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**In Legally Fraught Privatization Plan UMass Amherst Violates Labor Law, Opens Door to Dark Money**

State Treasurer, Congressman, State Senator, State Representative condemn the flagship campus’s attempts to lay off 120+ employees, which would clear way to accept anonymous large donations

In a sequence of legal filings and statements since December 2022, the University of Massachusetts Amherst has announced that it plans to privatize 120+ state jobs and the transition of its entire Advancement division’s $13 million budget into a private foundation—beyond the reaches of state accounting oversight and public scrutiny. UMass used the threat of lost pensions to attempt to push through the plan, an attempt that was emphatically condemned by the Mass. state treasurer as cruel and based on false pretenses. If successful, UMass’s efforts could open the door for so-called dark money (anonymous gifts, usually in the multi-millions), which could erode academic integrity at the highly-ranked R1 school.

Though UMass has attempted similar labor changes in the past, the scope and tactics of this privatization scheme are unprecedented at the flagship campus, and the moves are expected to have a negative ripple effect on students, tuition-paying families, and Mass. taxpayers.

In reaction, the two unions (University Staff Association and Professional Staff Union, both locals of the Massachusetts Teachers Association) representing the group of workers facing layoffs have filed formal charges at the Massachusetts Department of Labor Relations (DLR) on behalf of the group of the affected staff. In addition, Congressman Jim McGovern, Senator Jo Comerford, Representative Mindy Domb, and State Treasurer Deborah B. Goldberg have publicly condemned the plan and the misleading and manipulative way the UMass administration has attempted to execute it.

The nearly 20-year-old Advancement division is responsible for organizing events such as Homecoming, engaging volunteers, strategic fundraising, disseminating scholarships to students, and publishing its magazine for more than 300,000 alumni around the world.

The situation at UMass mirrors a national trend of public education institutions pushing to privatize essential functions—often citing tax-advantaged giving opportunities and donor anonymity.

A legal examination of the plan to privatize the university’s Advancement division found that the proposed terminations and privatized reorganization are in violation of a signed agreement between the university and one of the unions, PSU, and are not required for pension compliance under the present structure, despite claims from management.

Massachusetts law is generally skeptical of privatization of state work. The legislature has found “that using private contractors to provide public services formerly provided by state employees does not always promote the public interest.” In this instance, UMass Amherst is attempting to liquidate a fully functioning and highly effective division—staffed by state employees with union rights—and plans to recreate the operation within an at-will group at the university’s private Foundation, shielding fundraising from public scrutiny. Doing so will not only violate state law, but will also result in a less effective unit. Severed from the public university organization structure, the proposed new private group would bear no organizational responsibility to the academic units and student groups the 120+ state positions currently service. This would disrupt student scholarship distribution, erode communications with alumni, donors, and the on-campus community, and make optional the Advancement support that departments and programs across campus rely on. Further, it would eliminate the public’s right to access budgetary and operational records, including restrictions on gifts, salaries, annual budget costs, and tax filings.

Surprising to many, the move would not change how the employees are paid. Even if UMass succeeded in privatizing the entire Advancement division, the funding for those 120+ positions and the affiliated $13 million in annual operational spending would continue to be funded by taxpayers, tuition-paying families, and donors. And the public would lose access to salary and tax records—essentially cutting off transparency into how the taxpayer funds are spent.

Because privatization would impede access to information and input from local taxpayers and policy makers, Senator Comerford and Representative Domb issued a statement in which they said they “are gravely concerned” with UMass’s privatization plan. Comerford and Domb wrote, “We are not convinced that UMass Amherst’s plan to restructure is needed.” They demanded the UMass administration, “reexamine options with two priority objectives: 1) to secure the retirements of these public employees, and 2) to achieve a resolution that addresses any issues that UMass Amherst may face without forcing its employees to bear the cost with their retirements or their careers.”

PENSION PRETENSE

Though the university’s administrators—most notably Vice Chancellors Arwen Staros Duffy and Bill Brady—tried to mislead employees to believe they are forced to privatize the 120+ positions “to ensure legal compliance” with state pension rules, UMass admitted in February filings with the state retirement board that Advancement employee pensions were *not* at stake, and employee retirement contributions were, in fact, “creditable because the majority of the services performed were for the direct benefit of a government entity [—the public university].” This admission and reversal was made after the unions conducted their own audit of Advancement employee work schedules and presented their findings to UMass.

“This attempt to poach state work and eliminate union positions by using workers’ retirement status as a bargaining chip is a manufactured crisis of an inhumane and despicable nature,” says Professional Staff Union (PSU) Co-Chair and double alum of the university Brad Turner.

On February 28, PSU and USA filed charges against UMass Amherst at the Massachusetts Department of Labor Relations for bargaining in bad faith, retaliation, and anti-union activity. And in early March, more than 300 students, faculty, staff, and members of the press heard directly from long-time UMass staff and area labor leaders at a rally on the campus.

Speaking into a megaphone at the rally, Gail Gunn, a 25-year UMass employee, said, “I guarantee you this will not benefit the taxpayers of Massachusetts one penny. It’s only being done to curb state regulations so that they don’t have to play by the state’s rules anymore.”

Nearly 1,000 students, faculty and staff signed a [petition](https://docs.google.com/forms/d/e/1FAIpQLSdQPeFaulG8_sEwgBN04RqwWpgHYjvwHzuQ2texwR-nRsLlKw/viewform) urging UMass to go back to the negotiating table and ensure most the 100+ staff can remain employed.

In a damning public statement at a March 30 meeting of the state retirement board, the Massachusetts State Treasurer Deborah B. Goldberg said, “this situation is clearly and absolutely 100 percent UMass Amherst’s responsibility, and it is on them to fix the problem. I personally feel very badly that their employees have been confronted with a confusing, disruptive, and stressful situation for them and their families.” She added, “I advise and strongly encourage UMass Amherst to resolve this as soon as possible with the *clarity* and the *empathy* their employees rightfully deserve.”

Following up on the Treasurer’s statement, the Massachusetts State Retirement Board (MSRB) elected member Theresa McGoldrick said, “I think we've made ourselves very, very clear. And we expect [UMass] to work with their employees, work with the union—work with *whomever they need* *to work with* and straighten out this problem, because too many people have been hurt, are confused…”

OPENING THE DOOR TO DARK MONEY

Contradicting the university’s previous claims that the retirement board raised issues on pension creditable service, MSRB General Counsel Melinda Troy made it clear in the March 30 meeting that the university “self-reported*”* the supposed pension issue to the MSRB. That means UMass proactively signed up for scrutiny from the board on its own, without a clear reason.

What many watching the situation at UMass unfold have wondered is, *why now*? If UMass admits the majority of the positions it plans to cut have been legally compliant for the past two decades—why the urgency to privatize the work of the Advancement division *now*? The answer may be found deep in the university’s own 14-page February filing with the state.

UMass wrote that one of the “main purposes” of a university’s private foundation is “protecting donor privacy.” The statement goes on to say that if donors make gifts to the private UMass Foundation—not directly to the university itself—“the donor may request in writing that the donor’s identity not be publicly disclosed.”

Though the IRS requires that nonprofits like the Foundation include the identities of donor giving amounts above a low threshold in their tax filings, higher education advancement experts agree this part of the filing does not need to be made public and could be hard to obtain, and privacy is an important guarantee for many donors giving in the millions.

While donors to UMass may keep their names off donor lists and out of news releases, their donations are still recorded as public records. Anonymous donations to the Foundation are not recorded as public records. UMass has received several large gifts anonymously in recent years, including $1.35 million supporting the [Pentagon Papers acquisition](https://www.bostonglobe.com/metro/2019/09/23/umass-get-trove-daniel-ellsberg-private-papers/E0zZzg7FgR5QQuwhkrgPaK/story.html?p1=Article_Inline_Text_Link), $5 million for [quantum computing research](https://www.umass.edu/news/article/umass-amherst-announces-creation-seed-fund-support-quantum-information-systems) in 2021, and $7 million for [a pavilion](https://www.umass.edu/news/article/umass-amherst-build-umass-service-workers-honor-pavilion-funded-major-gift-university) in 2022.

While the average taxpayer may not take issue with those allocations through the Foundation, it’s what’s *not* disclosed about anonymous gift agreements that can lead to questionable ethics violations. Legal battles at universities across the country have revealed [disturbing strings-attached](https://www.nytimes.com/2018/05/05/us/koch-donors-george-mason.html) deals that come with anonymous multimillion dollar donations, including admissions meddling, faculty selection, and swaying research and curriculum foci.

One of the most high-profile examples happened at George Mason University, a public research university in Virginia, which came under fire in recent years for allowing the Charles Koch Foundation (of the conservative billionaire duo commonly known as the Koch Brothers) to have “final say in all faculty appointments” in return for millions of dollars in donations given to the university over several years. After public outcry and several lawsuits, the university admitted the agreement hurt “academic independence” and changed its gift agreement to be more transparent as a result.

In a March 17, UMass wrote in a filing that “In the last ten years alone, 2,096 donors who wish to remain anonymous donated approximately $55.2M for the benefit of UMass Amherst.”

Its last capital campaign, [UMass Rising](https://businesswest.com/blog/umass-rising-campaign-raises-379-million-flagship-campus/) (2010-2016), included at least one large anonymous gift of $10 million given to the Economics department.

UMass plans to launch its [next comprehensive capital campaign](https://www.umass.edu/strategicplan/resource-planning) in the near-term.

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