

**FACULTY  
ORGANIZING:  
PRACTICAL &  
LEGAL ISSUES**

**Bryant  
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Olive**

OUR NAME IS EASY TO REMEMBER. OUR WORK IS HARD TO FORGET.

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## WHERE WE ARE

- August 22, 2016 - United Faculty of Florida (UFF) filed a Representation-Certification Petition to represent a bargaining unit consisting of Full-time Faculty, Counselors, and Librarians.
- Excludes the president, assistants to the president, registrars, directors, deans, associate deans, and admission counselors.
- August 26, 2016 - Notice of Sufficiency issued by the Public Employees Relations Commission (PERC).

- Response to be filed by September 22, 2016.
- Response will state whether the College agrees or disagrees with the unit proposed by the union.
- Currently, we are assessing whether the Librarians and Counselors are appropriate for inclusion in the unit.

## NEXT STEP

- Hearing to determine the appropriateness of a bargaining unit.
  - Evidentiary Hearing with a PERC Hearing Officer
  - Proposed Findings of Fact & Conclusions of Law may be filed by the parties thereafter – 15 days
  - Recommended Order by the Hearing Officer – within 30 days
  - Exceptions to Hearing Officer's Findings of Fact & Conclusions of Law – 15 days
  - Response to other party's Exceptions – 10 days
  - Final Order by PERC
  - Appeal within 30 days of Final Order
- Consent Election Agreement

# ELECTION

- After there is a determination as to the appropriateness of a bargaining unit, an election will be scheduled.
  - Mail or On-site Election
  - Secret Ballot Process
  - Campaign
  - Challenges to Voter Eligibility
  - Objections and Unfair Labor Practices

# THREE BASIC RULES

- 1. Cannot discriminate against employees because of their union sympathies or activities.
- 2. Cannot make threats or promises in order to discourage union activities/sympathies.
- 3. Cannot "interrogate" employees about union activities or sentiments. Examples:
  - Whether employees signed union cards;
  - Whether employees attended union meetings;
  - How employees feel about unions, or this union;
  - How employees will vote in the election.
  - Includes "spying" on employees

- The College has the legal right to engage in free, non-coercive speech and conduct where a union is attempting to organize employees.
- You can and should legally and freely express your position on unions. You can and should attempt to enlist employee support for that position through direct contact and conversation with employees.

# PERMISSIBLE TALKING POINTS

- State that you and the College are opposed to the unionization of employees.
- State why you think it is unnecessary for employees to have a union here at the College.
- Point out that while the union may make lavish promises to employees in order to obtain their vote, no such promises can be fulfilled unless the College agrees. There is a difference between a promise and a guarantee.



- Emphasize the financial obligations (i.e., initiation fees, dues, assessments, fines) which employees have to assume if they join a union.
- Answer and refute as fully and factually as possible any false statements or misleading assertions made by the union.
- Emphasize the wage rates and benefit programs that the College has provided to employees without their having to pay union dues.

**You can and should express your opinion. You can listen. You can encourage questions. You can lend a sympathetic ear, and you can inquire as to how things are going on the job.**

# EMPLOYEE QUESTIONS

- Employees are typically not aware of their rights or the employer's rights and obligations when it comes to unions.
- All employee questions should be answered truthfully and correctly.

## WHAT EMPLOYEES SHOULD KNOW

- They do not have to sign a union card.
- They do not have to speak to union organizers.
- They do not have to belong to the union to keep their job. Florida is a “right-to-work” state which means, by law, they cannot be forced to be in a union.
- If they choose to belong to the union, they will have to pay union dues. Dues for UFF is 1% of regular salary.

- Employees can vote against the union even if they signed a union card. The election will be their opportunity to vote in freedom and they can vote against the union if they choose.
- Employees can vote against the union even if they pay membership dues. Many people are UFF members even though they are not part of a bargaining unit.

# THE IMPORTANCE OF VOTING

- Employees need to understand that it is important that they vote. It is very important that they be educated and fully informed voters.
- The union does not have to get a majority of all employees eligible to vote, but only a majority of those who actually vote in the election.
- Therefore, when employees do not vote, it is like they are casting a ballot for the union.

# THEY CAN'T JUST TRY IT ON FOR SIZE

- Once a union is certified as the bargaining representative, it is difficult to get rid of the union.
- Accordingly, employees should understand that they just can't "try out" the union. It is a lot harder to get rid of a union than it is to get one. If a union is voted in, we – the faculty and the College -- will be stuck with it for at least one year.

## BARGAINING – TRUE OR FALSE

- Once a union gets in, the faculty will automatically get what the union has promised. **FALSE**
- Once a union gets in, it can guarantee certain benefits and wages. **FALSE**
- Once a union gets in, the College must sign a contract. **FALSE**
- The union can guarantee job security. **FALSE**



## BARGAINING – THE TRUTH

- The union cannot force the College to provide anything that the College does not want to provide.
- The parties are required to engage in good faith bargaining. “Good faith bargaining” does not require that the College give into union demands that are not in the best interest of the College.
- The union cannot guarantee any new benefits. In fact, the union cannot even guarantee that employees will receive the same benefits that they enjoy now.

- Negotiations could result in some benefits staying the same, some benefits increasing, and even some benefits decreasing.
- The important point is the union has no power to legally or otherwise tell the College how to operate.

- If a union is elected, the College hands are tied as to who it must deal with in negotiations. The College may only negotiate with that certified agent. It can not negotiate or deal directly with individuals or other employee representatives.

# SUBJECTS OF BARGAINING

- An employer only has to bargain about those items that are mandatory subjects of bargaining. Such subjects include wages, hours and terms and conditions of employment.
- There are subjects for which the College will have a managerial prerogative. That is, there are certain subjects for which the College does not have to bargain.

# MANDATORY SUBJECTS OF BARGAINING

- Wages
- Benefits
- Teaching Loads/Office Hours
- Office Hours
- Attendance at Graduation
- Sabbatical
- Faculty Senate
- Evaluations
- Grievance Procedure

## PERMISSIVE SUBJECTS OF BARGAINING

- Some of these subjects include:
  - Layoffs
  - Subcontracting
  - Academic Term (semester, quarter, etc.)
  - Type of Academic Programs Offered
  - Class Size
- The College may make unilateral decisions regarding these matters without consulting the union. There might be a need to impact bargain, but the union cannot dictate the College's decision on these issues.

## MANAGERIAL RIGHTS - §447.209, Fla. Stat.

- It is the right of the public employer to determine unilaterally the **purpose of each of its constituent agencies, set standards of service to be offered to the public, and exercise control and discretion over its organization and operations.** It is also the right of the public employer to **direct its employees, take disciplinary action for proper cause, and relieve its employees from duty because of lack of work or for other legitimate reasons.**

# IMPASSE

- Despite the parties good faith attempts to negotiate a collective bargaining agreement, there are many times when the union and employer cannot agree.
- In such a case, one party or both will declare impasse. PERC will be asked to provide a list of Special Magistrates. The parties will choose an individual from the list. After a hearing at which each side presents its position, the Special Magistrate will make a recommendation to the Board of Trustees.



# THE LEGISLATIVE BODY HAS THE FINAL SAY

- For the College, the legislative body is the Board of Trustees. The Board will review the recommendations provided by the Special Magistrate. Ultimately, the Board of Trustees will make the final decision as to what will be in the collective bargaining agreement. The Board is free to follow, modify or reject any recommendation made by the Special Magistrate.
- After considering the recommendations, the Board of Trustees will impose the working conditions.

# WHY OPPOSE THE UNION

- We do not think that a union is necessary or beneficial to the best interests of the College's operations, the faculty, or the rest of the College community.
- We do not think that a union will represent the best interests of all the faculty, counselors or librarians.
- We do not think that the College will operate as productively or efficiently with a union. A union will effect the College's ability to work with bargaining unit members on an individual basis to resolve issues.