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### Correspondence October 1978

R. E. Galloway  
*PSU/KHEA*

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**KANSAS STATE COLLEGE OF PITTSBURG CHAPTER  
KANSAS HIGHER EDUCATION ASSOCIATION**

PITTSBURG, KANSAS 66762

AFFILIATED NEA and KNEA

October 2, 1978

Dr. Richard Hay  
Chief Negotiator  
PSU Administration  
Pittsburg, KS 66762

Dear Richard,

It is the purpose of this letter to summarize our situation and to request your return to the table.

Things were nice around PSU back in June. We had completed a signed memorandum of agreement, we were working under a mutually endorsed salary distribution policy and faculty were enthusiastically pursuing their summer tasks.

The current problem arose in July with your attempt to get "input" from the teaching faculty outside the framework of the PEER Act and your subsequent unilateral issuance of a new merit evaluation system for use in determining 1979-80 salaries. We immediately invited you to bring a proposal to the table. Instead, you refused and on September 1, 1978 surprised the faculty with your unilateral issuance of new merit evaluation Guidelines.

Remembering that Dr. Appleberry had stated in July that unclassified salary money would be distributed on the basis of merit in FY 80, we told you very clearly of our concern, on September 13, 1978, Dr. Hamilton invited you to come to the bargaining table to deal with merit evaluation processes in relation to the distribution of salary. We made it clear that we wished to meet to negotiate on the nature of any evaluation system that might potentially affect conditions of faculty employment in any way, including salary distribution.

You accepted our invitation and we met on September 20. At that meeting you repeatedly refused to discuss your September 1 Guidelines, the termination or continuance of the merit-salary relationship, or even plans for future meetings. To clarify the realities of the situation, we asked you at the September 20 meeting these five simple but very important questions.

- a) Does the PSU administration consider salary distribution a negotiable item?

- b) Will you meet with us to negotiate conditions of salary distribution?
- c) Is it the policy of the PSU administration to distribute salary on the basis of merit?
- d) If so, will you meet with us now to negotiate about the merit evaluation portion of the salary distribution system?
- e) Will you announce a moratorium on the use of your September 1 Guidelines until we can meet and confer regarding the above?

You refused to give any positive or negative response to any of these questions. You would simply repeat that you would "get back to you Monday morning."

On Monday (September 25, 1978) we did meet informally, but you still refused to answer these five simple questions. Rather, you presented me with a revised plan for merit evaluation, now called "performance appraisal" which had been prepared in secret with absolutely no legitimate input from the teaching faculty. Of course we objected strenuously, and asked if you were familiar with the July 14, 1978 PER Board clarification of the PEER Act. You assured us that you were and laughed.

I then specifically requested that you meet us at the table on September 28 at 2:30 to consider proposals for the appraisal of performance merit and the appraisal-salary relationship. Again you refused to meet or to answer our five questions. You proceeded to act unilaterally by distributing your revised merit appraisal Guidelines to the PSU faculty for immediate implementation. Further, you transmitted your September 25 Guidelines with a cover letter which grossly misrepresented their origin.

Our position on the five questions and your Unilateral acts is clear. The PSU/KHEA position is consistent with the teaching faculty's understanding of the PEER Act as clarified by PER Board statements as recently as July, 1978. Your current refusal to meet and confer in good faith and your unilateral issuance of Guidelines for performance (merit) evaluation do conflict with our interpretation of the PER Board's ruling that you are required to negotiate conditions of employment, including matters relating to salary.

If you do not respond to our questions and if you continue to refuse to meet and confer with us, we will have no other choice but to assume you are not willing to act in good faith. Evidence of your willingness to proceed in good faith can be established in either of these ways.

- 1) Respond clearly to our five questions.
- 2) Announce a moratorium on evaluation activity and resume negotiations with PSU/KHEA on conditions of employment, particularly as they may affect salary.

Dr. Richard Hay

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October 2, 1978

In summary, I am requesting that you, Richard, bring your team back to the table on October 5 or 6 at 2:30 to resume good faith work toward agreement on matters of merit and salary. I do expect a timely and meaningful response.

Sincerely,



Dr. R. E. Galloway  
Chief Negotiator, PSU/KHEA

Attachments: Summary of points regarding our September 25, 1978 conversation.

cc: Dr. James B. Appleberry, Pittsburg State University  
Mr. John J. Conrad, Kansas Board of Regents  
Mr. Wendell Lady, Kansas House of Representatives  
Mr. Jerry Powell, Kansas PER Board



ATTACHMENT, letter to Dr. Hay, October 2, 1978

Summarized below are several points and facts which seem to be germane to our conversation of September 25, 1978

1. Mrs. Prudence Hutton testified under oath at the Grether hearings (PER Board Case I-5-1976, p. 4) that it was and would continue to be Regent's policy that salary increments be distributed on the basis of merit. On July 26, 1978, President Appleberry stated that "funds for unclassified salaries (are) to be distributed on the basis of merit."
2. Dr. Hay stated on September 25, 1978, it is the intent of the administration that FY 80 salaries would be distributed by a process "analogous to that used for FY 79", that is, on the basis of faculty evaluations.
3. Dr. Hay stated on September 25, 1978 that he could not tell if evaluation was negotiable because the administration at PSU has yet to decide whether merit will or will not be a factor in the distribution of faculty salary for FY 80.
4. Dr. Galloway requested on September 25, 1978 that Dr. Hay bring his team back to the table on September 28, 1978 to establish whether or not merit or performance evaluations will be a factor in FY 80 salary distribution, and if so, to start negotiations on the faculty evaluation portion of the salary system. The PER Board stated in its July 1978 statement that it is a fact of law "that a good faith give and take negotiation process is required." Dr. Hay refused.
5. PSU/KHEA considers the unilateral issuance of the administration's September 1, Guidelines and now the September 25 revision of those Guidelines for faculty evaluation to be an act which openly violates the spirit of the PEER Act as well as a direct disregard of the PER Board's July 14, 1978 findings of law. The administration has refused to state that the evaluation system will not affect salary distribution.
6. Dr. Hay and Dr. Galloway agreed that we all know that the distribution of PSU salary funds is negotiable under the Kansas PEER Act.
7. PSU/KHEA considers that the PSU administration's refusal to now commit themselves to a salary distribution process at the table is an expression of bad faith. It defies the PER Board findings that "the law indicates to the board that a certified employee organization may legally expect to meet and confer with the appropriate public employer in a timely fashion which would assure the employees that adequate financing would be available to implement any resultant memorandum of agreement -- before allocations of funds are crystalized." (July 14, 1978, p.4. 1.29 - 35)

8. PSU/KHEA further considers the administration's insistence that they cannot return to the table immediately as a bad faith attempt to ignore the PER Board's findings "That a recognized or certified employee organization may legally expect to commence meet and confer sessions over terms and conditions of employment at any time other than thirty (30) days prior to or thirty (30) days after budget submission date" i.e., April 1 - June 1 (July 14, 1978, p. 5, l. 8-11).
9. The Kansas Legislature suggests the spirit of the PEER Act in the act's preamble which states:
  - 1) The people of this state have a fundamental interest in the development of harmonious and cooperative relationships between government and its employees;
  - 2) the denial by some public employers of the right of public employees to organize and the refusal by some to accept the principle and procedure of full communication between public employers and public employee organizations can lead to various forms of strife and unrest; (etc.)