



REPORT OF THE SPECIAL COMMITTEE

Statement Regarding the Report

The Board of Trustees of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) is responsible for making the final determination on reaffirmation of accreditation based on the findings contained in this committee report, the institution's response to issues contained in the report, other assessments relevant to the review, and application of the Commission's policies and procedures. Final interpretation of the Principles of Accreditation and final action on the accreditation status of the institution rest with SACSCOC Board of Trustees.

Name of the Institution: **University of Florida**

Date of the Review: **April 11-13, 2022**

SACSCOC Staff Member: **Dr. Sandra Jordan**

Chair of the Committee: **Dr. GP "Bud" Peterson**
President Emeritus and Regents Professor
Georgia Institute of Technology
Atlanta, GA 30332

Part I. Overview and Introduction to the Institution

Introduction to the Institution

The institution is a public land-grant research university located in Gainesville, Florida. It is a senior member of the State University System of Florida and traces its origins to 1853. The institution has operated continuously on the Gainesville campus since 1906 and reported an enrollment in 2019 of 56,567 students, making the institution one of the largest single campus universities in the United States. The Florida Board of Governors designated the institution as a "preeminent university" in 2013. The institution is the state's flagship institution, a founding member of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) and has earned membership in the Association of American Universities (AAU). The institution is home to sixteen academic colleges and more than 150 research centers and institutes.

History

A Special Committee was established following the receipt of unsolicited information, primarily in multiple media reports, alleging that the institution may not have protected the academic freedom of faculty members. This information came to the attention of SACSCOC, and a Special Committee was authorized. The Special Committee was charged with reviewing the institution's ongoing compliance with Standard, 6.4 (Academic freedom). Later, it was determined that the public nature of the issues and the fact that a Special Committee would be visiting the institution, that it would be relevant to add Standard 1.1 (Integrity). A more detailed history of the controversy that necessitated the creation of a Special Committee is attached in Appendix C.

Prior to the on-site visit, the Special Committee familiarized itself with news articles published on the topics related to the Special Committee's focus; the history, breadth, and accepted definitions of academic freedom; and the materials provided by the institution. It was decided that the Special Committee should focus on SACSCOC Standards and stand apart from the lawsuits filed against the institution and abstain from interviewing the faculty litigants. However, the Special Committee had access to the released documents associated with the lawsuit and the publicly released statements of the Judge in the case. The Special Committee elected to interview faculty, members of the Faculty Senate leadership, The Task Force on Outside Activities, the academic deans, and the provost, among others.

The institution hosted the Special Committee on April 11-13, 2022. During that on-site visit the Special Committee met with numerous institutional faculty members, staff, and administrators to fully understand the origins of the charge that the institution had failed to protect academic freedom, understand what the institution had done since the charges arose to address the concerns, determine the perceptions of campus constituents at this point in time, and to determine if the institution was compliant with Standard 6.4. (Academic freedom), and Standard 1.1 (Integrity).

Part II. Assessment of Compliance

Section 1: The Principle of Integrity

1.1 The institution operates with integrity in all matters.
(Integrity) [CR]

The Special Committee found that the institution has operated with integrity.

Section 6: Faculty

6.4 The institution publishes and implements appropriate policies and procedures for preserving and protecting academic freedom.
(Academic freedom)

The Special Committee found that the institution has taken steps to protect academic freedom. The Special Committee interviewed numerous members of the university community including, faculty, staff, and administration and found that much has been accomplished over the past five months to address and remediate the issues that led to constituents questioning whether the institution had implemented appropriate procedures to preserve and protect academic freedom. The institution provided evidence of new procedures approved by the Faculty Senate that rectified the problems that arose last year. A new website has been developed and the language of the procedures is appropriate for higher education. While there are still unresolved concerns among individuals at the institution regarding complex aspects of how conflict of interest, conflict of commitment, and consideration of viewpoint may erode academic freedom, the institution has endeavored in good faith to put safeguards and corrections in place.

Explanation of the Problems

In 2020, in response to changes in reporting to federal funding agencies, the institution instituted a new procedure to review outside activities and fiscal interests to determine if there was a potential Conflicts of Interest (COI). Whereas in the past, conflicts of interest were managed by an individual's supervisor and for faculty, copied to the respective dean, the new process was more highly centralized and designed to streamline and standardize the review using an electronic system called UFOLIO. This change was initiated by the administration and was motivated by compliance concerns related to "effort reporting" as required by federal funding agencies, such as the National Institutes of Health (NIH) as outlined in a "Dear Colleague" letter. Through the "Dear Colleague" letter, universities in general, were put on notice about significant fines if guidelines were not rigorously followed. The institution found that it could not

effectively control enterprise risk nor respond to compliance concerns related to federal conflict of commitment, because the existing procedures only required approval at the departmental level and did not involve any centralized concurrence or approval process.

In the new, post 2020 process, first level of review was similar to past practice with a review by the individual's supervisor. However, if the request included activities such as serving as an expert witness, intellectual property, or research proposals, the request underwent a second level of review by the institution's Conflict of Interest (COI) Administrative Team in the Office of the Provost. These activities and interests were then reviewed by the Assistant Vice President for COI who asked for opinions from the legal office as needed. As a result of this new review process, some activities that had at one time been routinely approved, were no longer allowed since they were judged to adversely affect the institution's interests. For example, in one case, the Assistant Vice President for COI denied a request for faculty to testify in support of a challenge to the ban on mask mandates in schools, based on the rationale that "Outside activities that may pose a conflict for the Executive Branch of the State of Florida create a conflict for the University of Florida." The institution had sole discretion in determining if there was a conflict for the institution. Under the post 2020 plan, if a faculty request to participate in outside activity was denied, there was no appeal process in the UFOLIO process. Instead, faculty would have to file a grievance per the Collective Bargaining Agreement.

While the UFOLIO system was developed in conjunction with the faculty union and created to conform to best practices related to federal compliance issues on grant reporting, the result was a process that produced new issues and generated confusion regarding who was responsible for the final decisions. The Assistant Vice President over Conflict-of-Interest decisions often communicated the decision, but at other times the decision was communicated by the respective Dean. There was additional confusion created by a host of definitions of free speech and academic freedom in various offices that confounded the issues. Additionally, while enterprise risk needed to be mitigated and conflict of interest had to be monitored by the institution, there was insufficient discussion (and varying opinions) about where those interests might be in direct conflict with academic freedom (here defined, in part, as the expectation that faculty have an obligation and right to engage in the dissemination of their research or educated opinions related to their fields of study).

The shortcomings of the centralized procedure became apparent when several faculty applied through the new process to testify in court and were informed that their request was denied. While there was no formal appeal process available to the faculty, they might have selected to undertake the grievance process to protest the decision. As a result of the negative decision, the institution eventually became involved in a lawsuit and became the subject of several articles and editorials in professional journals, newspapers, and news magazines. Additionally, several faculty members decided to file a complaint against the institution. Naturally, lawsuits against institutions in general tend to create press and may divide the institution's community into opposing camps. It appears that the institution's most problematic risk factor used to determine whether a

faculty member's actions constituted a conflict of interest was "whether the activity may adversely impact the institution's interests." The Ad Hoc Committee opined that this risk factor seemed to have been the basis for the decision to deny the requests from three political science professors and a member of the school of medicine to provide expert testimony.

While the Special Committee did not interview the four litigants, it was possible to summarize the position of the plaintiffs based upon the documents provided. The four litigants asserted that they had each previously served as an expert witness in similar prior cases without any objections. They also asserted that the institution's procedures were unfair, vague, and violated their Constitutional rights because those who were enforcing the policy were considering their "viewpoint" in reaching the decision to deny their Conflict-of-Interest requests. They also took the position that the matter of whether their speech/testimony posed a conflict to the Institution should not be considered. Further, the litigants also took the position that their rights to file a "friend of the court," amicus curiae brief were violated and, therefore their academic freedom was inappropriately limited.

Internal Investigations Launched

The President first learned about the controversy over academic freedom from the New York Times story published on Friday, October 29, 2021, (<https://www.nytimes.com/2021/10/29/us/florida-professors-voting-rights-lawsuit.html>). He immediately set events into motion for the institution to investigate and, overturn, the original denials of outside activity disclosures filed by two political science professors and by the Chair of Political Science.

One week later, on November 5, 2021, the President announced the creation of a Task Force to "review UF's practice regarding requests for approval of outside activities involving potential conflicts of interest and conflicts of commitment." On this same day, the President directed the Assistant Vice President for COI to reverse the original disapprovals and issue final approval for the outside activity disclosures. The Dean of Liberal Arts and Sciences also reversed his denial for the disclosure from the Chair of Political Science.

The Chair of the Faculty Senate formed the Ad Hoc Committee on Academic Freedom, and that group began reviewing the process and investigating claims of violations of academic freedom by the institution. All the committee members were full-time members of the faculty. The charge of the Ad Hoc Committee was to gather information and report back to the Faculty Senate on institutional practices that reportedly had restricted the ability of faculty to engage in outside activities that are normally accepted as appropriate scholarly activities of university faculty. At the conclusion of their investigation the Ad Hoc Committee produced a report.

Summary of Committee Reports

The Task Force on Outside Activities was created on November 5, 2021, by the President to recommend “how UF should respond when employees request approval to serve as expert witnesses in litigation in which their employer, the State of Florida, is a party.” The Task Force was chaired by the Provost, and included two Deans, a former Chair of the Faculty Senate and faculty member, two additional faculty members, and the Chief Compliance Officer. This Task Force issued its report on November 22, 2021. In this report they document that the President has announced that the recent requests of the institution’s employees to serve as expert witnesses should be approved. This report also affirms the academic freedom of the faculty as teachers and scholars, clarifies what civic activities are not reportable activities, and recommends that serving as expert witness is a reportable outside activity, but that there is a strong presumption that the institution will approve such requests including in cases in which the State of Florida is a party, regardless of the viewpoint of the faculty/staff. Furthermore, it imposes on the institution a heavy burden to overcome the presumption, and the party can be “denied only when clear and convincing evidence establishes that such testimony would conflict with an important and particularized interest of the university, which the university must set forth and explain in writing.” (P. 3, Task Force on Outside Activities Final report)

Furthermore, proposals will be reviewed by a diverse committee consisting of faculty of different ranks and disciplinary appointments, nominated by the Faculty Senate, and appointed by the Provost. Administrators will be assigned by the President. In this process, the committee makes recommendations to the Provost, who makes the final decision. There is now a clear appeals process that permits review by an appeals committee within 30 days of a denial.

The Ad Hoc Committee on Academic Freedom was created and charged by the Chair of the Faculty Senate. The charge of the Ad Hoc Committee was to gather information and report back to the Faculty Senate on institutional practices that reportedly had restricted the ability of faculty to engage in outside activities that are normally accepted as appropriate scholarly activities of institutional faculty. The Committee interpreted this charge not to include issues of academic freedom within the institution, such as restrictions on teaching certain subjects, on website information, on syllabi, research interests, etc. The Committee also did not include financial conflicts of interest or conflicts of commitment within its charge.

Information was collected on the Conflict of Interest (COI) office’s denial of approval to three professors to provide expert testimony in lawsuits challenging the constitutionality of Senate Bill 90, three more professors who joined the lawsuit alleging various cases of restraints imposed by the institution, a grievance filed by a College of Education professor, and reports from faculty members throughout the institution of examples of incursions on academic freedom (e.g., barriers to faculty research and publication; restrictions related to participating in outside activities that allegedly challenge the political priorities of the executive branch of the State; pressure

to alter syllabi and course content to avoid viewpoints unpopular among current elected state leaders). There were specific challenges reported that were related to research on COVID-19, including external pressure to destroy deidentified data, barriers to accessing and analyzing deidentified data in a timely manner, and barriers to publication of scientific research. [Subsequently, these claims were investigated by a committee of three full-time faculty members at the request of the Office of the Vice President for Research and the Office of Compliance and Ethics. Upon completing its investigation, the committee found no merit to the allegations regarding the handling of COVID-19 data at the institution]. The Ad Hoc Committee highlighted the reluctance of some faculty to speak up on these issues for fear of retribution. The report reviews regulations and laws on conflicts, summarizes policies from peer institutions, and summarizes ongoing legal complaints. Further, it describes incidents reported during the three-week period of fact-finding, reviews news coverage in the academic and regular press, summarizes outside investigations on the issue of academic freedom, and reports recent response to the publicity by a Board member.

An important component of the report is the outline of the then existing COI review process: Level 1 review was conducted by immediate supervisors, such as department chairs, deans, etc. If issues arose, an “ancillary review” could be carried out by unnamed agents of the university. A case that passed ancillary review then was forwarded to a Level 2 review, which was undertaken by the COI administrative team. The Level 2 review consisted of identifying thirteen (13) risk factors and then heightening the level of scrutiny based on the importance of those risk factors. The report states that there was no indication where these thirteen factors originated or who established them. Decisions to deny an outside activity appeared to be final, with Level 2 review appearing to be the final decision on the process. No accommodation for an appeal process was identified (note, the ability to launch a grievance did not seem to be well known).

Following the report from the Ad Hoc Committee on Academic Freedom, the Chair of the Senate conveyed five recommendations to the President. These concrete steps to improve the Conflict of Interest and Outside Interest processes were accepted by the president. Policy changes at the institution require approval from the Board of Trustees, however the President has final authority over procedural changes and because these changes were only procedural in nature, they formally went into effect upon approval by the President. The Special Committee verified that the revised process was implemented.

Ultimately, the changes that shaped the most recent modifications to the UFOLIO process encompassed the recommendations presented to the President.

- Requests are reviewed and approvals are issued by the Assistant Vice President for Conflict of Interest and his staff.
- Under the new procedures, the Vice President for Research (VPR) is involved in the resolution of COIs when there are technical matters related to research such as intellectual property law, federal laws regarding foreign influence, and state ethics

- laws.
- A new Advisory Committee on Conflict of Interest was created. This committee consists of six faculty who were jointly appointed by the Provost and the Chair of the Faculty Senate, and one administrator appointed by the President. The committee reports to the Provost and is convened to review any cases that are denied. In addition, there may also be referrals of individual “approved cases” for informational purposes. Following their review, the committee makes a recommendation to the Provost, who is responsible for the ultimate decision on requests. Any denial of a request may be appealed within 30 days. This new appeal process within UFOLIO system does not require the faculty to initiate a grievance process.
 - The institution has an obligation to provide a strong and clear rationale to deny permission under the revised procedures.
 - The new process was extended to cover the institution’s Institute of Food and Agricultural Sciences (IFAS), which includes the institution’s agricultural extension agency.

Results of Instituting Revisions to the UFOLIO Process

As part of the implementation of the Task Force and Ad Hoc Committee reports, the institution revised its procedures for disclosing conflicts of interest and conflicts of commitment. Some important aspects of the new procedures are greater academic oversight and the establishment of explicit avenues of appeal.

The greater academic oversight has come about by placing the process under the supervision of the provost. In addition, a disapproval is reviewed by a seven-person advisory group, six of whose members are faculty members nominated by the Chair of the Faculty Senate. A denial must now come from the Provost, and then there is an appeal process to the administration available to the faculty member.

The Special Committee learned that the advisory committee has met several times and the Special Committee was shown several examples of disclosures made under the new procedures. Some of these disclosures that had been approved, would have been denied under the previous procedures.

A further change is a robust website explaining UFOLIO, the online tool for reporting disclosures. The Special Committee reviewed this website and were informed by the Assistant Vice President for Conflict of Interest that there is a continuing effort to improve the website to make it more informative and useful.

The Special Committee learned from the President, the Faculty Senate Steering Committee, and the Ad Hoc Committee on Academic Freedom that all of them share a broad concept of academic freedom, not rooted in contractual rights, and consistent with what is accepted in the profession. Additionally, the Special Committee recognizes that as institutions work to mitigate risk in areas of external work in relation to contractual commitments and conflicts of interest there may be a negative impact on academic freedom. Thus, decisions in these areas must be a carefully crafted

collaborative effort so unintended consequences can be exposed. That seems to be what is now happening at the institution.

The revised UFOLIO process for reviewing activities has been efficient and compliant with state and federal regulations without raising questions regarding academic freedom. Multiple members of the administration stated that the procedures were continuing to be refined and modified as necessary, and that a conscience increase in communication was being put into place, including providing more information for faculty via the website about the new procedures.

The issues that arose around the previous process may have been exacerbated by recent legislative activity that raised concerns among members of the academy regarding censorship in the classroom. The unease that arose over those discussions has increased concerns that the institution might turn down individual cases based upon the point of view of the faculty. The President reinforced to the Special Committee that the burden would be on the institution to justify a rationale if on a rare occasion where viewpoint was a consideration and was going to deny service as an expert witness. All parties interviewed recognized that changes have been made that will strengthen the process and provide more appropriate involvement of faculty. In an interview with the mid-level managers, the general opinion was that they had no concerns about academic freedom within the institution but were concerned about the possible effects of pending state legislation.

Additional Observations

The Special Committee identified several positive outcomes of the institution's recent ordeal:

- Both the President and the faculty leadership, especially the Faculty Senate, recognized the problem and were quick to take a series of both short and long-term actions to resolve the issues. By working together in a collaborative manner, they have been able to develop a mutually acceptable process that has helped to address and resolve the issues in question.
- The new procedure that has been put in place is clear, contains appropriate faculty involvement and oversight, and addresses almost all the shortcomings of the previous processes.
- Finally, the efforts to disseminate and communicate the new process are a positive step in helping the university community understand the need for and the rationale behind the new process.

APPENDIX A

Roster of the Special Committee

Dr. G.P. "Bud" Peterson - CHAIR
President Emeritus and Regents Professor
Georgia Institute of Technology

Dr. Nancy Brickhouse
Provost and Vice President
Baylor University

The Honorable Thomas C. Cofield
Attorney
Cofield Law (Former SACSCOC Public Member on Board)

Dr. Timothy P. McNamara
Professor of Psychology
Vanderbilt University

Dr. Teresa A. Sullivan
President Emerita and University Professor
University of Virginia

SACSCOC STAFF REPRESENTATIVE

Dr. Sandra J. Jordan
Vice President

APPENDIX B

List of Recommendations Cited in the Report of the Special Committee

No formal recommendations cited in the Report.

APPENDIX C

Timeline of Events Leading to the Appointment of and Visit by a Special Committee

- July 7, 2021 - Dean David Richardson disapproved of Professor Daniel Smith's outside activity disclosure: UFOLIO ID DOI00013593 - Demos & Perkins Coie.
- August 12, 2021 - COI Assistant Vice President Gary Wimsett disapproved of Dr. Jeffrey Goldhagen's following outside activity disclosures: UFOLIO ID DOI00017218 - Gallagher & Associates Law Firm, P.A. and UFOLIO ID DOI00017221 - Matthew Dietz, Disability Independence Group, Inc.
- September 29, 2021 - COI Assistant Vice President Gary Wimsett disapproved of Dr. Mobeen Rathore's outside activity disclosure: UFOLIO ID DOI00018465 - Duval County School Board.
- October 1, 2021 - COI Assistant Vice President Gary Wimsett disapproved of Dr. Jeffrey Goldhagen's outside activity disclosure: UFOLIO ID DOI00019537 - Duval County School Board/ City of Jacksonville.
- October 11, 2021 - Dean David Richardson disapproved of Professor Daniel Smith's outside activity disclosure: UFOLIO ID DOI00019899 - Demos.
- October 13, 2021 - COI Assistant Vice President Gary Wimsett disapproved of Professor Michael McDonald's outside activity disclosure: UFOLIO ID DOI00019897 - Arnold and Porter.
- October 15, 2021 - COI Assistant Vice President Gary Wimsett disapproved of Professor Sharon Austin's outside activity disclosure: UFOLIO ID DOI00020370 - Advancement Project.
- October 30, 2021 – media reports that three of the institution's professors were denied an outside activity that involved testifying in a voting rights case against the state. Sample report -<https://www.npr.org/2021/10/30/1050817670/university-florida-professors-free-speech-voting-rights>
- November 2, 2021 – media reports that Jeffrey Goldhagen was denied the opportunity to participate in lawsuits regarding masking. Sample report: <https://www.chronicle.com/article/u-of-florida-doctorsays-administrators-blocked-him-from-participating-in-lawsuits-about-masking> Dr. John Hardt, the institution's SACSCOC assigned Vice President at the time, issues a letter requesting a special report on the institution's compliance with Standards 4.2.f (External Influence) and 6.4 (Academic Freedom).
- November 5, 2021 - Dean David Richardson reversed his original disapprovals and approved of Professor Daniel Smith's following outside activity disclosures: UFOLIO ID DOI00019899 - Demos., and UFOLIO ID DOI00013593 - Demos & Perkins Coie.
- November 5, 2021 – President Fuchs establishes task force to “review UF’s practice regarding requests for approval of outside activities involving potential conflicts of interest and conflicts of commitment.”

- November 5, 2021 - Per President Fuchs' directive, COI Assistant Vice President Gary Wimsett reversed the original disapprovals and issued final approval for the following outside activity disclosures:
 - Daniel Smith - UFOLIO ID DOI00019899 – Demos.
 - Daniel Smith - UFOLIO ID DOI00013593 - Demos & Perkins Coie.
 - Michael McDonald - UFOLIO ID DOI00019897 - Arnold and Porter.
 - Sharon Austin - UFOLIO ID DOI00020370 - Advancement Project.
 - Jeffrey Goldhagen - UFOLIO ID DOI00017218 - Gallagher & Associates Law Firm, P.A.
 - Jeffrey Goldhagen - UFOLIO ID DOI00017221 - Matthew Dietz, Disability Independence Group, Inc.
 - Jeffrey Goldhagen - UFOLIO ID DOI00019537 - Duval County School Board/City of Jacksonville.
 - Mobeen Rathore - UFOLIO ID DOI00018465 - Duval County School Board.

- November 8, 2021 – media reports published about the three professors who filed a free-speech rights lawsuit against the institution. Sample report - <https://www.alligator.org/article/2021/11/professors-1st-amendment-lawsuit>.
- November 22, 2021 – Zoom meeting with Dr. John Hardt to discuss the special report components
- November 23, 2021 – President Fuchs shares the task force report with the campus community and states that he has “accepted the task force’s recommendations” and is “asking the appropriate offices to proceed with implementation, understanding that for some employees collective bargaining agreements may need to be modified before implementation.”
- November 23, 2021 – Submitted the special report to SACSCOC via email at Dr. John Hardt’s request. Dr. Hardt confirms receipt.
- November 29, 2021 – Phone call from Dr. Hardt requesting an addendum to the special report that directly addresses the reasons the three faculty were denied the opportunity to testify. The external influence concern had been resolved satisfactorily.
- December 1, 2021 – Addendum submitted to Dr. Hardt, and he acknowledged receipt the same day.
- December 6, 2021 – The institution’s Faculty Senate Ad hoc Committee on Academic Freedom publishes its report on Academic Freedom.
- December 9, 2021 - David Norton, Vice President for Research, initiates a formal investigation into statements in relation to the handling of COVID-19 research data at the institution, and reported in the “Report of the Faculty Senate Ad Hoc Committee on Academic Freedom” published on December 6, 2022.
- December 15, 2021 – letter authorizing a Special Committee received by the institution from Dr. Belle Wheelan, SACSCOC President. The letter acknowledged the institution’s reports submitted November 23, 2021, and December 1, 2021, and cited ‘continuing media reports’ that led staff to determine there may be ‘sufficient factual information supporting significant noncompliance’ with Standard 6.4, Academic Freedom.

- January 13, 2022 – first email notification of Dr. Hardt’s retirement and assignment of Dr. Sandra Jordan as the institution’s new SACSCOC Vice President. First email from Dr. Sandra Jordan received acknowledging her assignment.
- January 26, 2022 – Dr. Jordan established the Special Committee dates as April 11-13, 2022.
- February 21, 2022 – Dr. Jordan emailed to confirm that the Special Committee’s focus only on Standard 6.4, Academic Freedom
- February 22, 2022 – The Faculty Senate Ad Hoc Committee on Academic Freedom published an addendum to their December 6, 2021, report.
- March 4, 2022 – Special Committee roster received by the institution, and communication with the Special Committee chair was established.
- March 11, 2022 – David Norton, Vice President for Research, published findings from the investigation of the handling of COVID-19 data, finding no merit to the allegations.
- April 11, 2022, Special Committee arrived on site.