



United Faculty of Florida

UNIVERSITY OF NORTH FLORIDA

June 14, 2023

To: University of North Florida Board of Trustees Collective Bargaining Team

Michael Mattimore, Managing Partner, Allen, Norton, & Blue
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John Kantner, Senior Associate Provost for Faculty and Research
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Rosemary Ponce Ferguson, Director of Employee and Labor Relations
Cliff Ross, Department Chair, Biology
Justin Sorrell, General Counsel

CC: Kevin Hyde, Chair, University of North Florida Board of Trustees

RE: Contractual Impacts of Post-Tenure Review on Mandatory Subjects of Bargaining

As we stated in the bargaining session on June 13, 2023, the UFF-UNF Collective Bargaining team is noticing the UNF-BOT Collective Bargaining team of the following impacts of the proposed Post-Tenure Review policy ("PTR") on mandatory subjects of bargaining.

TERMS & CONDITIONS OF EMPLOYMENT: The current proposed PTR policy and procedures change the way in which faculty are evaluated and the meaning of tenure. Below is a selection of articles related to terms and conditions of employment that are impacted by the policy and/or contradict the Collective Bargaining Agreement:

- **Article 13 - Non-Reappointment and Resignations:** The proposed PTR policy from your team states that "Each faculty member who fails to meet the requirements of a performance improvement plan by the established deadline shall receive a notice of termination from the Provost."
 - This conflicts with what is outlined in Article 13 where the process for non-reappointment is outlined. The policy will need to be revised so that non-reappointment related to PTR complies with the procedures outlined in Article 13.
- **Article 14 - Assignment of Responsibilities:** The proposed PTR policy from your team states that "The level of accomplishment and productivity of the faculty member in meeting assigned

duties in research, teaching, and service, including clinical and administrative assignments. The guiding documents for evaluating the level of accomplishment are found in the approved departmental guidelines.”

- First, this language includes references to administrative assignments. Faculty performing administrative assignments are not considered in-unit and language around their PTR should not be included in our Collective Bargaining Agreement.
 - While we appreciate the reference to guidelines, there is no clarity within this language about how assigned duties are defined and this poses a potential conflict with this article which more clearly lays out what is meant contractually by “assigned duties.” This article will be referenced related to determining whether faculty are performing their assigned duties in the PTR process.
- **Article 18 - Performance Evaluations**: Currently, as mentioned in the above discussing concerns with the policy in the above article, it is again not clear which departmental guidelines are being referenced.
 - We will be very clear in our response that it is Article 18 on Performance Evaluations and that the departmental guidelines are interpreting annual evaluations. This article will be referenced related to faculty’s annual evaluations being foundational documents within the comprehensive post-tenure review process.
 - Further, the proposed policy states, “For each faculty member who receives a performance rating from the Provost of ‘does not meet expectations,’ the Dean, in consultation with the faculty member’s Department Chair, shall propose a performance improvement plan to the Provost.”
 - Additionally, section 18.10 Sustained Performance Evaluation specifies that “A faculty member employed by the University for five (5) or more years following the award of tenure or their most recent promotion, who has received a rating of less than Meets Expectations two (2) or more times in a given category during the previous five (5) years, must develop a performance improvement plan which is subject to the approval of the faculty member’s chair/supervisor.”
 - Your policy offers no involvement of faculty as required by section 18.10. This will also be remedied in our response to your proposed policy.
 - **Article 20 - Tenure**: Again, the policy currently states that a faculty member “who receives a final performance rating of ‘unsatisfactory’” shall receive a notice of termination from the Provost.
 - This article indicates that “tenure is one of the principal means by which the quality of the University is developed and maintained, is an indispensable element of a quality university, and is awarded to a faculty member based upon their demonstration of excellence in teaching, excellence in scholarship, and continuing meaningful contributions in service. **The award of tenure means that tenured faculty members will be reappointed annually until voluntary resignation, retirement, removal for just cause, or layoff.**” This means that the process of just cause will have already been handled, applying the relevant Article 32 on Disciplinary Action and Job Abandonment, **prior** to the post-tenure review process. Faculty in the position of an unsatisfactory

review in the PTR process are, according to the contract, given a non-reappointment following the procedures of Article 13 on Non-Reappointment and Resignations. By exposing faculty to these post-tenure reviews and subjecting them to this process and possible non-appointment you are changing the very definition of tenure as agreed upon in our CBA.

- **Article 33 - Grievance Process and Arbitration**: The proposed policy references “the faculty member’s history of professional conduct and performance of academic responsibilities to the university and its students” on numerous occasions.
 - This is no evidence that (1) faculty will have an opportunity to respond to their evaluations/accusations or even be made aware of such until the evaluation reaches the Provost and (2) is not provided an adequate opportunity to respond to this other than appealing the final decision.
 - This is not only a violation of past practice but also appears to be an attempt to bypass the formally agreed-upon grievance procedures outlined in Article 33.

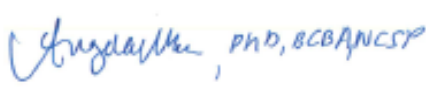
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- **Article 30 Salary**: The proposed post-tenure review policy and procedures currently indicate “the appropriate Dean, in consultation with the faculty member’s department chair, shall recommend to the Provost appropriate recognition and/or compensation” and that “the Provost shall make the final determination regarding recognition and/or compensation.”
 - Article 30 specifically states “UFF will be notified on any proposed salary increase and the opportunity to discuss the proposed increase with the University President or designee prior to implementation” and “The Provost will inform UFF of new stipends or awards as they are established, and UFF may designate such items for future negotiations upon the expiration of the current Agreement.”
 - In addition to our concerns about disparate impact based on the current proposed language, there is no indication that the University Administration plans to notify UFF of any compensation afforded to faculty for successfully completing the post-tenure review process. This would be a violation of the contract.

In summary, the above-identified articles outline some of the many impacts of the post-tenure review policy. Other articles in the Collective Bargaining Agreement not identified above may also be impacted. Additionally, as referenced in section 8.3 of Article 8 in the Collective Bargaining Agreement, we emphasize that language in the current in-force 2022-25 Collective Bargaining Agreement overrides any new language introduced by the proposed post-tenure review policy. Further, the BOG Regulation 10.003 and the policy adapted from the regulation both state “Nothing in this policy is intended to prevent the University from instituting additional evaluation processes, criteria, or standards so long as they meet or exceed the requirements outlined in section 1001.706 of Florida Statutes, Board of Governors Regulation 10.003, any applicable collective bargaining provisions, and other University regulations.”

We made formal requests to impact bargaining at the table on March 28th, 2023, and April 19th, 2023. At these times, we also agreed that impact bargaining sessions would be scheduled separately from reopener bargaining sessions. Based on this agreement at the table, we expected that an impact bargaining session would be scheduled, and then, consistent with past practice, we expected that your team would formally bring your proposed policy with the proposed procedures to the table where we could discuss the impacts and ask questions. Although UFF was provided the policy on May 1, 2023, UFF was not provided the procedures explaining how the policy would be implemented until May 25, 2023. To properly negotiate the impacts, it is imperative to have both the proposed policy and the procedures. Please note that these documents were provided months after we requested more information about how you planned to enforce the regulation and well after the proposed policy and procedures were circulated across the university, bypassing the union.

We look forward to negotiating the ways we resolve these impacts and conflicts with the contract as they relate to both the policy and procedures and, as stated in the session on June 13, 2023, will submit our draft of our proposal for the policy with its procedures as soon as it is complete and vetted by our legal counsel which we anticipate will be completed in time for the session dates we proposed at the table.

A handwritten signature in blue ink, reading "Angela Mann, PhD, BCBA/NCSP".

Angela Mann, PhD, BCBA
UFF-UNF Chief Negotiator