

December 3, 2021

RE: Step Three Grievance: Conflict of Interest and Conflict of Commitment Policy

On behalf of all members of the full time bargaining unit, United Academics grieves a violation of Article 24, Conflict of Interest and Commitment, as incorporated by reference to the policy adopted September 14, 2014. Although as shall be recounted in the following, the university administration has claimed that the policy has been revised and that said revision has been agreed to by United Academics, there is no support for this erroneous claim. The parties have not executed any memorandum of agreement or side letter, or any other joint statement in writing and signed by the parties that would support any such assertion. Moreover, the university administration failed to give notice to United Academics, in its capacity as bargaining representative for the faculty bargaining unit, which it was planning to implement a detailed and substantive change relating to this policy with the new Conflict of Interest and Conflict of Commitment certification form.

The specific act being grieved is set forth in a November 7, 2021 email from Jes Kraus, UVM's Chief HRS officer, to United Academics Executive Director Katlyn Morris stating "...we will implement the February 11 version of the (Conflict of Interest and Commitment) policy which includes a requirement that faculty complete the annual conflicts of interest disclosure form. As you know, this form has already been distributed to faculty and it is the university's expectation that all faculty will complete it."

United Academics has made it clear to the university that such a change must be bargained and that there are problems with the proposed policy changes. On October 26, 2021, in a meeting of UA President Ellie Miller, UA Grievance Officer Wade Carson, UA Executive Director Katlyn Morris, UVM Labor Relations representative Jes Kraus, Megan Boucher, and Peter Blackmer, UA set forth a series of concerns about the new proposed policy highlighting that the university failed to request that the union negotiate the proposed policy. It also raised serious objections to a form that needed to be completed by all bargaining unit members and suggested a simple form on which the member would declare if there were a conflict and if so to provide additional information as requested. This would have been more in keeping with the current policy, which requires the unit member to report to their chair if there is a potential or possible conflict of interest or commitment. However, in the absence of any such conflict, no action is required. Article 24 of the Full Time Collective Bargaining Agreement on Conflict of Interest and Commitment states: "The parties hereby incorporate by reference the University's Conflict of Interest and Commitment Policy, effective September 14, 2014, to the extent relevant to bargaining unit members."

Moreover, on October 21, UA Executive Director Katlyn Morris sent the following email to Jes Kraus clearly asking for a response to UA's request for the proposed COI policy change to be bargained.

“We understand that we’ll be meeting next week to begin to discuss the Conflict of Interest policy, in response to our request to bargain this and our indication that this new requirement conflicts with the CBA. However, in the meantime, all faculty are receiving official UVM messages this morning indicating their form is due by tomorrow. It is a serious problem that the UVM administration is rolling out this Conflict of Interest policy change without bargaining those changes, particularly given that the 2014 COI policy is incorporated explicitly by reference as Article 24 of the CBA. We request that UVM immediately issue a message to all bargaining unit faculty noting that the COI emails are incorrect and that there is not a requirement for all faculty to do this at this time. This should be done today, since faculty have just received another misleading email from UVM this morning noting that their form is due tomorrow. Please get back to us as soon as possible on this.”

The university failed to respond to UA’s concerns about faculty being told that the form was due the following day. Nor did it respond to UA’s request that the COI filing requirement be withdrawn.

On October 17, UA Grievance Officer Wade Carson emailed Jes Kraus “...the sense of urgency to have a conversation and bargain what is being asked is increasing for UA. Can we set a firm timeline to have conversations and resolve the confusion around this issue?”

This history goes back well beyond a year to 2020 when the parties were bargaining what is now the successor Collective Bargaining Agreement to the previous one which also referenced the same 2014 policy on Conflict of Interest and Commitment.

At the June 8, 2020 bargaining session the union responded to a proposal of the administration proposing that the referenced policy “...may be amended from time to time.” UA Chief Negotiator Jane Knodell specifically rejected that language so as “...to make sure there aren’t changes made that can affect us without being part of that conversation.”

The university’s only response to this history of requests by the union that it bargain the policy that is incorporated by reference in the existing CBA was an assertion that the then UA Grievance Officer Keith Burt purportedly “agreed” to the change in an email of March 5, 2021. This claim is spurious. While in that email there is one vague line in which Professor Burt stated “...I have no further concerns or discussion needed on this particular policy,” the necessary context is missing. Moreover, a single email from UA’s then-grievance officer is not sufficient to constitute bargaining a change in the CBA or to execute UA consent to a change in policy, especially one that goes against the CBA. What is clear are the numerous repeated unequivocal requests by the union to bargain the proposed modifications to the referenced policy. Furthermore, a detailed email from UA’s then Grievance Officer later in March confirms in writing his intention to uphold the need for bargaining. That is, in a March 26th email to Mary Brodsky, Keith Burt said: "We discussed at our meeting last week, but I wanted to make sure that we followed up in writing that UA is requesting that any policies that are formally written into the CBA, including the Conflict of Interest / Conflict of Commitment policy (Article 24) as

well as the Intellectual Property Policy (Article 23), are inherently bargainable and should not be sent for review in a set of other policies with a short turn-around for comment. Anything related to these policies would need to be discussed as part of a formal impact bargaining process. I believe we are in agreement on this, but please let me know if you want to discuss further."

To correct the administration's violation of Article 24, United Academics seeks the following remedies:

- The current referenced policy in Article 24, the 2014 Conflict of Interest and Commitment policy, shall be adhered to by the university, and
- All directives and other actions not required by that 2014 policy and all those actions that are contrary to it shall be withdrawn immediately, and
- The University administration shall notify all full time bargaining unit faculty by personal email that the current referenced policy continues in force and that the announcement of the new requirement was in error.
- The University administration shall destroy all data collected on faculty members and their families through the process of newly requiring all faculty to complete the certification form.