
UFF Consultation Meeting

November 13, 2019

The Training Center

1:30 p.m. – 2:30 p.m.

AGENDA

Janet Kistner
Kyle Clark
Sally McRorie
Renisha Gibbs
Rebecca Peterson
Carolyn Egan
Adam Donaldson
Sarah Murphy
Sarah Grace

Jack Fiorito
Nancy Kellett
Matthew Lata
Irene Padavic
Tom Wazlavek

1. Minutes from Consultation Meeting on April 25, 2019

Renisha Gibbs welcomed everyone to the Consultation. With a couple of new faces in attendance, she asked for a round of introductions around the table. She continued that the President was called urgently to the Capitol this morning so he is unable to attend, he sends his regrets, and his team that is here representing him today believes they will be able to speak to all of the agenda items. She asked if, with that out of the way, both teams should review the minutes from the previous consultation.

Dr. Irene Padavic responded that her team sent over a couple of suggested corrections.

Ms. Gibbs replied that she had reviewed those and accepted the proposed changes, and thanked Dr. Padavic for them.

2. Timing of Salary Requests to the Legislature as per CBA clause 23.1C and

UFF

3. Follow-Up to Faculty Senate Presentation on Budgeting

UFF

Mr. Matthew Lata introduced the next agenda item, stating that the following was not meant to be contentious. He explained that their membership has been inquiring about the salary request which is mandated by the Collective Bargaining Agreement and made to the Legislature; they're interested as to the nature of how and when is that request made. He continued that he knows the initial request to the Legislature was made about 3 weeks prior to today's meeting.

Provost McRorie answered, explaining that every university has the opportunity to present a Legislative Budget Request (LBR); this year Florida State presented two. One of those requests was to hire more faculty and staff, and one was to present a better experience for graduate students. In one of those, a request was made for \$6.5 million, which if appropriated would be put towards faculty promotions, faculty-based salary increases, and counter offers which are occurring quite frequently these days. Additionally, that would also go towards expenses related to both retain and recruit elite faculty. That was the frame-work of the request. We thought the idea would resonate more with the BOG and the Legislature that we want to retain the very fine people that we hire here, rather than just saying it was for “increases,” which may not carry as much weight.

Mr. Lata asked if there had been any indication as to how that request had been received.

Provost McRorie replied that for the first time the BOG listened to the entirety of the LBR’s. She elaborated that she and the President presented to them on October 30th as did every other institution, and for the first time the BOG collectively advocated on behalf of the University to the Legislature.

Mr. Lata asked if in the past they would just present a request and walk away.

Provost McRorie answered that essentially yes, they would not stay and lobby for the requests in the manner that they are doing now. She continued that performance funding is an interesting one, because everybody in the system is competing against one another for its allotment, and the metrics for it aren’t necessarily the most favorable to Florida State. But in the case of pre-eminence funding, for a while now the University has met 12 out of 12 qualifying factors. Last year the Legislature did not award any pre-eminence or performance funding and that was one of the reasons that it was a very lean year for the institution in terms of budget.

Provost McRorie continued that the BOG has put forward after listening to everybody’s presentations, an idea for a split for pre-eminence, an idea which Provost McRorie and her peers are not in complete agreement with. The BOG says that the funding split would result in \$55 million to the University of Florida, \$43 million to Florida State, and University of South Florida (which has now joined the pot) would receive \$33 million. She explained that her office is not sure why FSU would receive \$13 million less than Florida, or why USF would receive nearly as much as FSU when they aren’t meeting any of the 12 qualifying factors. But that is where the situation currently stands, she explained, it’s a new twist and a new reality. The President has been quite clear that he thinks this is problematic. The Provost and President have made the case to the BOG that the University needs all \$50 million that was requested, and an equal share of pre-eminence funding, whatever amount that turns out to be.

Vice President Clark elaborated, stating that never before has pre-eminence been regarded as a system-wide initiative in which the entirety of the SUS will be advocated for. He continued that everybody was surprised in late October when the allocation amounts came out. He was not expecting it to be anything different than it had been in the past. When the University received word that \$43 million had been allocated to the University, he and the Provost both made calls to try to figure out what was going on. He inquired as to why more was being allocated to UF than to FSU, and was told basically that’s the board’s decision. Since then, President Thrasher has made a number of phone calls looking into this. At the October 30th meeting they decided to table that item instead of voting on it. And on November 19th the President, Provost and Vice President Clark will be travelling to Ft. Myers and will make another presentation as to why Florida State needs that funding. November 22nd is the date that he believes the University will hear a decision from the board on how that money is being allocated. Current state law says that it must be split between the state institutions. Nothing in the statute speaks to any differing amounts. In order for that to change, there has to be a change in state statute and the methodology for how

funds are distributed.

Provost McRorie stated that to bring this discussion back to the original question, a request was indeed made for funding faculty salaries.

Vice President Clark articulated that each school is being allowed to present items of distinction or items of recognition along with their budget request. Each one has some sort of special issue on their campus that is being allowed to be a part of the system-wide LBR. A system-wide allocation process is being advocated for currently, as opposed to every institution doing its own thing and making its own separate request. He continued that he has a hand-out to pass out that will help fill in some blanks regarding this issue.

Passes out a handout

Vice President Clark made clear that this handout is from 2016 or 2015, and mirrors the legislative session that is ongoing currently. A document similar to this handout will be forthcoming soon from the budget office. From his conversations with faculty members and the university advisory committee, his impression is that sometimes this document doesn't make it all the way down the channels so that all faculty members see it. This is how the University's budgets and priorities work. He elaborated that he sends out this memo to all Vice Presidents, they send it down to all of their staffs, and Provost McRorie also sends it out to all of the Deans. It contains a timeline for all budget proposals. The legislative session starts in January this year. All of the units around campus will submit their proposals through the appropriate Vice Presidents. The Vice Presidents will review and prioritize them in some fashion, and then submit them to the budget office. Typically, around the end of March, Vice President Clark, the President and the Provost will begin to review all of the proposals from around campus. The #1 goal when putting together the operating budget every year is to recruit and retain the outstanding faculty at Florida State. That has been the goal every year since Vice President Clark has been here and nothing about that is going to change. Typically, the bargaining process with faculty starts in March. His office has always tried to get operating budgets to departments by July at the latest so that new hires can be pursued and not have any prolonged vacancies.

Provost McRorie explained that is why the University was able to hire 250 new faculty members the other year when it actually received some money. The Deans and Chairs knew very early on that they would have money to spend.

Vice President Clark elaborated that there is an enrollment management task force in place that's involved in setting enrollments goals that impact the budget. The Faculty Senate Steering Committee has a chance to voice any areas they want to be focused on. There are a lot of factors and requests to receive and review before he and the President sit down and look at how everything should be allocated.

Provost McRorie stated that she had \$38 million worth of budget requests this year, and \$2 million to spend.

Dr. Padavic inquired as to how collective bargaining interacts with this budgeting schedule. For instance, what would happen if bargaining had not concluded by the time allocations are being made.

Vice President Clark answered, explaining that he, the President and the Provost get together and put a target amount on what is available for faculty and staff. There are many areas that require funding by a set date or the institution would fall out of compliance, so the allocation process in some areas has to move forward regardless of if bargaining has concluded or not, or the university could incur a penalty of some sort. He concluded that is one reason why he and Ms. Gibbs have urged the bargaining process to begin

earlier each year since stepping into their roles. Provost McRorie added that the years when the legislative sessions start earlier, it becomes much easier on her end to administrate.

Dr. Padavic responded that a fear she has heard from faculty, and one that she shares, is that the target amount that is set by VP Clark and the Provost could ultimately be one that they fall short of.

Vice President Clark answered that he understands that concern. He assured Dr. Padavic that it's just a target number, and there are always other variables that have to be factored in as well. Take the construction of the Earth, Ocean and Atmospheric Science building going on currently. This building is going to reach substantial completion on Friday. His office is going to take over that building, and faculty and departments are going to start moving in. The state never funded any of the custodial or plant work for that building, so that's a \$1.8 million expense the university is going to have to incur until it gets fixed. That is what he means when he says it's just a target amount, there are always going to be other factors at play that could affect that number.

4. Concerns about Ad Hoc Policy Investigations and Hearings, including: UFF

- a. Office of Research
- b. Title IX Training
- c. Peer Panel Standard of Evidence
- d. Performance Standards

Matthew Lata opened up the next agenda item, stating that there are some areas in which his team feels policies may be getting created on sort of an ad hoc basis without proper notice or discussion.

Tom Wazlavek continued that his team understands there was a faculty member that was called into some sort of interview, at which point UFF-FSU Grievance Chair Nancy Rogers was told that there can only be one person in the room with them and that they cannot speak on his behalf. Mr. Wazlavek believes that process is not in accordance with Weingarten rights.

General Counsel Carolyn Egan responded that the process in question had no authority to discipline, as an inquiry of that sort does not lead to discipline, ever. This policy is long-standing, originally from the 90's and last modified in 2014 or 2015. Before we decide what rights do and do not apply, we all have to agree that this was an inquiry that doesn't result in discipline and does not have the authority to.

Mr. Wazlavek responded that it was his belief that the outcome of this inquiry could ultimately be discipline.

General Counsel Egan replied that no, this was a decision on whether or not to go forward with an investigation; there was no discipline that could result from a research inquiry.

Mr. Lata asked if no information that was gleaned during that meeting could be used during a disciplinary hearing.

General Counsel Egan answered that she hadn't said that.

Ms. Gibbs stated that this matter had been discussed previously and it was decided to allow a representative to be present at the inquiry. Her and administration's stance is that they are really just trying to reach a resolution on this issue.

Mr. Wazlavek offered that whether it's called an inquiry or a meeting or anything else, an employee has a right and that right is based on what they believe, not what administration believes.

General Counsel Egan replied that the issue at hand has been resolved, and the policy in question is available online if anybody wants to look at it. It has been there, it's a long-standing policy, and roughly one of these types of inquiries has been convened every year, to her memory. They have been used to correct data errors or things of that nature. She cannot recall a single one in twelve years that has resulted in discipline; they are regarding an academic research integrity issue. She isn't saying that it never could or never would, she is just passing along her experience based on her recollection over a dozen years.

Mr. Wazlavek answered that he thought the important part was that General Counsel Egan said that discipline could happen. He stated that that settles it from his perspective.

General Counsel Egan clarified that what could happen was that it could lead to an investigative action and the investigative action could lead to discipline. That could happen with anything at any time.

Mr. Wazlavek replied that if a faculty member believes that they are being questioned in an area that leads to discipline they have an ability to put their hand up and state that they would like to have representation.

Mr. Wazlavek continued, moving on to standard of evidence regarding the Peer Panel process. He explained that the language in the contract pertaining to the Peer Panel process does not specify a burden of proof. In the first one that was held, both sides argued to the panel what they thought should be the standard of evidence, and the union's side prevailed in that instance. The second time, the administration appeared to have somehow put out a document that appears to be a policy, and in that policy they appear to have said that the standard of proof is a preponderance of the evidence; the union did not agree to that. Mr. Wazlavek stated that each side should do like was done the first time and make a case to the Peer Panel and let them choose.

Ms. Gibbs responded that the Human Sciences performance evaluation is the first case Mr. Wazlavek referenced, and she doesn't recall anything being argued about burden of proof within it. In the second case, it was decided to make it clear which standard administration believed to be the correct one. Ms. Gibbs stated that the preponderance of evidence always has been the standard and, until it is bargained and possibly changed, that is what it will remain.

Mr. Wazlavek replied that more and more arbitrators are using the higher standard of clear and convincing evidence in such cases because the outcome is potentially a career-impacting decision.

General Counsel Egan answered that she could go all the way back and cite the McHugh case from the 1990's where a preponderance of evidence was used. She could go back and find history of the standard of evidence that has been required throughout the years, which has been generally accepted until recently, when the union argued differently on the case Mr. Wazlavek just referenced.

Dr. Padavic turned to the next issue, which was one that Robin Goodman had wanted to raise, who unfortunately could not be present at the meeting today but that Dr. Padavic would raise on her behalf. The issue is the mention of "appearance" of a romantic relationship that was discussed during recent Title IX trainings, even though this word does not appear FSU's Sex Discrimination and Sexual Harassment policy or in the CBA.

Ms. Gibbs replied that she would like to speak with Ms. Goodman to hear specifically what she is referring to.

Dr. Padavic answered that she feels this is more about the theme of agenda item #4, it being important that what is being done by administration doesn't violate the contract or have the appearance of something that UFF has explicitly rejected. The theme of #4 is creating policy without procedure.

Dr. Jack Fiorito offered that continuing on the theme of ad hoc creation of policies, all of the items are very different matters with differing degrees of seriousness. The next one he introduced was in its very early stages. His understanding was that a Dean in the College of Business had put a committee in place to review removing named Chairs from faculty.

Vice President Clark asked if the case was that they would not be removed from faculty, they would just remove the chair or the professorship holder.

Dr. Fiorito answered that was correct; they are not taking them out of the faculty, but to him it still looks like a disciplinary action. The action is based on some idea of what performance should be and a determination by somebody that a performance standard was not being met. It seemed to be being done without consideration of the collective bargaining agreement and he would like to encourage Deans, including his own, to consider the CBA when making policies.

Provost McRorie asked if he knew if this process would be tied to annual evaluations.

Dr. Fiorito answered that it probably would be, but nothing concrete had come out about it yet.

Vice President Clark explained that he knows nothing about this case in particular, but he does know a bit about endowed chairs. His understanding is that there are standards that have to be met to continue in the endowed chair position and he wondered if Dr. Fiorito was suggesting that there should not be. Vice President Clark and Ms. Gibbs have discussed developing some sort of policy around endowed chair professorships, not necessarily about removing people from those positions, more about how they are compensated and making that process consistent across campus.

General Counsel Egan remarked that she was remembering back a long time ago. Her recollection was that around the time they were discussing this matter with President Barron, and the creation of distinguished professorships, it was discussed that the union had been completely hands off and had not regulated the endowed chairs in any way and had no desire to be involved. They had held a discussion as to whether the position could be created as a classification of professor or not, and her recollection of the conversation at that time was that the union said, "we have always stayed out of your endowed chair positions and we do not want to be involved in that."

Dr. Padavic stated that she remembers a time when Dr. Abele was trying to set up endowed chairs and she believes the compensation discussed was a \$5,000 stipend.

Vice President Clark opined that he has noticed there are differences in the way these are administrated across different departments.

Dr. Fiorito offered that he doesn't remember the exact conversations, but that it was certainly decided to leave the details of it alone. However, the contract language does state "subject to collective bargaining," so to him it seems like something that could be bargained if the union chose to do so.

Vice President Clark asked Dr. Fiorito if in this instance he was referring to an externally distinguished chair or the one that was internally developed.

Dr. Fiorito replied that he thought it was the internally developed one, but he wasn't certain.

Vice President Clark responded that if it's the internally developed one there was most likely not a whole lot of external opinion of what goes into it.

Ms. Gibbs stated that she thinks the bigger issue at play here is a process whereby if someone is not doing what they've agreed to do within the framework of this professorship, there needs to be a process to remove them or get them to perform adequately. If there's a supplement being provided and the person isn't fulfilling what's being expected of them, she believes there should be a mechanism in place to remove that supplement.

Dr. Fiorito replied that he was not sure that the requirements of this position have been spelled out as clearly as Ms. Gibbs might have been told.

Ms. Gibbs answered that she agreed with Dr. Fiorito. She thinks a process needs to be put in place to start spelling that out moving forward.

Ms. Rebecca Peterson stated that if the compensation were to be received after this process was put in place, then it would be spelled out ahead of time what needed to be done to receive it and under what circumstances would it not continue to be received.

Dr. Fiorito stated that would be great. His concern is that retroactively someone might be told they weren't performing duties, when at the time they weren't aware of what they needed to be doing.

Ms. Gibbs replied stating that she understands his point. As her office begins to work on this matter and address this issue, she will make sure his point gets addressed.

5. Deadbolts and Other Safety Concerns

UFF

Mr. Lata moved on to the next item of discussion, stating that the UFF and their constituents continue being told that they would see new security measures across the campus; however, they are yet to see them. He noted that he has noticed an increased police presence at some events recently. He has also heard recently that some College of Education employees only want to work on the first floor because they think it is easier and safer.

Vice President Clark responded that he thinks there has been significant investment across the campus in safety and security measures. It's difficult for him at a consultation meeting to address specific one-off situations. His office has been working with the College of Education. He thinks this is a great example of where the union and the University can work together. The union can pass along to any of its interested members that if they have a question or an issue, they can reach out to campus police who would be happy to come out to inspect and advise on a specific area. There has been some crime in transient areas. The Chief of the FSU Police Department (FSUPD) has been meeting regularly with the Chief of Police of Tallahassee and the Sheriff's Office. They do seem to be offering more support to the University than in the past. He continued that he and the President would be meeting with them again over Thanksgiving week to continue these discussions. They have some research data on crime deterrence they are prepared to share. There has been investment on campus in more camera equipment and license-readers which he thinks has helped a lot. There has been a great deal of discussion on panic buttons, and a number of classrooms now have panic buttons in them. The challenge with them is if a faculty member doesn't tell someone that their panic button isn't working, then no one knows to go in and fix it. His office is constantly looking at new technology to invest in and making sure that campus police have all the tools

necessary and at their disposal to ensure a safe campus. He works very closely with FSUPD, including meeting with them several times a week, and he thinks they're really doing a great job. There are 5 new officers starting this Friday, and he has requested the city to add more to the campus. He has asked the Sheriff's Office to help out as well. They've started trying to stagger the shifts around campus because the Chief thinks some people may have caught on to the times of shift changes and when there might be less security around campus. He has really been trying to work closely with the student population to help them understand that nothing good happens after midnight, and doing everything possible to get them indoors by that time. Measures include safe ride, walking buddies, and police officers have offered to pick students up late at night at libraries so they don't have to walk home alone late at night. He and administration are trying to do all they can to make sure everyone's safety on campus is paramount, but you can always do more and keep an eye out nationwide on what is going on and he is doing that as well.

Mr. Lata responded that they are looking forward to President Thrasher's take on security and what he will say to the legislature.

Provost McRorie replied that he is down there all the time working on our behalf.

6. General Legislative Update

UFF

Mr. Lata stated that the only two bills outside of the budget that affect things here are the union busting bill and the gun bill which President Thrasher seems pretty confident is not going anywhere. That is all we had for today.

Ms. Gibbs thanked everybody for their time, concluding that it was nice to see everybody.

Meeting adjourns at 2:29pm