Synopsis of the Problem of the NECC Cost-Saving ERIP
March 20, 2017

The following is an abbreviated history of events leading up to the employer's retraction of a cost-saving early retirement incentive plan.

The communications are among Dennis Fitzgerald (MCCC Day Grievance Coordinator and MCCC president's designee for cost-savings proposals), Donna Sirutis (MTA consultant) and John Casey (attorney for the employer).

Item in Dispute

(Language in Memorandum of Agreement No. 1in the MCCC-BHE collective bargaining agreement)

"8. Any unit member who has already given notice of early retirement under the terms of the collective bargaining agreement whose retirement will be effective in the fiscal year after the option has been made available at a College will be offered the same terms as under this option."

This appears with minor modifications in VP Fabbrucci's February 17, 2017 memorandum:

"Any employee who has already given notice of early retirement under the terms of the MCCC/MTA Agreement, or the Non-Unit Professional Handbook, whose retirement will be effective in the fiscal year (FY 2018) after the offer has been made available (FY 2017) will be offered the same terms as under this offer."

This language had been agreed to by Dennis Fitzgerald in an email to VP Fabbrucci on February 8, 2017.

On February 15, 22017, during a meeting with Casey concerning a cost-saving proposal at Middlesex Community College, Casey handed Fitzgerald and Sirutis a different cost-saving ERIP proposal from NECC.

After exchanges among Dennis Fitzgerald, Donna Sirutis and John Casey, mainly concerning the question of #8 from MOA No. 1, this was the message from Casey on March 1st:

From: John Casey [mailto:CASEYJ@middlesex.mass.edu]
Sent: Wednesday, March 01, 2017 11:01 AM
To: Sirutis, Donna; Fitzgerald Dennis
Subject: Final NECC ERIP MOA

Donna and Dennis

Attached is NECC's best and final ERIP MOA offer. If the Union agrees to these terms, please sign the MOA and return to me no later than Friday, March 3, 2017, otherwise the College will not offer an ERIP to MCCC members.

Thank you.

The attachment contained a different version of #8 from MOA No. 1:

Any unit member who has already given notice of early retirement under the terms of the collective bargaining agreement whose retirement will be effective in the fiscal year after the option has been made available at a College will be offered the same terms as under this option. Specifically, those unit members who have already provided notice of early retirement under the terms of the collective bargaining agreement shall be eligible for the additional 10% Lump Sum payment provided in #2 above provided they retire from and including May 31, 2017 through and including August 31, 2017.

This version would have barred one unit member from receiving the cost-saving ERIP bonus. It was not something that Fitzgerald and Sirutis saw as an appropriate modification of MTA No. 1

Sirutis wrote back to Casey:

From: Sirutis, Donna [mailto:DSirutis@massteacher.org]
Sent: Wednesday, March 01, 2017 3:05 PM
To: John Casey <CASEYJ@middlesex.mass.edu>; Fitzgerald Dennis <mcccfitzy@comcast.net>
Subject: RE: Final NECC ERIP MOA

John,

Dennis and I object to the changes you made in #8. This is more restrictive than what was in Steve Fabbrucci's memo of February 17, 2017. It would constitute a waiver of our position on the language in #8 as set forth in MOA No. 1. Not only that, but you are also demanding the waiver under threat of retracting any cost-saving Early Retirement Incentive if you don't get a sign-off on your last draft within the next two days.

We recommend a more moderate approach. Let's agree on the last changes in #2 under Early Retirement Incentive Option and leave #8 so that it is the same as #8 in MOA No. 1, with no additional language. In order to resolve our differences of interpretation of #8, we suggest expedited arbitration on the question.

We look forward to hearing from you.

Thank you.

Donna

Casey responded:

Donna –

First, I object to your characterization of the College's offer as a 'threat', particularly where the Union has agreed to a similar approach (i.e. no retirements after 8/31/17) at other Colleges.

Second, the College's last offer is consistent with both the 2/15/17 letter from Carol Fallon (signed by me) that was hand-delivered at our 2/15 meeting and also Mr. Fabbrucci's 2/17/17 memo (issued while the parties were still in discussions) in that they both reference a June 1 – August 31 timeframe for employees to retire in order to be eligible for the additional 10% lump sum. As such, I disagree that the College's last offer is more restrictive.

Thank you.

John

On March 2nd Sirutis wrote back:

John,

Thank you for getting back to us.

I want to make clear why I requested the change I did yesterday and how we see the distinctions among Middlesex, Roxbury and Northern Essex.

The Middlesex agreement includes #8 as it is in MOA No. 1. We agreed to avoid a dispute over exactly how it should be applied by setting forth retirement dates in #2 and adding an exception for those on Attachment A. This way we left the interpretation of #8 to be agreed upon (or decided in another forum) in the future.

At Roxbury, no unit members were identified who had applied for retirement in FY 2018 for whom the application of #8 could be an issue. The retirement deadline was fixed in #2, and #8 reads as in MOA No. 1. There is no list of exceptions.

At NECC one unit member has applied for the 9.04 incentive and is retiring in FY 2018 (after August 31, 2017). We have been unable to reach a Middlesex-type agreement about this situation. My email yesterday was intended to leave any disagreement about how #8 applied to that unit member for another day. By including #8 as it is in MOA No. 1, without further qualification, we would not be

narrowing the meaning of #8 or precluding the unit member from pursuing a claim to the extra payment in this ERIP. We would leave the dates in #2, "from and including May 31, 2017 through and including August 31, 2017." To our way of thinking, this is not determinative of the application of #8. You may argue the opposite. The point is, the parties can move ahead with the ERIP without letting one case hold everything up.

Please reconsider this. I think that what we sent you yesterday addresses what you need.

Thank you.

Donna

On March 3rd, Linda Giampa sent an email to President Glenn urging him to honor the agreement that had been reached and is reflected in the February 17, 2017 document.

Glenn did not respond to Giampa's email.

On or about March 3, the unit member in question requested to apply for the cost-saving ERIP bonus and was denied. He filed a grievance.

The next communication was from Casey to Fitzgerald and Sirutis on March 6th.

From: John Casey [mailto:CASEYJ@middlesex.mass.edu]
Sent: Monday, March 06, 2017 2:34 PM
To: Sirutis, Donna; Fitzgerald Dennis
Subject: NECC ERIP

Donna and Dennis –

Be advised that NECC will not be offering an enhanced ERIP to MCCC unit members.

Thank you

Sirutis wrote back the same day.

John,

It is our understanding that it has already been offered.

Donna

Since then, several unit members have attempted to apply for the cost-saving ERIP and have been turned away.

Northern Essex Community College

IMPORTANT – READ CAREFULLY

Memorandum

TO: All Full-Time and Part-Time Fringe Benefited MTA Unit Professional Staff
All Full-Time and Part-time Fringe Benefited MTA Unit Faculty
All Full-Time and Part-Time Fringe Benefited Non-Unit Professionals

FROM: Steve Fabbrucci, Vice President of Human Resources

SUBJECT: **FY2018 Early Retirement Incentive Program/ Waiver of One Year Notice for Purposes of Early Retirement Incentive Bonus Payment PLUS Enhanced Bonus Amount**

DATE: February 17, 2017

In anticipation of a possible reduction in the College's budget for next fiscal year (FY2018), the College is offering to waive the one-year notice requirement for purposes of receiving the early retirement bonus that is already included in either the MCCC/MTA Day Division Agreement or the Non-Unit Professionals Personnel Policies Handbook (Management Package), and enhance the bonus you would be eligible for under either document by another 10.0%.

If any employee in one of the groups to whom this memorandum is being sent decides to voluntarily take advantage of this retirement offer, he/she must notify their supervisor in writing that they intend to take the College's retirement offer (which includes the enhanced bonus) no later than Friday, April 14, 2017 at 5:00PM. The employee must also send a copy of his/her notice to the appropriate Vice President or Dean and to the Vice President of Human Resources. No notices can be accepted after the April 14, 2017 deadline. The College will confirm in writing each notice received no later than April 21, 2017.

Attachment A is the early retirement incentive bonus language from the MCCC/MTA Day Division Collective Bargaining Agreement. *Attachment B* is the early retirement incentive bonus language from the Non-Unit Professionals Personnel Policies Handbook (Management Package). If an employee in one of the groups to whom this memorandum is being sent formally retires between **June 1, 2017 and August 31, 2017,** the College will waive the one year notification requirement referenced in each of the attached and provide an enhancement by adding an additional 10.0% to the retirement bonus amount you would be eligible for under the MCCC/MTA Agreement or Non-Unit Professionals Handbook.

For example, if a full-time faculty member formally retired effective **August 31, 2017,** at age 60, the College would waive the one (1) year notice requirement and pay the retiree a one-time bonus of 40.0% (30.0% + 10.0%) of their annual salary at time of retirement.

In addition, please note the following:

- In computing this bonus, employees not eligible for the early retirement incentive because they are 65 or older will be offered as part of their bonus an amount equal to the early retirement bonus they would have been entitled to if they were 64. Similarly, employees who are under 55 will be offered as part of their bonus an amount equal to the early retirement bonus they would have been entitled to if they were 55.
- Per the language in either attachment, at the request of the employee payment of part or all of this one-time bonus can be delayed until after January 1, 2018 for tax purposes.
- Any employee who applies for tuition remission certification prior to the effective date of retirement will be so certified in accordance with the tuition remission policy.
- Funding of any portion of this option that is over and above the required benefit must come from non-state appropriated funds.
- The employee must be otherwise eligible to retire under the State Retirement System or the Optional Retirement Plan.
- Any employee who has already given notice of early retirement under the terms of the MCCC/MTA Agreement, or the Non-Unit Professional Handbook, whose retirement will be effective in the fiscal year (FY2018) after the offer has been made available (FY2017) will be offered the same terms as under this offer.
- For MCCC/MTA unit faculty and professional staff the 70% cap on the combination of incentive bonus and sick leave buyback and the requirement of 10 years of service in the community college system shall both be waived. This language is not relevant to non-unit professionals.
- If an employee to whom this memorandum is being sent, would like to teach credit courses post retirement in the College's Division of Continuing Education (DCE), they may do so, or continue to do so, consistent with State law and the terms and conditions of employment contained in the MCCC/MTA DCE Collective Bargaining Agreement.
- If an employee to whom this memorandum is being sent, would like to work at the College post retirement in a capacity other than teaching credit courses in DCE, the College cannot guarantee such employment, but will consider doing so based strictly on the needs of the College.

Prior to making any final decision about retirement, I always advise any employee to visit with a retirement counselor at the State Board of Retirement in Boston, or at least speak with a retirement counselor on the telephone at 617-367-7770 or their Optional Retirement Plan (ORP) provider, if applicable.

If you are interested in retiring and taking advantage of this enhanced retirement incentive bonus payment, you must provide your supervisor with your written notice no later than Friday, April 14, 2017 at 5:00 PM. The employee must also send a copy of his/her written notice to the appropriate Vice President or Dean and to the Vice President of Human Resources. No notices can be accepted after the April 14, 2017 deadline.

Information sessions to cover any questions regarding this Program will be scheduled on the Haverhill and Lawrence campuses as soon as possible.

PLEASE REMEMBER THAT THE APPLICATION DEADLINE FOR ANY NOTIFICATION IS April 14, 2017 at 5:00 PM.