November 18, 2021

RE: COVID Health and Safety Step Three Grievance

In accordance with Article 12.10 of the Collective Bargaining Agreement, United Academics (UA) is filing this Step 3 grievance in its role as the union representing full-time and part-time faculty at UVM. As detailed below, UA contends that the administration is in violation of Article 25 "*Safety and Health"* of the full-time Collective Bargaining Agreement and Article 21 "*Safety and Health"* of the part-time Collective Bargaining Agreement for lack of safe working conditions regarding employee exposure to and lack of sufficient contact tracing of the COVID-19 virus in classrooms, office spaces, and laboratories.

Background:
United Academics has received numerous complaints from faculty across campus due to lack of clear communication, processes, and safeguards involving contact tracing and exposure to COVID-19 in classrooms, office spaces, and laboratories. The administration has failed to provide notification of close contacts for faculty, and for staff and students, in accordance with the Vermont Department of Health (VDoH), Center for Disease Control (CDC), and Occupational Health and Safety Administration (OSHA) guidelines. Many faculty have reported that their students who have tested positive for Covid-19 are known to have been in class for at least 50 minutes within close proximity to the instructor and other students, yet in numerous cases there has been no evidence of contact tracing to notify instructors of possible exposure. Instructors are becoming aware of close-contact exposure only when they are told directly by students in their classes who tested positive, and in these same cases instructors have not been notified by the administration of those exposures. This is especially concerning as the administration has no information at this time as to the vaccination status of faculty members.

Article 25-Safety and Health
In accordance with Article 25, ***[t]he University shall provide faculty members with safe*** *and healthy* ***conditions of work*** *consistent with its obligations under OSHA and any other state, federal or local law or regulation. . .* (emphasis added).

After reviewing the UVM website for contact tracing policies, the search unearthed only vague language about student contact tracing[1]; there is material describing a contact tracing process for students[1,2,] but there does not appear to be a policy that identifies a documented process for faculty who are considered a close contact. The administration's failure to follow contact tracing guidelines from OSHA, VDoH and the CDC represents a failure to provide safe working conditions and a threat to community public health, both on and off campus.

The University Administration has claimed, with no supportive evidence or data, that no transmission of COVID-19 has occurred in the classroom, stating that "*[l]ast year, before the vaccine, we had no transmission in a classroom."*[2] Yet the University has presented no data to back such claims, and the conditions in place in classrooms last year were different in that there were classroom de-densifying and social distancing protocols in place, which are not now in effect, and there were fewer students, faculty, and staff on campus overall. This academic year the University's position is that nearly 100% of students are fully vaccinated, and everyone on

campus is required to wear masks, so transmission is unlikely. It has also claimed that there has been no evidence of classroom transmission this year, still without any validated data to back that claim. However, according to the CDC, *a person is still considered a close contact even if one or both people wore a mask when they were together*[3] and even if both are vaccinated, as it is well-known now that breakthrough cases are common and that vaccinated people can also become asymptomatic carriers. Furthermore, the University has not at this time collected data on how many of its faculty and staff are vaccinated.

Below are a few of the reports UA has received from faculty.

1. Faculty member was working with a student on an assignment for more than 15 minutes in less than 6 feet of distance. The student notified the instructor two days later stating they tested positive for COVID-19 (of their own accord). This faculty member, like many other employees across campus, has young children and an infant who are unable to be vaccinated. Furthermore, this faculty member has a young child who is immunocompromised and is highly susceptible to infection. The faculty did not receive any communication from the University about being a close contact.

2. Faculty & guest lecturer: Faculty member and a guest lecturer were teaching a lab. They worked within less than 3 feet of a student group for one and a half hours, which was necessary given the nature and content of the course. The next day the instructor was notified by a different faculty member in the same department, that a student (of their own accord) in the lab group had reported testing positive for COVID-19. Neither the faculty member nor the guest lecturer were notified by the University of being a close contact. The faculty member who was exposed notified the guest lecturer about being a close contact. To our knowledge, no students in the lab were notified, and faculty have been instructed by the Administration that they are not allowed to tell students that another student in the class has tested positive.

3. The instructor teaches in a very small classroom where the students and faculty are spaced closer than within 6 feet of each other. Faculty member has had numerous students out of class due to positive test results, yet has never been notified by the University regarding close contact. Again, the faculty member knows students are positive only because students are choosing to notify the instructor (there is no evidence that students are being encouraged to self-disclose, nor is it the students' responsibility to do so.)

4. A faculty member who tested positive had been at work prior to receiving positive test results. The person who tested positive was in a department meeting, sitting less than 6 feet from colleagues for an hour, yet the administration failed to notify other faculty that they had been in close contact with a positive person.

5. A faculty member met with a teaching assistant in their office for over an hour discussing the course in which the TA was going to assist. The faculty and TA were sitting less than 6 feet of each other for the duration of the meeting. The TA tested positive for COVID-

19, yet the faculty member was not notified by the administration that they were in close contact with a positive person.

6. A faculty member worked closely with a student, who later tested positive, working side by side for over an hour. The faculty was assisting the student with a writing assignment, therefore, needed to be within a few feet of the student. The student was in class sitting within 3 feet of other students in the class right before the faculty member met with the student. The faculty member was notified that they were in close contact with a positive person. Not knowing who had exposed them, the faculty member notified the student that the faculty member had been identified as a close contact. The student then told the faculty member that it had been the student who had tested positive. As the class has over 100 students, most of whom do not know each other's names, it is unclear to the faculty whether any of the students who were sitting within 6 feet for the duration of the class were notified as close contacts. The faculty member is not allowed to tell the class about their exposure and is concerned that students with equal exposure to the faculty members were not told of their exposure.

7. Faculty taught a 75-minute class and learned the next day from the students that there were three students who tested positive and three students with COVID like symptoms. The course instructor was not notified as a close contact and to their knowledge no contact tracing was completed for those students sitting next to the positive cases in the classroom.

Faculty are not receiving notifications from UVM contact tracers when they have been in close contact with a COVID-positive person in the workplace. The importance of contact tracing has been well established during the course of this pandemic. Now that UVM is not requiring regular testing, and given that many COVID positive cases are asymptomatic or people may only experience mild symptoms, the only way many people would know they should get tested is to be contacted via contact tracing. Faculty are receiving notifications from the Office of Student Services from the respective colleges that a student will be out of class for X number of days. The faculty are not being told of the reason, which is consistent with HIPAA regulations. This means that faculty do not know on the basis of these notifications which of those students may have been in class with COVID, and all they can do is guess if a time period is 10 days to two weeks that it may be COVID. Many such notices have been received by faculty this semester who work in close proximity to their students but without any notification by contact tracers. Although OSHA states the employer is not necessarily responsible for notifying employees of positive cases, the guidelines do specify that the employer is responsible for taking appropriate steps to *protect* workers from exposure to COVID-19[4]. Yet, as the cases above illustrate, classes in which close contacts have occurred are being allowed to continue in person unspaced.

In accordance with the OSHA standards, teaching would constitute a medium to high exposure risk due to the frequent and sustained contact under close working conditions[5]. Some faculty are potentially in the *high exposure risk* category due to the close "working" conditions in which students and faculty are in small, crowded spaces. Furthermore, if a faculty has numerous positive cases in the class at one time, this would constitute a high risk for faculty and students. Yet, there is no easily accessible, if any, policy stating how the University is defining medium and

high-risk areas around campus or what safeguards it has implemented to keep faculty, staff, and students as safe as possible. Furthermore, there are faculty who, as defined by OSHA standards[5,6], are *at risk* or have family members who are *at risk* (i.e., immunocompromised individuals, children, or spouse). Specifically, there are no known procedures for faculty who are in the *at risk group*. These faculty are concerned with the increasing COVID-19 cases in Vermont and increased exposure in the classroom, or UVM should have safeguards in place so faculty are able to provide pedagogically sound teaching in a safe working environment. The University needs to acknowledge that faculty may have unvaccinated children or immunocompromised elderly parents and immediate family members who are at increased risk and/or may not be able to be vaccinated. Furthermore, many faculty across campus have children 5 years or under who are ineligible for the COVID-19 vaccine. Additionally, the current process, applying through the ADA office, is not always appropriate nor suitable given various family situations of faculty across campus. Faculty who have young children or immunocompromised individuals within the immediate family do not qualify for ADA accommodations as ADA accommodations are specific to the disability status of the employee themselves. Additionally, the University has no data on how many faculty or staff members are vaccinated since data has only been collected on student vaccinations.

OSHA, the CDC, and the State of Vermont Health Department all have published criteria of what is to occur, should someone be considered a close contact. OSHA[6] specifies being tested 3-5 days after known exposure, the CDC[7] specifies that testing should be conducted 5-7 days after known or potential exposure, and the VDoH[8] recommends testing on days 2 and 7 after known or potential exposure. These criteria are explicitly for individuals who are *fully vaccinated.* Still faculty are not being notified of being close contacts. The University *should* be following those OSHA and the CDC guidelines in order to keep faculty, staff, and students safe. Lastly, *[t]he CDC Guidance for Business and Employers recommends employers determine which employees may have been exposed to the virus and inform employees of their possible exposure to COVID-19 in the workplace.* Yet the administration has not been doing this on a consistent basis.

In conclusion, the University claims contact tracing is occurring on campus, but neglects to notify many faculty of their close-contact exposures. There are no data to substantiate the University's claim that there has been no known transmission of COVID-19 in the classroom. Without seeking data regarding possible classroom transmission and without contact tracing being extended to classrooms in a systematic manner, the University in fact has no idea whether or not transmission has occurred in its classrooms. The University is obligated, in accordance with CDC and OSHA guidelines, to provide a safe working environment for all employees, yet there is substantial evidence to the contrary. Therefore, the working conditions at UVM during the COVID-19 pandemic are placing faculty at unnecessary risk of exposure to SARS-CoV2.

Additionally, UA is requesting the following information within 14 days, in accordance with Article 9.

1. Anonymized documents of all instances when faculty (full time and part time) and students were notified as being a close contact for COVID-19.
2. Documentation of how the University is determining who falls into the criteria of less than 6 feet for more than 15 minutes.
3. Documentation of how the University is determining what classrooms are not adequately sized to provide 6 feet of distancing, should it be necessary.

4. Data demonstrating the University's claim that "there is no evidence of COVID-19 transmission in the classroom."
5. Anonymized list of students and faculty (full time and part time) who have tested positive for COVID-19 since August 18, 2021.
6. Data on how the University is measuring spacing in the classroom and determining what constitutes close contact for COVID-19.
7. Documentation of how the University notifies students and faculty who are more than 15 minutes and less than six feet away from a student, staff, or another faculty who tests positive for Covid when the students do not know each other's names (classroom, offices, laboratories).

Remedy

As a remedy, United Academics is requesting UVM to take the following steps and precautions:

1. Immediate implementation of a contact tracing process that notifies faculty with 24-48 hours of a potential or known exposure from anyone within the University community.
2. Expanded COVID-19 testing beyond the existing Monday through Friday 9:00 AM to 5:00 PM testing. UA is requesting ample evening and weekend hours be provided to all students, staff, and faculty.
3. When faculty feel it is unsafe to be in the classroom, faculty should be given more flexibility to move to a remote environment for 7-10 calendar days without having to first secure permission.
4. Pursuant to Article 25 of the full time CBA and Article 21 of the part time CBA, the administration will notify United Academics of any potential or known unsafe or unhealthy working conditions of faculty.

Resources:

1. https://www.uvm.edu/news/uvmforward/covid-update-student-related-protocols, https://www.uvm.edu/uvmforward/current-covid-policies, https://www.uvm.edu/uvmforward/uvm-weekly-testing-results
2. https://www.uvm.edu/news/uvmforward/covid-update-student-related-protocols
3. https://www.cdc.gov/coronavirus/2019-ncov/faq.html#:~:text=For%20COVID%2D19%2C,of%2015%20minutes
4. https://www.osha.gov/coronavirus/faqs#reporting
5. https://www.osha.gov/coronavirus/hazards#risk_classification
6. https://www.osha.gov/coronavirus/safework
7. https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-plan/appendix.html#contact
8. https://www.healthvermont.gov/covid-19/symptoms-sickness/what-do-if-you-are-close-contact