics Board a civil penalty of \$1,000. Green River Community College took no disciplinary action against him.

II. Lack of Democratic Procedures, including Improper Elections

The UF has made a mockery of democratic procedures. Our spreadsheet documents numerous violations. We want to mention only two: (1) The Adjunct Faculty Advisory Committee (AFAC) and (2) Lack of Recent UF Board Election.

In 2006 the union and the college established an Adjunct Faculty Advisory Committee to deal with matters affecting the college’s 303 adjunct faculty. Elections were to be held by the union, and two adjuncts were to be elected by adjuncts for one and two-year terms, followed by two-year terms so that one position was being elected every year. The two adjuncts were to be rewarded with a lifting of the 90% workload limitations, and allowed to teach an extra course (worth about \$4,000).

The union appointed Andrew Jeffery, an adjunct who is well-known as being sympathetic to tenured faculty but hostile to adjunct faculty activists, to a one-year term, and held an election for the two-year term, which was won by Toni Bennie-George, who was not a union member.

While Toni’s position was repeatedly put up for election, the union refused to put Andrew Jeffery’s position up for election, thereby discriminating against a non-union member and violating its own constitution. He served two two-year terms without ever having been elected.

In November 2011, when Toni Bennie-George’s position was up for election, Mr. Millbauer, and David Nelson, former Treasurer, repeatedly refused our repeated calls for democratic procedures. (See Document 13, Hoeller’s Letter to Millbauer of November 28, 2011.)

The UF Constitution clearly calls for all members to be able to vote, and to make arrangements for members to vote if they are absent. But the UF has never made any attempt to allow adjuncts to vote if they are not teaching the quarter when elections are held.

In past elections, ballots have been left out, unattended, making it easy for ballot-stuffing to occur. Indeed, under past procedures, anyone could take out ballots and put in ballots. Ballot counting has not been announced nor overseen. Elections usually do not include even so much as a candidate statement and there are no candidate forums. Members must vote knowing little more than the name on the ballot.

In November 2012, Mr. Millbauer called for elections to take place even in the absence of a full accounting of Phil Jack’s embezzlement. He arranged a single slate of candidates, but never held an election. The contract makes clear that elections must be held and by secret, written ballot. The UF Constitution follows Alice Stur-

gis's The Standard Code of Parliamentary Procedure, which states "A single slate, meaning one candidate for each office, frequently offers certain advantages provided that nominations may also be made from the floor and that election by write-in votes is not forbidden" (4th Ed., p. 155).

On November 28, 2012, Will Scott, chief union negotiator, told the membership: "According to AFTWA guidelines and recommendations there is no need to conduct a formal vote of the membership when an uncontested slate exists. The UF board agrees and has voted to accept the slate as is" (see Document 14). He did not provide the membership with any guidelines or recommendations from AFT-WA. No election of executive board members was held.

If, as appears to be the case, both the UF Constitution and Sturgis require elections, then the entire UF Executive Board is now serving without elections, and their decisions are invalid.

III. Conflicts of Interest

The most fundamental conflict of interest exists between the full-time faculty, who are eligible for tenure, and the non-tenure-track faculty, who have little job security. The United Faculty has literally forced the adjuncts into the same bargaining unit with the tenured faculty. In 1993, the WEA and the AFT filed a petition with the Public Employment Relations Commission to force the GRCC faculty who taught at the recently opened Kent Campus into the same union (See Document 15: PERC Decision 4491). This decision established "the one bargaining unit per college district" rule for faculty unions statewide.

But the decision did not address the crucial issue of supervision, for the full-time faculty serve as de facto supervisors of the adjuncts insofar as they evaluate them. The Division Chairs interview, hire, evaluate, assign classes, and rehire (or not). These are all duties recognized as supervisory in nature.

Not only are the Division Chairs in the bargaining units, four of them hold key positions on the union's executive board.

We believe the NLRB would forbid this arrangement in the private sector (see Yeshiva decision), and the Washington Public Employment Relations Commission forbids it in virtually all other areas of employment. We believe it is not common in K-12 unions either.

With the full-timers and Division Chairs, all protected by lifetime tenure, in the bargaining units, the adjuncts are routinely denied the duty of fair representation. The entire UF contract ignores these conflicts of interest and routinely resolves them, in almost every case, in favor of the full-time faculty. Since most of the full-time faculty have tenure, while none of the adjuncts have any meaningful job security (the UF has failed to bargain any in four decades), adjuncts who criticize the union risk retaliation and the loss of their jobs.

IV. Denial of Information.

We believe the UF Constitution, the WEA Constitution, and the NEA Constitution and bylaws require affiliates to keep regular minutes of meetings and to provide these and other information, including financial information, to the members of the union. Yet the UF does not regularly provide this basic information to its members, and it does not provide it to them when requested. Members who ask for it are treated like enemies.

There is no website for the union and there are no regular newsletters. Members are not provided with copies of the UF Constitution. They are not provided with copies of the UF contract.

For example, we have been told the UF has not kept regular budgets and no treasurer's reports have even been

prepared, as required by the UF Constitution. We have not seen minutes of union meetings or executive board meetings.

The cost of union dues has not been made readily available to UF members. When I began to inquire, I met with resistance and withholding of information from Mr. Millbauer. It took me four months of work, and I still was lacking some crucial information. I discovered that the entire dues structure favors full-time faculty and discriminates against adjunct faculty.

While full-time faculty membership fees are based on a certain percentage of their income, their dues are capped as though they were all earning \$40,000 annually, even though only one full-timer earns this little. Full-time faculty, who can earn up to \$120,000, do not pay any dues on income over \$40,000. When full-time faculty teach overloads their income can be significantly above their annual salary. Yet they do not pay dues on this extra income. For part-time faculty, by contrast, their dues are based on a fixed percentage of their income, and they pay dues on every dollar they earn.

V. Denial of Legal Representation.

We have made requests for legal representation of 1) the UF Board; 2) the WEA; and 3) the AFT Washington. It seems clear that we are in need of, and deserve, legal advice and representation from our union.

Yet all three unions have denied us legal representation. Mr. Millbauer has told us that attorney-client privilege prevents him from giving us documents, though this is incorrect. He has claimed this privilege for himself and the executive board, and says that members are not included.

We do not know what Mr. Millbauer has asked the union attorney, or what the attorney responded. When we asked, Mr. Millbauer refused to give us copies of correspondence or even minutes of meetings.

VI. Discrimination, Harassment, and Retaliation.

In November, 2011, we formed the Green River Adjunct Faculty Association (GRAFA) for the purpose of advocating for adjunct faculty interests. We have been faced with disparate treatment, harassment, and retaliation ever since.

In January, 2012 three of our members were not rehired by two Division Chairs. One of the Division Chairs also serves as Vice President and Grievance Chair; the other had served as Treasurer. All three were experienced teachers. We believe the contract may have been violated.

We have made several requests for information and been subject to harassment by union officials. Keith Hoeller asked for a list of adjunct union members from Mr. Millbauer, which he denied. When the college released them to Dr. Hoeller, Mr. Millbauer sent out an email to all adjunct union members suggesting that Hoeller had done something wrong (see Document 16).

Two of our members were subject to harassment by several members of the union's executive board for filing public records requests.

Dr. Hoeller was subject to two formal complaints, one filed by Will Scott, his Division Chair, who also serves as the union's chief negotiator, and one filed by the two full-time faculty members who assign him classes. We believe the first complaint was filed in retaliation for Hoeller's having objected to the Humanities Division's attempt to implement an unapproved policy that drastically undermined the contractual seniority rights of adjuncts. We believe the second complaint, which was filed within days of our writing a letter to the Green River

Board of Trustees, was filed in retaliation of our letter.

VII. Duty of Fair Representation/Failure to Represent.

In exchange for being granted the exclusive right to represent workers, federal case law has required a corresponding duty of fair representation. We believe the UF and the WEA have systematically breached this duty.

The UF contract reads like the Jim Crow laws of the old South, whereby the tenure-track faculty are afforded every advantage and privilege, and the adjunct faculty are disadvantaged and underprivileged at every touch-point.

The most obvious is the division of the faculty into two tracks. The tenure-track has lifetime tenure, and the adjuncts have little to no job security. The tenure-track has salaries nearly double that of the adjuncts. The tenure-track faculty have the first pick of courses and classroom. The tenure-track have private offices, while the adjuncts must share cubicles.

There are several places in the contract that explicitly seemed design to prevent adjuncts from ever achieving tenure. Conflicts of interest abound. For example, while the union contract limits adjuncts to below full-time work, in order to make sure they do not qualify for tenure, full-timers can teach overtime, often taking courses from the adjuncts.

VIII. Washington Education Association—Higher Education Council

The Washington Education Association has a higher education entity called the Higher Ed Council or “WEA-HE,” that receives funding from WEA, perhaps as much as \$100,000 a year. It is composed of a seven-member board, six full-timers with one “Part-time Faculty Rep”; the individual currently serving as the part-time rep happens to be married to one of the six full-timers. It has neither a constitution nor bylaws that define its functions nor stipulate its operations.

Composition of the WEA-HE council is made up of self-selected individuals. While they tend to be the presidents of the WEA higher ed locals (called Association for Higher Education), others may become involved by showing up at the meetings. Participation in the WEA-HE council is not universal among the WEA’s twelve AHE colleges nor is it representative. Those individuals serving as WEA-HE officers are elected from within this self-selected group.

Yet the WEA-HE presumes to speak for the WEA on higher education issues, including legislation. Its chair or officers frequently testify on legislation, which naturally favor full-time faculty but oppose legislation of benefit to adjuncts. In 2007, the WEA-HE chair testified against a bill that would have given annual contracts to long-term adjuncts in the community colleges, arguing that the bill amounted to “life-long employment” to adjunct faculty members who may not have ever been evaluated, as if an agent of the college administration and not the spokesperson of the union representing the interests of part-time faculty.

On another occasion in 2008, the entire WEA-HE delegation, in coordination with the AFT Washington, abruptly walked out of the hearing room and refused to testify on a similar job security bill for adjuncts, sending the message to legislators of their opposition. Jack Longmate, a part-time faculty member who was an officer with his AHE union at Olympic College at the time, tells us that this walkout was planned in advance by both unions.

As dues paying WEA members, we question the legitimacy of the WEA-HE council. We have never received any communications from it, never been notified of their meetings, never had the chance to take part in deliberations about legislation, and resent the favoritism this group shows to full-time faculty interests when they

conflict with those of part-time faculty. The WEA-HE is unelected, non-transparent, and undemocratic.

Our spreadsheet documents that the WEA has not been doing its job with respect to ensuring that the higher education locals are in compliance with WEA and NEA rules, including annual audits and five-year reviews.

In 2011, several adjuncts were victims of retaliation by WEA-HE leaders when they testified in opposition to an WEA-HE supported bill. See “A Shop Divided” by Dan Berrett, (http://www.insidehighered.com/news/2011/02/10/adjunct_faculty_activist_blasted_for_going_against_union).

IX. Jack Longmate’s 2011 Complaint to NEA

This is the second time that adjuncts have filed a complaint with you. On April 5, 2011, adjunct faculty member Jack Longmate of Olympic College filed a 17-page complaint that cited nine violations of the NEA policy and unprofessional behavior by NEA members (See Document 17).

For publishing an editorial that called for the end of full-time faculty overtime (overloads) and then opposing, as an individual, not as a union officer, HB 1631, a bill endorsed by the WEA-HE council, Mr. Longmate faced retaliation on several fronts. The WEA-HE council chair unilaterally revoked Mr. Longmate’s lodging and per diem for a statewide union event that he was slated to attend. As he was serving as union secretary for his local, he was immediately subject to calls for his resignation from both local’s president and head negotiator, calls for a vote of no confidence, and was the target of a censuring resolution at the next union meeting. While there is a procedure according to which an individual may be censured, no such procedure was followed in his case. The resolution passed by a show-of-hands vote which was far closer to a mob action than due process and was in abject violation of NEA bylaw 8-8 f, which states that: “The affiliate shall guarantee that no member of said affiliate may be censured, suspended, or expelled without a due process hearing, which shall include an appropriate appellate procedure.”

Rather than defending the NEA bylaws, in your April 18, 2011 response, you recommend that Mr. Longmate pursue “procedural and political avenues that remain available to[him] at either the state or local level.”

Lest you provide the same sort of recommendations to us, we have sought the state and local avenues. This includes filing grievances with our college, contacting directly our board of trustees, soliciting help directly from WEA, and writing directly to Governor Gregoire. We have done everything in our power to demand equal treatment from the NEA. Your responsibility is to ensure that we receive it, and to take action against any affiliate that denies it to us.

X. Conclusion

Given the lack of job security, we part-time faculty lack academic freedom. The series of retaliatory actions by the UF faculty union against us requires additional help if our rights as union members are to be protected.

We have not had time to point out the wholesale violations of our academic freedom and the UF Contract’s systematic denial of the duty of fair representation, but we believe we have provided ample evidence, both in this letter and in our spreadsheet and documents, that the AFT should place the United Faculty of Green River into emergency administratorship.

It is important that you act by February 1, and notify the college of your attempt to arbitrate our two grievances. If you fail to act by Feb. 1, we will lose our opportunity to arbitrate and we will have exhausted all of our internal remedies with respect to both the college and the union. Our only option will then be court action.

We look forward to your immediate action on this very important matter.

Sincerely,

Kathryn Re
Member of the United Faculty of Green River Community College
On behalf of the Green River Adjunct Faculty Association

Cc: Nine Executive Committee Members, NEA
Mary Lindquist, President, WEA
Mark Millbauer, President, United Faculty