OFFICE OF THE
VICE PRESIDENT & GENERAL COUNSEL
UNIVERSITY OF MICHIGAN

January 3, 2021

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Detroit, MI 48226

Robert D. Fetter, Esq.
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7700 Second Avenue, St. 335
Detroit, MI 48202

RE: UMPNC disaffiliation from MNA

Dear Messrs. Nickelhoff and Fetter:

Your letters of December 30, 2020 and January 2, 2021 respectively, have been forwarded to my attention for review and response. In your letters, you both demand that the University recognize either MNA or UMPNC as the exclusive bargaining representative. Mr. Fetter, additionally demands that the University immediately begin sending dues to UMPNC. Both of you letters seemingly ignore the current collective bargaining agreement between the University, MNA, and UMPNC in which the University recognized both entities as the exclusive bargaining representative for its' nurses.

In case No. R74 C-89 MERC certified the MNA as the exclusive bargaining representative for registered professional nurses employed at the University of Michigan. Since that time, the University has collectively bargained successive collective bargaining agreements with the MNA and UMPNC. In fact, the current collective bargaining agreement recognizes the MNA and UMPNC as the exclusive representative for all registered professional nurses at the University of Michigan.

In *Macomb County v Michigan Fraternal Order of Police Labor Council*, 33 MPER 37; 2019 WL 7597632 the Michigan Court of Appeals upheld a long-standing MERC policy that where a MERC election results in a change of union representatives during the term of the contract, the employer remains obligated to deal with the incumbent union during the remaining term of the contract. This includes the requirement that the employer continue to remit union dues to the incumbent. Although the disaffiliation vote described in your letter is different from a MERC election, the same principles should apply requiring the University to adhere to the status quo of the current contract and remit union dues as currently done under the contract.

I will also note that the *County of Wayne* case cited by Mr. Fetter does not address the legal effect of the existing MERC certification in this case, certifying MNA only as the exclusive

bargaining representative. It is unclear that a "disaffiliation vote" of the type cited in your letter has any legal effect on the existing MERC certification. It is certainly arguable that any vote, which changes the MERC certified bargaining representative, is a change in the structure and character of the labor organization as discussed in that case. In addition, the University has not been presented with any evidence regarding the procedural safeguards that were followed as part of the disaffiliation vote or the legal underpinning for such a vote in the union constitution or bylaws. The determination as to the appropriate collective bargaining representative is uniquely within MERC's jurisdiction. I urge you to follow the MERC representation processes to obtain direction as to the appropriate bargaining representative.

Until directed otherwise by MERC, the University intends to continue to follow the current collective bargaining agreement as well as the agreement beginning on July 1, 202, negotiated jointly with MNA and UMPNC recognizing MNA and UMPNC as the exclusive bargaining representative and we will continue and will continue to work with both entities on all labor-management matters.

Please feel free to contact me with any questions regarding this matter.

Sincerely,

David J. Masson
Senior Associate General Counsel
Chief Litigation Counsel

/djm

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