



UNITED FACULTY OF FLORIDA

306 East Park Avenue • Tallahassee, Florida 32301 • (850) 224-8220 • Fax (850) 222-1767

November 11, 2014

Ed Meadows
President
Pensacola State College
1000 College Avenue,
Pensacola, Florida 32504

Mike Mattimore
Allen Norton & Blue
906 North Monroe Street
Tallahassee, Florida 32303
VIA EMAIL AND USPS

Dear President Meadows and Mr. Mattimore:

This responds to your letter dated October 31, 2014, alleging that Pensacola State College Faculty Association (PSCFA) and some of its members violated Florida Statutes 447.501(2)(f).

We flatly deny that assertion—and any of your other specious allegations claiming that PSCFA or its members have engaged in illegal activities regarding students or the student newspaper. Contrary to your assertion, no one from PSCFA sought to engage Pensacola State College students or the Corsair in labor relations matters. Rather, student reporters approached PSCFA and some of our members to conduct interviews about news items of interest to the Pensacola State College community.

In your letter you apparently claim that PSCFA's participation in an interview with a student reporter violates Section 447.501(2)(f), Florida Statutes as "contemplated by the Court" in *Board of Regents v. PERC*, 368 So. 2d 641 (Fla. 1st DCA 1979). Accordingly, you demand that the PSCFA "notify all faculty members that they are not permitted to seek student support for union activities." We respectfully decline. You also state that "[i]t is the College's expectation that the PSCFA will refrain from undertaking any other actions that violate [Section 447.501(2)(f).]" As previously mentioned, your letter mischaracterizes the nature of the PSCFA's and our members' actions. Nevertheless, we have not—and agree that we will not—undertaken actions that violate Section 447.501(2)(f), Florida Statutes. Indeed, the actions you suggest would not violate Section 447.501(2)(f) as the provision at issue has been found unconstitutional on its face and without any force or effect. *United Faculty of Florida v. Florida Board of Regents*, 585 So. 2d 991 (Fla. 1st DCA 1991). In that case, the court found Section 447.501(2)(f) to be "both a content-based and viewpoint-based restriction on speech," and that it restricts speech based on the identity of the speaker. *Id.* at 994. Accordingly, the court declared Section 447.501(2)(f) "facially unconstitutional" and that it "unconstitutionally abridges" First Amendment right to free speech, and it ultimately

enjoined PERC from enforcing the provision.¹ Id. As you should know, subsequent cases have repeatedly noted that Section 447.501(2)(f), Florida Statutes, has been declared unconstitutional and, thus, has no force or effect.

Your assertion that PSCFA or its members violated Rule 6A-10.081(3)(h), Principles of Professional Conduct for the Education Profession in Florida is similarly misplaced. Even if the provision applied to the college faculty context here—which it does not—the actual facts have no relation to “exploit[ing] a relationship with a student for personal gain.” Specifically, PSCFA and its members participated in a news interview and provided requested factual information about the status of negotiations. That participation has absolutely no relation to the provision at issue, not to mention the fact that PSCFA’s participation in these interviews is a protected legal right.

Nevertheless, I have serious concerns about your efforts to not only bully PSCFA and its members, but also your apparent efforts to harass student reporters. Student reporters have the unfettered right to speak with whomever they wish in pursuing a news story. And public colleges cannot attempt to control, manipulate or punish student reporters or newspapers. See, e.g., *Joyner v. Whiting*, 477 F.2d 456 (4th Cir. 1973) ; *Schiff v. Williams*, 519 F.2d 257 (5th Cir.1975); *Leuth v. St. Clair County Comm. College*, 732 F.Supp. 1410 (E.D.Mich.1990); *Kincaid v. Gibson*, 236 F.3d 342 (6th Cir. 2001)(en banc). Simply put, it is my opinion that the College may be harassing student reporters and interfering with protected First Amendment press rights by giving them “cease and desist” letters prohibiting them from reporting on collective bargaining with College faculty.

Your interpretation of Article 6 of the CBA, though creative, is just as erroneous as the other proclamations in your letter. The provision that you reference is simply not applicable to the matters at issue. As you are (hopefully) aware, the last sentence of Article 6.02 addressing academic freedom specifically provides that:

Faculty members are entitled to that freedom of association and expression which is guaranteed to all persons by the First Amendment to the Federal Constitution.

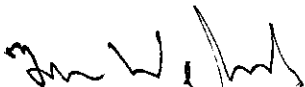
The CBA is clear that faculty retain all their constitutional rights and the courts have consistently ruled in favor of those rights.

Finally, I must say that I am troubled by your apparent attempts to extinguish protected rights in a harassing, intimidating, and coercive manner. Your October 31 letter is only the latest in a series of underhanded attempts to suppress our members’ constitutional rights by creating an atmosphere laden with fear of reprisal. The animosity toward

¹ Based on the court’s treatment of Section 447.501(2)(f), you certainly took creative liberty by mentioning in your letter that “courts have questioned its constitutionality.” A more accurate statement would be that courts have declared the provision “facially unconstitutional.” As an aside, I am a little puzzled by Mr. Mattimore’s mischaracterization of the court’s treatment, particularly since the case where the statutory provision was declared facially unconstitutional had specifically rebuked and overruled the lower PERC decision with Mr. Mattimore as the chairman.

PSCFA evident from the actions of the College, coupled with the frivolous claims, allegations and demands in Mr. Mattimore's letter, are creating a chilling effect on faculty members who engage in protected activity. It is UFF's expectation that the College will cease and desist with its harassment of PSCFA members and that it will refrain from undertaking any other actions violating the law, including, but not limited to, the United States Constitution, the Florida Constitution, and Chapter 447, Florida Statutes, and that the College will notify all faculty members and students that it will not undermine these protected rights.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Wazlaven', with a stylized flourish at the end.

Tom Wazlaven
Service Unit Director
Northwest Region

CC Ed Mitchell