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MEMORANDUM

To: Donna E. Shalala, President

From: Richard L. Williamson
Chair, Faculty Senate

A handwritten signature in blue ink, appearing to read 'Richard L. Williamson'.

Date: November 22, 2010

Subject: Faculty Senate Legislation #2010-05(C) – New Miscellaneous Section C20 of the
Faculty Manual

At its November 17, 2010 meeting, the Faculty Senate approved the proposal to add a new miscellaneous section (C20) to the Faculty Manual to define and explain the use of academic and legal counsel, mediators, the use of the phrase *academic days*, and move and modify Section C15.18 *Discretionary Authority of the Senate Officers During Academic Breaks*.

As part of the legislative history, the Faculty Senate Chair and the University General Counsel shall agree on the wording of a form which attorneys acting as Legal Counsel must sign.

The proposal is enclosed for your reference.

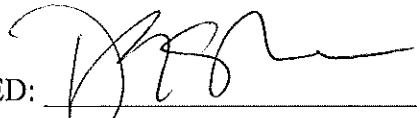
This legislation is now forwarded to you for your action.

RW/rh

cc: Thomas LeBlanc, Executive Vice President and Provost

CAPSULE: Faculty Senate Legislation #2010-05(C) – New Miscellaneous Section C20 of the
Faculty Manual

PRESIDENT'S RESPONSE

APPROVED: 
(President's Signature)

DATE: 1/19/11

OFFICE OR INDIVIDUAL TO IMPLEMENT: SENATE OFFICE

EFFECTIVE DATE OF LEGISLATION: _____
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: _____

REMARKS (IF NOT APPROVED): _____

C20 Miscellaneous Provisions

C20.1 Use of Academic Counsel and Legal Counsel

No Academic or Legal Counsel may make an appearance in that capacity before the Senate, its committees, or its hearing panels except:

1. as agreed by all interested parties and authorized by the Senate; or
2. by the committee or hearing panel concerned.

This provision does not preclude any faculty member from seeking the advice of an attorney or having an attorney prepare legal documents in connection with any matter before the Senate, its committees, or its hearing panels.

C20.2 Eligibility to Serve as Counsel

1. Subject to the two restrictions noted below, any current member of the UNIVERSITY FACULTY or any emeritus faculty member may serve as Academic Counsel, without regard to whether or not the person serving as Academic Counsel is a member of the bar of any American jurisdiction or otherwise has legal training.
 - a. No faculty member who is compensated for his or her services regarding a particular matter may serve as Academic Counsel in that matter.
 - b. No faculty member who has represented another faculty member before any court, arbitral tribunal, or non-university administrative body may serve as Academic Counsel in the same or substantially the same matter.
2. Any member of the bar of any American jurisdiction may serve as Legal Counsel, without regard to whether or not the person serving as Legal Counsel is a member of the UNIVERSITY FACULTY. Any issue concerning the unauthorized practice of law under Florida Law is a matter to be dealt with solely by the attorney.
 - a. Legal Counsel representing a member of the faculty before the Senate or any of its entities shall provide notice of appearance to any adverse party, to the Secretary of the Faculty Senate, and to the office of the General Counsel. The notice shall specify the person being represented, the jurisdiction(s) in which the attorney is licensed, the number(s) of the attorney's license(s), and the attorney's address and other contact information. Notice to the Senate shall be sent to the Faculty Senate Office by Certified Mail or hand delivery.

- b. An attorney acting as Legal Counsel under this Manual shall sign the established form pledging to abide by reasonable rules concerning confidentiality, decorum at hearings, the need to follow the direction of any hearing panel chair, production of documents only through the Faculty Senate office, and other relevant provisions provided in this Faculty Manual, and other relevant provisions of the Faculty Manual. Attorneys who engage in a single serious violation or repeated violations of a lesser character may be reprimanded or precluded from future practice before the Senate by the Chair of the Faculty Senate. In particularly severe cases, the violations may be reported to the appropriate jurisdiction(s) in which the attorney is licensed.
- c. An attorney acting as Legal Counsel who has had adverse action taken by the Chair of the Faculty Senate under paragraph (b) may appeal the decision to the Committee on General Welfare. Such an appeal is timely only if filed within 15 academic working days after notice of the action is provided to the attorney.
- d. Provisions of sub-paragraphs (a) and (b) above shall not apply to representations begun before the adoption of the provisions.

C20.3 Lists of Academic Counsel

The Secretary of the Senate shall maintain a list of UNIVERSITY FACULTY members who are willing in principle to serve as Academic Counsel. Persons named on the list are not obliged to serve in any particular case. The officer of the Senate may recommend the use of any particular Academic Counsel or Legal Counsel to handle a matter before the Senate or any of its committees or hearing panels. This restriction does not apply to other members of the Senate. Any recommendation they make is personal, and is not the recommendation of the Senate.

C20.4 Lists of Mediators

- 1. The Secretary of the Senate shall maintain a list of university employees with relevant training or experience who are willing in principle to serve on a *pro bono* basis as mediators of a dispute between a faculty member and a unit of the university, or between two faculty members. No mediation may take place under this section between a faculty member and a faculty member.
- 2. No officer of the Senate, no holder of any administrative position specified in section A7.1(f) or (g), and no member of the Committee on Professional Conduct, the Committee on Rank, Salary and Conditions of Employment,

the Tenure Review Board, or the Faculty Hearing Committee specified in C15.9 may serve as mediator under this section. This paragraph does not preclude Officers of the Senate or administrators from engaging in informal mediation efforts.

3. Use of a mediator pursuant to this section requires the written consent of all parties to the dispute. Persons named on the list are not obliged to serve as mediator in any particular case.
4. A mediator serving under this section shall be bound by the ethical standards and the requirements of confidentiality, and is entitled to hold matters in confidence from the university and all its employees, as if the mediation were taking place under judicial auspices in Florida.

C20.5 Academic Days

1. For all purposes under this Faculty Manual, the terms "academic day" and "academic working day" are synonymous.
2. Weekend days, University holidays, days from the last day of undergraduate examinations in the Fall Semester to the first day of classes in the Spring Semester, weekdays during inter-sessions, and any days during fall and spring breaks are not considered academic days, even if some classes are held on those days. Days designated by the University as major religious holidays, but which are not university holidays, are considered academic days. Meetings of any Senate panel hearing a complaint or dispute will not, however, be scheduled on such a holiday if any party makes a request based on religious observance. Such requests must be submitted to the Faculty Senate Office at least 10 academic days before the religious holiday.
3. Except as provided in paragraph 2 above, an academic day shall be any day taking place from the first day of undergraduate classes in the Fall Semester until the last day of scheduled final undergraduate examinations of the Spring Semester.
4. Any interested party may petition the Chair of the Faculty Senate to construe weekdays during the first or second summer sessions (or both) as academic days for purposes of that matter if:
 - a. All interested parties agree; or
 - b. The petitioner can demonstrate that the interests of the petitioner would be severely harmed by delay over the summer months. The Chair of the Faculty Senate shall grant such a request unless the harm to the interests of other parties from moving forward during the summer sessions

would exceed the harm to the petitioner from a delay until the Fall Semester.

C20.6 [[C15.18 was moved here, and the Committee on Rank, Salary and Conditions of Employment, and the Tenure Review Board were added to the listed committees.]]

Discretionary Authority of Senate Officers During Academic Breaks ¹

If a matter requires timely attention from the Faculty Hearing Committee , Committee on Professional Conduct, Committee on Rank, Salary and Conditions of Employment, or the Tenure Review Board during an academic break such as the summer period, and a sufficient number of appropriate elected members is not available, the officers may agree by majority vote to add other appropriate individuals to the Committee having jurisdiction over the matter. A report of any such temporary addition will be made to the Senate at its next meeting following the academic break.

¹ [#2000-25\(C\)](#)