
THE FACULTY VOICE

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Life in the Corporation

Dan Kimel

The first grievances arising from the non-tenure earning multi-year appointments at Florida Gulf Coast University (FGCU) have made their way into the system. The grievance process generally highlights the realities of the interactions between faculty and administrators. The spot light in this case shows that the major effect of the decision to use non-tenure earning multi-year contracts at FGCU has been to take faculty out of the process for retention or dismissal of other faculty.

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The record at FGCU shows zero faculty input into the decision about retention of a colleague. This is the telling story of University life at the turn of the millennium. It appears that universities have adopted an industrial model that was abandoned by many large corporations nearly 50 years ago. Quality circles in automobile manufacturing give significant decision making power to the line workers who are making the cars. The move to non-tenure earning multi-year

contracts has the effect of moving academic decision making back to an era when administrators made all the decisions in industry. From the point of view of a viable university this move spells disaster.

The reality of higher education, as I see it, is the individualized development of the capacity to creatively confront a new situation and develop new solutions to the problems in the context. Long experience has shown that this development is not the equivalent of making a toothbrush, or any other article of commerce. It may be possible to operate a trade school like a toothbrush factory. A first rate university is another matter.

Florida State University has already adopted limited use of non-tenure earning multi-year contracts. It seems inevitable that there will be an attempt to expand the use of these instruments. If the faculty feel that there is any value to faculty control of decision making in faculty personnel matters, the expansion of use of non-tenure earning multi-year contracts must be stopped. How can we do that?

Faculty organization and solidarity is the sole effective procedure for either maintaining or improving conditions in the University. Florida State University cannot unilaterally expand the use of non-tenure earning multi-year contracts without the agreement of UFF. Every member of the United Faculty of Florida contributes palpably to the ability of the union to effectively negotiate the interests of the faculty. Join your colleagues in protecting faculty interests. Join UFF!

Some Highlights of the Fall Semester Consultation Between UFF and the Administration

On Monday, November 15, 1999 the UFF consultation team, consisting of President Dan Kimel, Senators James Fendrich and Susan Losh, and Grievance Chair Chris Gorsuch met with members of the FSU administration, including Provost Larry Abele, Dean of the Faculties Steve Edwards, the President's Contract Representative Neil Betten, and General Counsel Alan Sunberg.

Responding to numerous complaints about the deplorable state of disrepair of many of the buildings on campus, the UFF team asked Provost Abele whether the administration was taking steps to improve the level of maintenance. He said that the University is developing a web site where faculty, professional staff, and students can report building problems. Presumably, they will also be able to track the progress being made on the complaint. Provost Abele said the web site would be on line in December. Let's hope that the administration does something to improve the lackadaisical attitude toward building maintenance that is prevalent at FSU.

Questioned on whether the administration would provide clear exterior signs giving directions at the University Center, Provost Abele promised that he recognized the problem and that plans for exterior signs were underway, waiting only for the approval of the design by President D'Alemberte.

There was considerable discussion by the UFF team of the "Kimel Case," now before the U.S. Supreme Court, in which 36 faculty are suing FSU and FIU for age discrimination. UFF pointed out that the first statewide UFF president was Ken Megill, a philosophy professor at UF, who was fired by that university. UFF fought the case in the courts, taking the case to the Court of Appeals in New Orleans. There the Court ruled

against us. We had a good case, but at this time, during the Nixon administration, we recognized the hostile political environment. If we appealed the case to the U. S. Supreme Court and lost, it could contribute to a dangerous legal precedent. The decision by UFF was to drop the case.

Similarly, if the SUS and FSU win the Kimel Case, they would be contributing to setting a dangerous precedent. Currently the "States' Rights Five," Justices Rehnquist, Scalia, Thomas, Kennedy and O'Connor seem to be raising the ghost of John C. Calhoun, arguing that the 11th amendment to the constitution takes precedence over the 14th amendment and Congressional action. Paraphrasing the *New York Times*, a sweeping constitutional ruling constricting the ability of Congress to define and legislate protections for civil rights and calling into question a slew of existing civil rights laws, including the Americans with Disabilities Act, the Equal Pay Act and Portions of the 1964 Civil Rights Act is a dangerous precedent.

Former Senator, Congressman, and staunch advocate of older Americans, Claude Pepper, must be turning in his grave. If he were alive today, it is doubtful that he would set aside a large portion of his estate to fund the Pepper Center at FSU, seeing that FSU is pursuing a legal action whose consequences are so threatening to the welfare of older Americans.

UFF has three suggestions:

1. SUS and FSU should withdraw from the case before the U. S. Supreme Court and let the case be argued on its merits in a lower court.

2. SUS and FSU should quickly convene a blue ribbon committee to seek advice on the wisdom of pursuing the lawsuit.

3. SUS and FSU should use existing funds to provide the pay increases for the surviving members who are part of the Kimel lawsuit. This would make the Supreme Court ruling moot.

Except for General Counsel Sunberg's remark that "this discussion made him extremely uncomfortable," the administration's only response was to take these suggestions "under advisement."

Asked about reports that UFF has received that heavier teaching assignments are being given to faculty on phased retirement or in the DROP program, Dean Edwards and Provost Abele strongly stated that any such added assignments would be totally against FSU policy. Provost Abele said that he had made clear at a meeting of Chairs and Deans in October that faculty in the DROP program should be treated in teaching assignments exactly the same as other faculty.

UFF questioned the administration about the distribution of "salary equity" monies which will be available this year. Dean of the Faculties Edwards confirmed that there will be \$672,000 in differential tuition money, which the relevant student committee recommended to be spent on merit increases for faculty and professional staff. In addition to this, there will be from \$300,000 to \$350,000 for market equity raises for faculty. Dean Edwards said the distribution of these raises would strictly follow the guidelines laid out in the UFF/BOR Collective Bargaining Agreement.

Because there have been several cases at FSU where the administration has attempted to circumscribe the tenure rights of faculty belonging to "Auxiliary Entities," such as the Panama Canal Branch of FSU, UFF asked the

administration about these entities. Dean Edwards said that this was an accounting term and that there were no instances in the University where facilities have been switched to being "Auxiliary Entities" if they were not so designated originally.

The next consultation between UFF and the FSU administration will be scheduled for the Spring semester. **Any FSU faculty member or professional staff may suggest issues to be brought up at this consultation** by contacting Dan Kimel at 644-3437 or kimel@hep.fsu.edu.

Affirmative Action

On October 24, the UFF Senate, meeting in Tampa, approved the following statement concerning affirmative action:

As educators concerned about equal opportunity in education, we the members of UFF oppose the anti-affirmative action amendment proposed by Ward Connerly to dismantle affirmative action in Florida.

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Market Equity Raises

There will be \$672,000 in differential tuition money, which the relevant student committee recommended to be spent on merit increases for faculty and professional staff, available this year to help relieve the effects of salary compression for senior faculty.

In addition three million dollars in new “market equity” raises will be added to State University System faculty salaries early in the Spring, retroactive to August 7. These permanent raises (not bonuses) were negotiated by the United Faculty of Florida and the Board of Regents. Both sides lobbied hard this year for money to increase faculty salaries beyond the general raise for state employees. An extra ten million was in the budget until the last hours of the Legislature when the figure was cut to three.

It seems unlikely that either TIP or PEP will be funded next year. Nevertheless, the Legislature may be persuaded to fund market equity salary adjustments again; the BOR has requested twelve million dollars for this item.

The Chancellor stated that fixing salary compression is his number one faculty salary priority this year. There is now a consensus in Florida universities that for two decades we have hired, at relatively high starting salaries, the most talented faculty available – only to find their salaries virtually frozen once they got here. The Legislature seems finally to realize that salary compression (the longer faculty stay, the worse their condition), is a problem that hurts the universities and needs to be addressed. Legislators seem most easily convinced that market equity adjustments are the way to overcome the problem of compression.

The Colleges and Schools at FSU must decide which national study most accurately reflects how far faculty are behind in their

discipline. (The results must be reported to the Provost and then to the UFF/FSU.) If there is no agreement on disciplinary studies, the Oklahoma State University study can be used to determine how far faculty are behind. (Ask your dean.) “Merit” is to be understood as merit over the long run – not merely merit during the past year.

The purpose is to distribute raises to the many meritorious faculty we have worked so hard to recruit over the years – not to sequester funds to be shared only by those who make the decisions. The process must be credible if we are to keep up the momentum. The means faculty must make sure that time lines, criteria and procedures are known to all and agreeable to all as fair ways to begin what we hope will be an ongoing process.

If faculty want to make UFF/BOR market equity raises work, they need to contact legislators and recommend more funding.

UFF’s Web Site

UFF has revised and expanded its Web Site. It now includes the complete text of the current Collective Bargaining Agreement, a link to UFF’s web page on salaries in the State University System, where you can browse salary data for in-unit and out-of-unit faculty, staff, and administrators for the **whole State University System**. The data can be down-loaded into your favorite spreadsheet for analysis.

Use your browser to access this resource at <http://www.fsu.edu/~uffinfo/>

Know Your Agreement

Who owns your WEB based materials?

A number of people have enquired recently about ownership of WEB based materials. The question has some academic interest. The larger interest is in who own the materials should the materials be marketed to other users.

Ownership of intellectual property is the subject of *Article 18, Inventions and works*. The definitions found there for “inventions” and “works” include instructional technology materials, which might be WEB based.

Article 18 says that,

“The university shall not assert rights to the following works:

- a. Books, articles, and similar works, the intended purpose of which is to disseminate the results of academic research or scholarly study; and*
- b. Works developed without the use of appreciable university support and used solely for the purpose of assisting or enhancing the employee's instructional assignment.”*

The article further says that,

“Upon the creation of a work and prior to any publication, the employee shall disclose to the President or representative any work made in the course of university-supported efforts ... Within sixty days ... the President or representative will inform the employee whether the university seeks an interest in the work, and a written agreement shall thereafter be negotiated to reflect the interests of both parties,”

The language above says that the ownership of WEB based materials is subject to negotiation between the University and individual faculty members. The distinction between dissemination of research and conduct of instruction will be one of the issues that must be addressed in any negotiation concerning ownership and division of proceeds for WEB based materials. Generally the creation of scholarly books is partially pinned to the desire to better educate students in a discipline. The publication of scholarly material through the WEB has many similar motivations.