

November 16, 2021

United Academics (UA) files this Step Three grievance in accordance with Article 12 of the Full Time Collective Bargaining Agreement (CBA). The UVM administration has violated provisions of Article 14.5 in the process of making changes to faculty evaluation criteria that expand on or otherwise do not reflect the changes that were expressly bargained in the CBA.

On September 28, 2021, UVM's Labor and Employee Relations sent UA drafts of 'blue sheets' and 'green sheets', Reappointment Promotion and Tenure (RPT) documents, for comment, indicating that: "The formal peer review (blue sheets) and promotion (green sheets) documents are being updated to reflect the diversity, equity, and inclusion efforts expected of faculty that are now incorporated into the CBA."

However, the changes sent by the administration, and now posted on the Provost's website as finalized, represent a deviation from what was bargained and language that is in the CBA. Detailed faculty evaluation criteria have been bargained; in particular, the addition of diversity and inclusion language into Article 14.5 was the subject of bargaining, and resulted in a number of specific changes to the CBA. The administration cannot then unilaterally decide to change evaluation criteria and change language which conveys a different meaning than what is in the CBA. To include the new criteria in scholarship evaluation, for example, was discussed in bargaining and not agreed upon by the two parties. The parties agreed that the changes would be limited to Teaching and Advising, and Service. Any changes in the updated RPT forms should conform to the contract: the new diversity and inclusion language should surface in the categories of Teaching and Advising and Service alone, and not in any other location in the revised RPT documents. In violation of the contract, the administration has included the change in the scholarship section of the RPT documents. In addition, the specific language that was negotiated relating to new evaluation criteria such as "may include" and "as appropriate" is significant and should be preserved. The administration's unilateral removal of that language in the RPT forms conveys a requirement, which does not comply with the contract language or the intent clearly negotiated in bargaining.

Background:

Following the September 28, 2021 email from Labor Relations with drafts of 'blue sheets' and 'green sheets', UA replied with detailed edited drafts on 10/13. UA's comments focused on including new criteria only in areas of evaluation that were specifically bargained and incorporating the CBA language that conveys options rather than absolute requirements (e.g. "as appropriate" and "may include") (See Attachment A.)

The next email from Labor Relations on the matter was a link to finalized, posted updated documents sent on October 22 saying: “The RPT forms have been posted to the Provost’s website:

<https://www.uvm.edu/provost/guidelines-and-forms-reappointment-promotion-and-tenure-rpt>

On October 27, UA replied, conveying the issues and attempting to reach resolution: *“We had a number of proposed changes on this that the administration appears not to have accepted. In such a case, we would expect there to be further discussion and negotiation before the University implements the changes. As you know, the incorporation of new diversity, equity and inclusion criteria in faculty evaluation was considered in great detail and negotiated at the bargaining table over many months. Both parties agreed to particular changes, and every word of the changes was very intentional. The result of that process was the language in 14.5 which is very specific. The revisions on the RPT documents that we made and sent you on 10/13 reflected the changes that both parties negotiated in the CBA. The documents that are now posted do not incorporate that feedback on the negotiated language and are therefore problematic and not acceptable to UA. I am attaching a version of the green sheet review with highlights and comments to indicate where the administration has deviated from the CBA language (which we previously noted).”* (Attachment referenced is included as Attachment B)

On Oct 28, Labor and Employee Relations (LER) responded with the following: “The comments provided October 13, 2021 on the RPT forms were taken into consideration before releasing the final versions. Per Article 14.4 paragraph 6: “The Union will be provided the opportunity to review and comment on any changes in the University-wide forms used in the RPT process or any other form related to the evaluation of faculty.” It is the administration’s stance that the union was given this opportunity and that management has met its obligation under the CBA. The right to review and comment is not the same as negotiating the language on the forms. As you can see, several of the suggested changes were made.”

The administration’s interpretation of Article 14.4 as the only relevant issue misses the fact that in collective bargaining the two parties specifically negotiated new evaluation criteria and agreed to very explicit language relating to the incorporation of diversity and inclusion criteria in faculty evaluation of Teaching and Advising (Article 14.5.e.i) and Service (Article 14.5.e.iii). If LER’s October 28 interpretation were correct, which it is not, there would be no purpose in having bargaining detailed contract language in Article 14 on the incorporation of diversity and inclusion criteria in faculty evaluation. UA and the UVM administration spent hundreds of hours drafting and discussing specific proposals, making revisions, and eventually arriving at an agreement on detailed CBA language. The UVM administration cannot then include only parts of that language, when the omission of other parts conveys a different meaning, nor can they add new criteria to areas of evaluation that were not agreed upon.

The administration’s modifications of the RPT forms that are problematic are listed below, with references to the CBA:

UVM Administration’s changes (noting section # on green sheet form)	CBA language (noting Article #)	Issue
<p>Candidate’s Summary of Accomplishments: In accordance with Article 14.5.e of the CBA, provide evidence of consideration of and/or incorporation of diversity and inclusiveness in the classroom, advising, and/or mentoring</p>	<p>14.5.e Evaluation Criteria: Each candidate is expected to be engaged in a program of work that is sound and productive and that can be expected to continue to develop throughout their professional career, consistent with the needs and mission of the University, and incorporating a commitment to diversity and inclusion.</p>	<p>This section corresponds to the general statement about “incorporating a commitment”, rather than requiring evidence of specific teaching, advising, and/or mentoring practices which are covered in detail in later sections. New language should reflect CBA language</p>
<p>2d. Curriculum/Course Development: Provide evidence of consideration of and/or incorporation of diversity and inclusiveness in the classroom</p>	<p>14.5.e.i Teaching and Advising: Effectiveness in teaching is an essential criterion for reappointment, promotion and tenure. The prime indicators of effective teaching include, but are not limited to: • intellectual competence, integrity and independence. • evidence of knowledge of the field. • evidence of a willingness to consider suggestions that emerge from peer review of one’s teaching. • evidence of the ability to work with other faculty members in designing and delivering a curriculum that fosters student learning. • evidence of the ability to present course materials clearly and effectively. • evidence of the capacity to structure the course and its assignments in ways that promote student learning. • evidence of the employment of strategies to assess students’ learning and adjust one’s teaching in light of the findings of those assessments. Article 14.5 Appointments & Evaluation: Tenure Track and Tenured Faculty 36 • evidence of an ability to stimulate students’ intellectual interest and enthusiasm. • evidence of consideration of and/or incorporation of diversity and inclusiveness in the classroom, advising, and/or mentoring, as appropriate.</p>	<p>Failure to state “may include” and the incorporation of only one example, rather than the full list, conveys a different requirement than what was negotiated.</p>
<p>2e. Teaching, educational accomplishments: Describe any accomplishments that are not included above, noting</p>	<p><i>No incorporation of language concerning Our Common Ground regarding faculty evaluation.</i></p>	<p>“Our Common Ground” is not defined in the CBA, and was not negotiated. Specific language relating</p>

<p>particular contributions that align with the tenets of Our Common Ground.</p>		<p>to new evaluation criteria was negotiated and is in the CBA. Other new language and new criteria such as the “Our Common Ground” should not be added after the fact.</p>
<p>3a Academic Advising. Provide a summary statement of Advising responsibilities related to general student guidance (e.g., career plans, course planning). Provide evidence of consideration of and/or incorporation of diversity and inclusiveness in advising, including serving as an advisor to student clubs or organizations that promote diversity and inclusion on campus.</p>	<p>14.5.e.i Teaching and Advising: The parties recognize that no single set of measures and methods can be prescribed to evaluate the quality of teaching or advising. Some of the measures and methods, however, may include but are not limited to: (a) Assessments by members of the candidate’s department and Department Chair or equivalent, particularly if based on examination of course materials, team teaching experiences, observations of the candidate’s teaching through class visitations, attendance at lectures given by the candidate or on the results of the candidate’s teaching in courses prerequisite to those of other department members. (b) Evaluations of teaching or advising by students, appropriately documented and interpreted, for example through the use of student course evaluations, advising questionnaires, post-graduate surveys, etc. (c) Development by the candidate of new and effective techniques of instruction or assessment and instructional materials, including textbooks, particularly when evidenced by acceptance at other colleges or universities. This may also include the development and assessment of web-based courses and the effective transfer of current courses to a web-based format. (d) Publications by the candidate on the teaching of his or her discipline in respected journals. (e) Recognitions and awards for distinguished teaching. (f) Evaluations from service-learning partners. (g) Evaluation of teaching by a co-instructor. (h) Documentation of the utilization of active learning pedagogy by faculty professional development and instructional design staff such as are employed by UVM's Center for Teaching and Learning, Writing in the Disciplines Program, Community Engaged Learning Office (CELO), the Access Office, and the Residential Learning Communities.</p>	<p>Removal of “may include” and the incorporation of only one example, rather than the full list, conveys a different requirement than what was negotiated.</p>

	(i) Serving as an advisor to student clubs or organizations that promote diversity and inclusion on campus. (j) Attendance at workshops and/or other professional development events regarding inclusiveness in the classroom. (k) Attendance at workshops on non-discrimination, sexual harassment and diversity.	
4biii. Scholarship/Research/Creative Activities. Grants/Contracts: Provide agency, award period, amount, role, and a 2-3 sentence description of the project that may include elements of the work that help advance diversity, equity, and inclusion.	14.5.e.ii Scholarship/Research/ Creative Activity: <i>No incorporation of any new language in the CBA relating to Scholarship/Research/Creative Activity</i>	Parties agreed that new diversity and inclusion evaluation criteria would not be applied to scholarship/research activities.
5.b.i Service, University: Describe Committee appointments, administrative positions, work groups, etc., in the following order: Department, College, University. If applicable, include a description of how the efforts align with the inclusive excellence plan or initiatives of the Department, College or University or other ways it supports diversity and inclusion.	14.5.e.iii on Service: Faculty may make contributions through effective participation in community, state, national or international outreach or other endeavors relevant to their professional discipline, such as through service on governmental boards, commissions or task forces; accreditation teams, editorial boards, or peer review panels; professional organization committees or boards; community partnerships; involvement in local, state or national organizations that promote diversity and inclusivity in society; and the like.	'Inclusive excellence plan' is not defined in the CBA, and was not negotiated. Specific language relating to evaluation criteria and diversity and inclusion was negotiated and is in the CBA. Other new language and new criteria such as the 'inclusive excellence plan' should not be added after the fact.

Proposed Remedy

To remedy the violation, the Provost's office should immediately amend the RPT documents to reflect what UA and the UVM administration bargained and the specific language that is in the CBA, and should remove the changes that the administration included which were not bargained.

Attachment A: Draft green sheets and blue sheets with UA comments, sent by UA on 10/13/21

Attachment B: Draft green sheets highlighting issues with posted document, sent by UA on 10/27/21