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MEMORANDUM

To: Julio Frenk
University President

From: Tomás A. Salerno
Chair, Faculty Senate

Date: April 5, 2018

Subject: Faculty Senate Legislation #2017-34 (B) – Addition to the *Faculty Manual* in Section C20, to Add Rights and Duties of Academic Counsel

The Faculty Senate, at its March 21, 2018 meeting, approved the proposal, with grammatical corrections, to add a new *Faculty Manual* Section C20.3 and re-number subsequent sections. This added section is to address the scope and extent of confidentiality and privilege of Academic Counsel and the faculty members whom they assist.

BEGIN TEXT:

C20.3

(a) Rights and Duties of Academic Counsel:

- (1) an Academic Counsel has a duty to hold all communications from the Faculty Member in strict confidentiality, unless the member expressly authorizes its disclosure;
- (2) no one in the University has the authority to compel a complaining faculty member or his or her Academic Counsel to reveal the substance of a communication between them. Any attempt to do so, or to retaliate against the Academic Counsel for refusing such a request, may constitute unprofessional conduct within the meaning of B4.10.
- (3) anyone serving in the capacity of Academic Counsel has the same rights, duties and privileges concerning confidential communications and work product that they would have if the Academic Counsel were a licensed attorney in Florida.

(b) The provisions of paragraph (a) of this section apply where there has been an informal request for such information from outside the University.

(c) The provisions of paragraph a. do not apply where there has been a court order, subpoena, or formal request from a local, state, or federal agency requiring the production of testimony or documents. The provisions of paragraph (a) shall also not apply if state or federal law requires disclosure of the information to the University and/or to law enforcement agencies.

(d) The provisions of paragraph a. are inapplicable once the complaining faculty member has brought a legal action (whether in a court or governmental agency) against the University or where the University has become a defendant or respondent in another legal action involving the complaining faculty member. However, if a faculty member has acted as Legal Counsel (as outlined in the *Faculty Manual*) in the same matter, the privileges and immunities are governed by federal or state law, as the case may be.

END TEXT

[Re-number subsequent sections.]

This legislation is sent to you for your action.


TAS/rh

Enclosure

cc: Jeffrey Duerk, Executive Vice President and Provost
David Birnbach, Vice Provost, Faculty Affairs
General Counsel, University

CAPSULE: Faculty Senate Legislation #2017-34 (B) – Addition to the *Faculty Manual* in Section C20, to Add Rights and Duties of Academic Counsel

PRESIDENT'S RESPONSE

APPROVED:  DATE: 04/17/18
(President's Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: Faculty Senate Office

EFFECTIVE DATE OF LEGISLATION: IMMEDIATELY (Pending any additional required Board of Trustees approval)

NOT APPROVED AND REFERRED TO: _____

REMARKS (IF NOT APPROVED): _____