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## UFF Consultation Meeting

March 9, 2020

Training Center

2:00 p.m. – 3:00 p.m.

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Kyle Clark  
Sally McRorie  
Renisha Gibbs  
Janet Kistner  
Lisa Scoles  
Lynn Hogan  
Rebecca Peterson  
Tiffany Ward  
Adam Donaldson

Jack Fiorito  
Irene Padavic  
Matthew Lata  
Emily McCann  
Scott Hannahs  
Michael Buchler  
Nancy Kellett  
Robin Goodman  
Joe Clark

### 1. Minutes from Consultation Meeting on November 13, 2019

Renisha Gibbs welcomed everyone to the Consultation. As a couple new faces were present, she asked for a round of introductions around the table.

She continued that, with introductions out of the way, both teams had reviewed the minutes from the previous consultation.

Dr. Irene Padavic confirmed that her team had done so, and that everything looked good.

### 2. Bargaining Unit Work Assigned to Non-BU Employees

UFF

Dr. Fiorito introduced the next agenda item, stating that he understands that contracts vary over time as needs and positions across the campus change. Recently the UFF team has noticed a couple of areas where positions have been added to the bargaining unit, such as in Undergraduate Studies, and he's pleased these positions have been added to the bargaining unit; however, he wonders if there is any general oversight being applied to this process. Conversely, he wonders whether positions may be being assigned non-bargaining unit status when doing unit work. He asked whether this was something HR was in the habit of reviewing.

Dr. Janet Kistner answered that in summary it sounds as if Dr. Fiorito is asking are people across campus being correctly classified, based on their assignment of responsibilities, something that is typically reviewed by the department in question. If a person's role or the role of a position within a department has changed, that would be something her office (Office of Faculty Development and Advancement) would review, as well as Human Resources.

Dr. Fiorito replied asking about the creation of new positions, thanking Dr. Kistner for speaking to the

process for reviewing existing positions. He continued that, for example, in the College of Business, a bunch of new professional development sections have been added, with 4-5 new staff positions created to work in those sections. Most of the duties these individuals are performing, as he understands it, relate to teaching; however, only one of those positions has been assigned as in-unit.

Dr. Kistner answered that she is not familiar with all the specifics of these new positions, such as, whether they are part-time, and what other duties they might be performing.

Dr. Fiorito stated that he does not know all of details of their duties, but his understanding is that the large majority is teaching.

Ms. Gibbs declared that while she does not know all of the details, she understands that the classes being taught are one-hour classes, but the majority of these positions are performing staff administrative duties. If there is a specific example Dr. Fiorito would like to pass along, she would be happy to look into it to make sure they're being classified correctly. Position review on the staff side is absolutely something that her office handles. Anytime there is a change from staff to faculty, or new duties are assigned, that is something her office reviews. It's possible something has gotten through the system of checks and balances, and if so, Ms. Gibbs wants to know about it and would like to take a closer look at it. But her understanding of these new development courses is that staff are teaching them, but that is not the majority of their work.

Dr. Scott Hannahs asked if the cut-off for unit classification is at 50% or what the specific percentage amount is.

Ms. Gibbs replied that it is less than that, but that this is an issue her office is very much attuned to, although she remains open to receiving further information about it if any is available.

### **3. “Administrative Overhead” Charges (40%) on FSU’s ORP Payments**

**UFF**

Dr. Hannahs presented the next agenda item, stating that UFF had received an email from a faculty member who had taken a detailed look at his paycheck stub, and noticed that the amount going into his Optional Retirement Plan (ORP) was actually much less than the amount displayed on his paycheck stub. Upon making a phone call and inquiring, the faculty member was told that the additional missing amount was overhead and administrative charges, but actually upon further digging, it's a fee that the University is required to pay called an unfunded actuarial liability (UAL), which is set at 3.75% of salary by the State, and goes into the Florida Retirement System (FRS) system even for people that are in the ORP plan. Dr. Hannahs concluded by stating that it was helpful to now understand who was paying this amount and why, but he asked if it would be possible to separate the ORP and University paying UAL fee amounts out on the pay stub for more transparency to make the different payment amounts clear to faculty.

Ms. Gibbs answered that she does not disagree with him on his suggestion making this issue more transparent, and that she will look into how feasible such an arrangement would be.

Vice President of Finance and Administration Kyle Clark articulated that the UAL has been referenced in the newspaper recently.

Dr. Hannahs replied that he was unclear from the newspaper on whether the payments for the UAL were in the form of a recurring fee, or a one-time payment.

Vice President Clark stated that for the University the cost is potentially between \$2-3 million that would

have to be absorbed from the operating budget for additional retirement. In the seven years since he has been at the University, FSU has never had to fund that. This would be the first time it's required that the Actuarial piece would have to come from the University. The Legislature has stated that it would be a one-time payment, but he expects the actuary to run each year and each year there will be an expectation to meet that expense. That means it becomes a recurring expense to the University if the Legislature does not fund it.

Ms. Gibbs thanked both for their exploration on this topic and reiterated that she would look into separating out these expenses on future pay stubs.

#### **4. Lack of Assistance and Follow-up by the SDRC**

**UFF**

Dr. Michael Buchler moved on to the next agenda item, stating that it was a long and detailed issue. The crux of the matter is that the Student Disability Resource Center (which is now called the Office of Accessibility Services (OAS)) has been unwilling and even belligerent, in his opinion, about making accommodations for a blind student in the College of Music. They have left roughly 95% of the accommodations work to the faculty. The student is in first-year Music Theory, a required course that Dr. Buchler's wife, Dr. Rogers, oversees, and she is hoping to avoid the grievance procedure and would like to handle this matter through OAS. The summary of the situation is the student was accepted into the College of Music and OAS was notified of the acceptance in March. Roughly around June, Prof. Rogers sent OAS all handouts and homework assignments and asked that they be rendered in Braille, but OAS took no steps toward accomplishing this until the student went through orientation, a course of action that Dr. Buchler stated he and Dr. Rogers did not understand at all. He continued, saying that by the first day of classes, none of these materials had been converted into Braille for the student, and he further stated that her choral music was not converted until week 7 of the semester. When the theory course materials were finally converted, some of the materials had been mixed up such that midterm exam questions had been inserted into the practice version of the midterm exam. There was a music notation file that needed to be put into Braille notation and no one in the office read music and could work with the specialized software they had purchased for this reason, so it fell completely onto the course instructor, who was not permitted to use OAS software. Dr. Rogers has had the equivalent of an extra course to teach during the semester, turning all of the coursework to Braille. The student, assuming she passes, will continue on in the College of Music. He concluded that were the student litigious, he thinks she would have a very good case to go after FSU, that it's not fair for all of this extra work to fall onto the faculty member, and that he believes that FSU is not abiding by the Americans with Disabilities Act (ADA).

Ms. Gibbs replied that is an incredibly serious statement, to suggest that Florida State is not abiding by the ADA, and those sorts of allegations are taken very seriously. She continued that this issue is potentially significant, and should have been brought up along other avenues prior to this consultation.

Dr. Buchler answered that Dr. Rogers has brought it up along other avenues prior to this consultation; it has been brought up to student affairs and to University General Counsel, and so far, Dr. Rogers has received no responses.

Deputy General Counsel Lisa Scoles replied that this consultation is the first she's heard of this issue.

Ms. Gibbs elaborated that from this point forward Dr. Kistner and Ms. Scoles would take the lead on following up on this situation, and also getting Vice President of Student Affairs Amy Hecht involved.

## **5. Standard of Evidence in Investigation**

**UFF**

Ms. Gibbs introduced the next agenda item, stating that after a review of the minutes from the previous consultation, she feels the administration has already responded to agenda items 5 & 6, and that the position on these items has not changed since the previous consultation. If there was something new that the UFF could offer on these matters, she would, of course, be happy to hear it.

Mr. Matthew Lata replied that the UFF's position on this matter has not changed either and the two parties will have to agree to disagree and he does not foresee this issue going away.

## **6. Inquiries versus Investigations**

**UFF**

Dr. Emily McCann pivoted to the related next agenda item, stating that perhaps this question is due to her being new and not as familiar with the University's processes. She continued that she was involved with an academic integrity issue at Florida State recently, and the employee had not initially been granted representation. She then asked how many investigations that are not disciplinary go on at the University.

Ms. Scoles responded that just to provide a little background, the meeting that took place was not disciplinary or an investigation, it was simply an inquiry to determine if an investigation was even warranted. And ultimately it was decided that an investigation was not warranted. A representative had been allowed to sit in on the meeting even though technically that did not have to be allowed.

Dr. McCann answered that she was glad to hear and was in agreement with the perspective that an inquiry could not lead to disciplinary action. Her concern is that the basis is the employee's reasonable belief, not that of the employer. The UFF team is happy that a representative was present, and they are hopeful that will continue to be allowed. UFF thinks it's best for there to be transparency throughout the process. She finished by asking what other types of inquiries go on at Florida State.

Ms. Scoles answered that Human Resources inquiries would be an example of a type that takes place at the institution and Title IX inquiries are only when a student was involved.

Dr. McCann stated that it sounds as if both teams are in agreement, that having a representative sitting alongside the faculty member for these inquiries is a good practice.

Ms. Gibbs answered that both teams were in agreement for that practice as far as disciplinary cases were concerned.

Dr. Hannahs stated his position that changing the name of an investigation to an inquiry does not take away an employee's Weingarten Rights.

Ms. Scoles responded that it was not changing the name, as these are fundamentally different procedures.

Dr. Hannahs replied stating that he disagrees with that perspective.

Dr. Kistner stated that some background information might be helpful. The Office of Research runs the inquiry process that's in question, and she does not believe it to be unique among institutions. It's important for the institutions to have this mechanism that allows them to look into a matter and determine "Is there really an issue here? Do we even need to look into this any further?" She concluded that this was

not a situation that occurs frequently at the University. In fact, to her knowledge the one in question is the only one that's taken place in the recent past.

## **7. Scheduling of Consultations**

**UFF**

Dr. Padavic introduced the next agenda item, articulating that the UFF team was thankful to have seen the Presidential Consultation for Spring 2020 scheduled by early February for April, but was hopeful that in the future her team could be provided with multiple date and time options for the consultations so that they could choose the most convenient option. She concluded by stating that Wednesday options are the most convenient for her team.

Ms. Gibbs replied that she understands and will take these preferences into account going forward. She elaborated that she hopes the UFF team will understand that the administrative team contains many high-level executives from the University including the President and the Provost, and that the schedules for these individuals are always very dynamic. It's impossible to predict when a hurricane might hit, or the outbreak of a virus might be felt and everyone's schedule changes. She concluded by reiterating that she does hear the suggestions of the UFF team and will do all she can to accommodate them going forward.

## **8. New Undergraduate Teaching Awards**

**UFF**

Dr. Robin Goodman explained that the UFF had received an email from the Provost's Office on January 15<sup>th</sup> regarding new teaching awards that the University would be distributing, and they were wondering how selection and distribution for these awards would fit in with section 23.7(a)(12) of the Collective Bargaining Agreement, which states that "Compensation may be provided with newly established awards, subject to collective bargaining."

Dr. Kistner replied that the University believes this type of award classifies as a teaching award, which is one of the established categories the University is allowed to distribute as desired.

Dr. Hannahs responded that the language Dr. Kistner is referring to is regarding existing awards, and the email that went out about this recent award stated that it was new.

Dr. Goodman elaborated her belief that this new award was different and sets up differently than existing teaching awards. She continued that her team was not necessarily against the awards, but they are of the opinion that they should have been collectively bargained.

Ms. Gibbs answered that administration categorized them differently, and had classified them as a part of 23.7(a)(1), which allows for teaching awards.

Dr. Padavic asked in that case, what then would new awards even refer to.

Dr. McCann stated that if different criteria are being introduced from existing awards, then she thinks it stands to reason that it's a new award.

Ms. Gibbs responded stating that the two teams have different perspectives on the classification and interpretation of this language.

Ms. Scoles elaborated on that point, reiterating that administration had viewed this as a teaching award.

Dr. Kistner articulated that the focus of the award may be new, but not the criteria. It is still a teaching

award.

Dr. Hannahs disagreed, stating that the award had not been given before, therefore it was a new award.

Dr. McCann inquired as to whether there are multiple types of teaching awards. She continued that this one still seemed new given the new criteria, and finished by stating that it would have been helpful for the two teams to have discussed it.

Provost McRorie replied that she had been operating under idea that the new award fit as an expansion under the teaching awards category. All her office had been striving to do was reward and recognize hard-working and outstanding faculty members.

## **9. University Plans Regarding Coronavirus**

**UFF**

Mr. Lata moved on to the next agenda item, explaining that obviously the Coronavirus pandemic was on a lot of people's minds currently, and that the UFF team had been receiving questions from faculty members. He wondered whether administration had any updates or general insights that could be passed along to faculty members with questions.

Vice President Clark replied that there will be extensive detail discussed at the deans and chairs meeting the next day, and to avoid redundancy he does not want to go through every bit of that presentation here also. If there were any specific questions UFF had related to the Coronavirus pandemic, he would be happy to answer those. One complication he has been experiencing is an influx of questions from all corners of the University. He explained that many are rather self-explanatory and time consuming for his office to try to respond to them all. As an example, last night a question came in at 10:30pm regarding a conference that thousands of people attended, the CDC is contacting anybody that attended that conference, and his office sent out an email to everyone who was believed to have attended the conference, in cooperation with the CDC's guidelines at this time. The person responded by asking "why did they receive this email?" This process had caused his office to have to go back and locate and pull all of the materials related to this conference to be able to respond to the inquiry.

He continued that his office is fielding hundreds of questions a day, all of which take time and resources to respond to and many of which are answered by the website the University created to address the Coronavirus. The University is doing its best to try to contain the spread of the virus. Earlier today, the State Department said that anybody that travelled internationally should self-quarantine for 14 days, and he has been working to get that message distributed out to everybody. The University is considering mandating that anyone who travels internationally going forward must receive Vice President approval prior to doing so. The UFF and everyone else should trust that the University administration is speaking regularly with state officials, local officials, hospital representatives and peers at other Universities to see what they are doing. He thinks in many ways Florida State is ahead of its peers in handling the virus. He believes Florida State is doing everything it possibly can do to contain and address this issue. What the UFF can do to assist is refer people to the website that has been created, and to research any questions they might have before reaching out to the administration. Encourage them to wash their hands as much as possible, and if they are sick to stay at home. He doesn't believe the University can do much more than is currently being done. University leadership is doing everything it can to protect the University, while also understanding that there's important work to get done by faculty and staff.

Dr. Hannahs asked, as questions come into the UFF team from faculty members, what is the best way to handle them? He agrees with VP Clark that sending them to university leadership at 10pm is not a good

practice.

Vice President Clark replied to send them to the website, or if the questions are health related to send them to a doctor or to the hospital.

Mr. Lata inquired that if the campus were to be closed, what would be the trigger for that.

Vice President Clark responded that firstly, he believes there is a false assumption that if campus were to be closed, then faculty and staff would not be allowed to be there. Research in the labs and things of that nature would still be ongoing. Right now, there is a high probability that even if students were not allowed continued access to campus, that does not mean the same would be true for faculty and staff. Any decision about the closure of campus would be made in consultation with the health department, and with the Board of Governors and the senior leadership team.

Mr. Lata questioned that right now then there was no exact trigger that would result in campus closure.

Vice President Clark responded that was correct. Currently, there were 12 known cases in the state, all except for 2 of them due to international travel. He thinks comfort can be taken that there is not a whole lot of community spread at this time. What triggers a campus closure is an increase of cases in Leon County, or known cases on campus, or something of that nature; there is not a magic number that if hit will trigger a campus closure. One other thing the UFF can help administration with is in talking to students. Students may not be fully prepared and comprehending the potential for disaster with this outbreak. Sick students should be discouraged from going back to their apartments where there would be the potential for them to spread it to others. If a student does contract the virus and are waiting on their parents to arrive to care for them, where will the student reside during the interim 24-48 hour period while the parents are travelling? The University does not want them going back to a residence hall or anything of that nature where they would risk exposing other students. Students should be thinking ahead and have a plan for a series of what ifs, and this is something that faculty can help them with.

Dr. Buchler inquired, stating that he hates this potential scenario, but given the stance on international travel, does that mean all spring break international programs would be cancelled.

Vice President Clark replied that cancellation of those programs looks likely.

Dr. Hannahs asked if that also meant cancellation for all visitors to campus from international locations.

Vice President Clark answered that was something administration was currently reviewing and making a determination on.

Mr. Lata asked what about the required clinical component for nursing curriculum, which requires a certain number of hours of clinical training, how would situations such as that be handled in the event of a closure.

Provost McRorie responded that there are a lot of those sorts of situations emerging from the arts. The University is examining and considering as many options for those as they possibly can. Her office sent out a long email the previous week about utilizing Zoom for video conferencing, and are exploring a lot of other resources that could be made available for people that need them. She thinks Zoom is a great resource and much better than similar ones the University had previously been using. She continued that if it does turn out to be impossible for a student to finish a class, there are some other options that could be available. A different type of work could be assigned to complete in place of the original tasks, in some circumstances. In others, an incomplete might have to be assigned and the individual could finish up

the work at a later time. If the situation does play out to a worst case scenario, she would anticipate a great deal of incompletes being given out across institutions, and that will involve a great deal of extra work by faculty to work with students on how to work around that issue.

Mr. Lata inquired in the instance campus is closed, what will be the changes between online and distance learning, and what about students who don't have economic access to all the resources required for distance learning.

Provost McRorie replied that was a situation that was being looked at right now as well. Students that don't have the right access or equipment, how the University can best work with and assist them. These are the types of questions all institutions are considering right now.

Vice President Clark elaborated that the school has a lot of laptops that could potentially be distributed out to students in need or to faculty members potentially. Mr. Lata's question centered around students, but a campus closure could potentially affect the work of faculty members as well. What resources would they need at their fingertips to be able to continue their work? Information Technology has already established a website, which was linked to from the Human Resources web page, that discussed what it means to work from home and what faculty might need to be able to do so. One last thought on Nursing, the University worked with them to order an abundance of masks and shields very early on in the Coronavirus outbreak. He thinks they will be able to survive the effects of the outbreak. One thing he does worry about is College of Medicine students, who are out in the field working at a variety of medical facilities. The Wellness Center has stocked up on toilet paper and other items that would be essential, and they have a pressurized room at the facility also. He finished by stating that there are a lot of moving pieces and a lot of things going on behind the scenes because they are difficult to communicate to everybody and that everybody is in different situations.

Provost McRorie articulated that there was a new website that's been established that conveys many of these ongoing measures, "[fsu.edu/coronavirus](https://fsu.edu/coronavirus)".

Dr. Hannahs thanked her for that information, and stated that he will begin directing people with questions to that website.

Vice President Clark stated that for department specific questions, he would refer people firstly to their departmental Chairs or Deans.

Dr. Padavic asked if a move to distance learning was forthcoming, could some faculty members potentially go ahead and begin initiating that right away, if they are elderly or has health issues and thus at increased risk from Coronavirus?

Provost McRorie answered that they would need to go through their Chairs and Deans to get appropriate approval, but she thinks that is something that could be arranged.

Vice President Clark added that they've been looking into payroll and what measures need to be taken there to ensure that office can continue to function. He understands that's a critical area for everybody, everybody wants to continue to get paid.

Provost McRorie elaborated that leadership is really trying to be as proactive as possible, to think ahead of any issues that could potentially come up and have a solution ready, but that it really is a very complicated and complex issue.

Mr. Lata asked if the UFF and other faculty would have access to any materials that are going to be



presented at the Chairs and Deans meeting the following day.

Vice President Clark responded in the affirmative, the materials will be posted to the Chairs and Deans website. He's going to post links to answers for a bunch of the questions that are frequently being asked around this issue as well, such as "what does it mean to self-isolate" and similar. The University has been trying to post flyers and other informative documents around the campus as much as possible as well.

Dr. Hannahs stated that one potential issue he has been receiving a lot of questions about is if a faculty member gets sick and is asked to self-isolate, and it takes a large period of time to recover, what if that faculty member does not have enough sick leave saved up? Some of the newer faculty in particular don't have much leave saved up. They would be faced with the choice of not making a mortgage payment or potentially having to come in to work sick.

Ms. Gibbs answered that the University recognizes that everything is in new territory at this point, however, there are policies and procedures that govern these processes. At this time, the University is still adhering to those policies. The quarantine period may involve legitimate work that can be done from home, in which case this time period wouldn't need to be counted as sick leave. Beyond that, the University does have a very generous sick leave allotment and there are additional options such as the sick leave pool, and emergency loans. She understands this isn't a complete answer for every single person and every single scenario that could potentially arise.

Vice President Clark elaborated that he thinks the most important thing for anyone in that situation is to contact HR so that they can receive and follow the correct guidance. At this point he is not aware of a single instance that was unable to be resolved. He stated that the administration wants to work with faculty to find a solution that works in every scenario and that works for the person who is ill or who has to be quarantined. Every person so far who has been asked to quarantine has done it voluntarily and done it pleasantly and it was not a financial burden and they did not have to tap into leave.

Dr. Hannahs thanked them both for their replies and stated that he would pass that information along.

Ms. Gibbs thanked Dr. Hannahs for asking that question, as she is sure that it is a very common one and one that both teams feel is very important.

Vice President Clark stated that he is feeling very optimistic about the measures that the Florida Department of Health has put in place to deal with this outbreak. He wants everybody to know they have been wonderful to work with so far, and have responded wonderfully to everything that the University has asked of them.

Dr. Joe Clark stated that he just wanted to thank the administrative team for everything they have done so far and for all of the information they have passed along here today.

## **10. Legislative Update**

**UFF**

Ms. Gibbs pivoted to the next agenda item, stating that given the current state of things there was no legislative update to be passed along at this time.

Mr. Lata responded that his team understands, and thanked the administrative team so much for their time today.

Ms. Gibbs replied thanking the UFF team for their time as well, and wished everybody in attendance a wonderful and safe rest of their day.

**\*Meeting adjourned at 2:55pm\***