

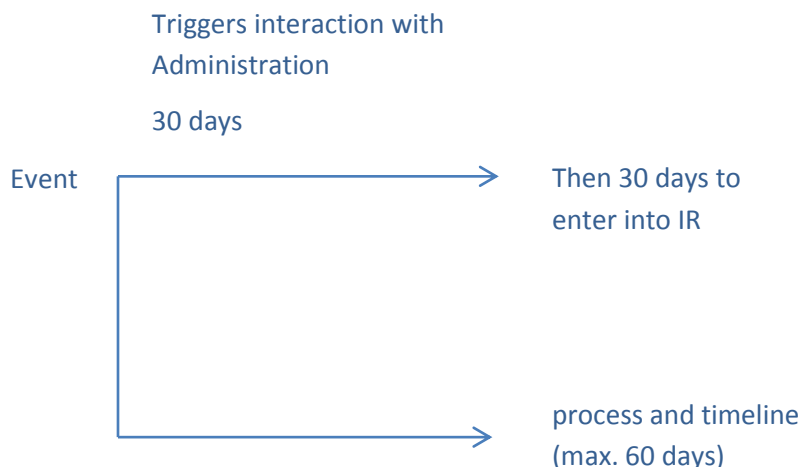
IBB Bargaining Meeting Notes
January 26, 2012

Participants: Darlene Andert, Steve Belcher, Joan Glacken, Maddy Isaacs (facilitator), Kathy Miller (note taker), Monika Renard, Hudson Rogers, David Steckler, David Vazquez, Jim Wohlpart.

Maddy said that we have had productive meetings recently and since we have not finalized the meeting notes for previous sessions, we should, on the white board, recreate where we were at the last meeting. She said that the UFF's interest is to keep IR informal. She said that IR has become a formal process with procedural triggers. She said that we should also be trying to incentivize the use of this process early and in her opinion we cannot do that within the context of the current contract language. She said that we should also want to encourage and incentivize conflict resolution outside of the processes outlined in the CBA.

Jim said that it would be good to start with a summary of previous discussion. Steve said that he is concerned with events that occur pre-IR filing; how to get communication and interaction to occur before the IR process is triggered by sending written communication to the Office of Academic Affairs no later than thirty (30) days after the event. He said that there is the opportunity to extend the IR timeline, but we have been struggling with the period before filing of the IR. He said that there is potential for resolution before the IR is triggered by the written communication but he was not certain whether faculty made use of that period. He said that he believes that the current IR process is working. He said that where we have not been successful is (1) getting faculty to seek resolution prior to IR filing; and (2) addressing the complexity of issues which include those in the CBA and those that have to be referred elsewhere.

Maddy said that we have not addressed aspects of the Article but the IR process seems to be an area of greatest concern. On the whiteboard she outlined the following:



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31 Monika said that she had concerns about the IR process as there is a feeling that there is no difference
32 between the IR and the grievance. Steve said there a great deal of difference between the two. He
33 noted that the IR process is triggered by an e-mail to the Office of Academic Affairs saying that there is a
34 problem and naming possible articles of concern. He said that a grievance must be filed on Appendix C,
35 must be signed and cannot be e-mail to the Office of Academic Affairs. He said that the IR process used
36 to be part of Step I and not outside of the formal filing of Appendix C.

37

38 Maddy said that moving the IR outside of the Step 1 filing was aimed at avoiding the parties from being
39 formal, adversarial or legalistic during the IR process. She said that it would be good if the lines are not
40 drawn early by placing the matter as IR. Jim said that within the first thirty (30) days there is also no
41 requirement for representation.

42

43 Jim asked if we would be better off doing away with IR. Maddy said that could be problematic if the
44 faculty member did not remember to document the event. Hudson reiterated the outline for the IR
45 process. He said that there are thirty (30) days between the event and the deadline for filing the IR and
46 faculty should be encouraged to use those thirty (30) days to contact the chair/supervisor and attempt
47 to resolve the concern(s). Kathy said that the process is clearly outlined but it can be made to feel
48 formal. Steve said that the IR process allows for open discussion and prior to the Step 1 meeting the
49 grievance can be amended so that there is no limitation in fleshing out the issue.

50

51 Maddy said that because of the possibility of a grievance documentation is collected, evidence is
52 gathered, and those involved may think it is time for getting the “ducks in a row” for a potential
53 grievance. She said that in her view, the current IR process has become adversarial because of its
54 formalities, timeline, documentation, and so on. Steve said that in the IR process, the ability to provide
55 information in support of the assertion is key to arriving at a resolution. Reading from Article 20.2,
56 Hudson said that the IR process does not require documentation except when an agreement is reached.
57 Steve said that nothing in the IR process prevents a grievance from being filed slightly different from
58 what was advanced at IR. He said that there is even an opportunity per Article 20.6 to amend a
59 grievance one time without University consent as long as it was before the Step meeting. He said that
60 this gives the faculty member the opportunity to bring the matter forward without having to ensure that
61 all potential areas of concern are brought forward in making the IR Request.

62

63 Monika suggested that we make IR more of a mediation process and have all parties at the table. Steve
64 said that the potential for success in mediation is diminished if both parties are not willing to resolve the
65 issue. He said that in the past, we have had some difficulties identifying a mediator who is acceptable to
66 both parties. He noted that Mediation and Conflict Management are encouraged in the CBA but is not
67 prescribed. He said that he would be cautious about prescribing them in the CBA as it is not likely to
68 work unless the parties to the dispute are willing to be engaged in such a process. Darlene said that in
69 any mediation the two people will have to live together, to co-exist afterwards. She said that ideally, in

70 the mediation process, they have to learn to work through their issues and may need training or
71 assistance.

72
73 Steve said that at one point in time the University had a Conflict Resolution Center (staffed by Camilo
74 Azcarate) and a number of faculty and staff went through his mediation training for addressing conflict.
75 He said that for mediation to work the parties have to agree to mediation. He said that maybe he is
76 hearing the suggestion that we add language requiring mediation when there is already language that
77 allows for mediation prior to the IR filing. He said that if the parties to the dispute refuse to use
78 mediation then there is nothing to be done. Darlene said that she worked in the court system and
79 mediation was prescribed.

80
81 David Steckler said the challenge is to get the parties to work together since the interests are conjoined.
82 He stated that if they cannot work together then there might be a bigger problem. David said that he is
83 not saying that the current process is broken --- just that it could be improved. He said that IR can be
84 viewed as a screening process: is the complaint grievable under the CBA? David Steckler said that in a
85 twisted way the process works as there have been instances where there were IR settlements but he
86 has not seen it happen at Step 1 and beyond. He said that sometimes having a University
87 Representative helps and sometimes it does not. He said that the IR should be confidential but it is not
88 always so. He noted that in IR there is a need for the chair/dean to be realistic and know similarly
89 situated faculty who may be interested in the outcome. He said that maybe we should expand the
90 solution to all similarly situated faculty. He stated that this might also be an issue of the kind of training
91 to be provided to chairs and deans. He said that once the chair/dean is approached they may begin to
92 think about a grievance and not about addressing the faculty concern. He said that the focus should be
93 on getting the parties to talk it out without that being a step to IR. Darlene asked if we would be better
94 served by going from IR to mediation and then to arbitration. David Steckler said that the first step
95 should truly be informal with the dean/chair but not violative of the CBA.

96
97 Maddy said that the concern is how it plays out on both sides. She said that faculty come to the UFF
98 with any concern that they have. She said that they come and say, I did "X" and my chair did "Y". She
99 said that there are times when the UFF suggest that it is not a matter that should be involved in a
100 grievance. She said that maybe the grievance process should be reserved for the really tough issues
101 with a goal of facilitation problem solving.

102
103 Kathy said that the management shares the vision of addressing problems but everyone needs to be
104 asking how we create such a process and it not be perceived as a formal process. She said that once a
105 person has to gather information it is seen or begins to feel formal because it is a required step to
106 addressing any concern. Maddy said that for the faculty the pressure comes from having to ask what
107 have you done on your own. She said that she is hoping that the same is being done on the
108 management side. She said that she had a summer assignment question and each time she spoke to
109 Hudson about it she got a different response. She said that the responses changed by the week, which
110 indicated that simply asking the question informally triggered some management action and resolution,

111 thus no IR was needed. Kathy asked if IR said that we had to create a new process. David Steckler said
112 that maybe a good manager is one who limits IRs.

113

114 Jim said that we need to flesh out the process given that there are some common understandings. He
115 said that there maybe a couple of potential pathways forward:

- 116 1) Change current language so that IR is not the first process and amplify the language so that it is
117 clear that the first 30 days should be used to address the concern. Hence offer language on
118 what could or should happen in those 30 days.
- 119 2) Amplify 20.2 F options to be used during the IR process
- 120 3) Create a pre- IR process
- 121 4) Create a pre- IR process and change the IR process

122

123 Event X ---- 30 days for interaction with admin ----X then 30 days to enter into IRX
124 That would provide 60 days between the event and filing of the IR.

125

126 Hudson said that he is concerned that we not lose the need to resolve issues as expeditiously as
127 possible. Maddy said that we do not lose anything by providing 60 days before the filing of an IR as it
128 provides more time for the parties to work it out. She said that she believes that we use a two-step
129 process with 30 days after the event for the faculty to think about it and then have the opportunity to
130 file IR after a second 30 days. She said that she is suggesting that faculty have up to a 60 day period
131 before filing an IR request. Jim said that the faculty have made a cogent argument for extra 30 days and
132 to use language to memorialize our intent to resolve conflicts at the lowest level.

133 Maddy said that perhaps the language could require that filing IR within 30 days “where practicable”
134 similar to management rights in other areas. Monika said that we all want issues to be resolved as
135 quickly and as informally as possible and that sixty (60) days would provide ample opportunity for that
136 to take place. Darlene said that there may be the need to focus on the event rather than the timeline.
137 Steve said that the current contract language makes no provision for granting an extension of the 30
138 days to file IR. Could we agree to extend time beyond 30 days before filing IR is required?

139

140 David Steckler asked “Why must IR list facts and alleged CBA violations?” Monika asked if we can talk
141 about “as soon as possible” separately from “as informally as possible?” Maddy said that she is
142 concerned about the “chilling effect” if you have to request an extension. She said that we need to
143 mitigate the negative effects of speedy resolution (complainant angry about issue and angry about rush
144 to file). She said that maybe we should allow 45 days before filing an IR. She asked if there can be an
145 opportunity to extend the time for filing by having the faculty member send an email to the Chair within
146 30 days of the event. Jim said that perhaps within 30 days of the event, the issue is resolved or an
147 extension of 15 days is requested to preserve the right to file for IR.

148

149 Steve said that in the foregoing discussion we have not been recognizing that we need to preserve the
150 right of the faculty member to file the grievance even as we discuss formality versus informality. He said
151 that the current process provides the opportunity to address concerns while preserving rights. He said

152 that if the faculty determines that there is insufficient time but wants to preserve the right to file a
153 grievance then the IR must be filed and an extension can be requested to try and resolve the matter
154 prior to the filing of an Appendix C. He said that “placing a stake in the ground” (by filing the IR request)
155 allows for the preserving of rights and at the same time providing the opportunity to address the
156 concerns without resorting to the grievance filing. Steve asked, is there some way to preserve rights
157 without having the faculty take action? He said that a 60 day time-period for filing is problematic as
158 there are some occasions where neither the UFF nor the management have known that there is a
159 problem

160
161 Monika said that she appreciated the discussion and the management’s recognition of the need to
162 preserve faculty rights to file a grievance while addressing concerns as expeditiously as possible.
163 Darlene said that we seem to be to time bound and maybe we should be more event bound. She said
164 that she is not suggesting that it goes on forever but indicated that there is a need to look at the event
165 and what is happening before going to the next level.

166
167 Jim said that he is hearing from Steve and Hudson a lack of support for having an open second 30 day
168 period but that they might be open to addressing what should happen with the first thirty (30) days.
169 Steve said that maybe it is as simple as agreeing to mutual extensions of the first 30 days if there is
170 ongoing discussion. David Steckler said that since any filing can affect the process, is there a way to
171 indicate that there is discussion without having to file anything. Maddy said that having to file anything
172 can have a chilling effect on attempts to resolve concerns. She said that speed does not always serve
173 the process well.

174
175 Jim suggested that maybe we could change 30 days to 45 days. Maddy said maybe that might be it. She
176 asked if we could define the event as the faculty member having contacted the chair. Jim asked, and
177 what if the chair is contacted one year later? He said that maybe it is 30 days to file the IR and/or a
178 request to extend the process for 30 days. Steve said that right now the Office of Academic Affairs is
179 required to inform the UFF of any IR filing to which the UFF is not a named party. Darlene said that
180 having to file something would be problematic and the parties are in conversation. She said that there is
181 also a problem when we get to the end of the semester or the academic year. Jim note that the CBA
182 allows for time extensions.

183
184 Davis Steckler said that at the next meeting, he would like to discuss whether we need to list potential
185 CBA violations in an IR request. He said that if we are empowering faculty and Chairs to discuss and
186 resolve problems, the process of filing an IR with CBA issues may work against that.

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194 Based on the forgoing discussion, Jim placed the following diagram on the white-board:

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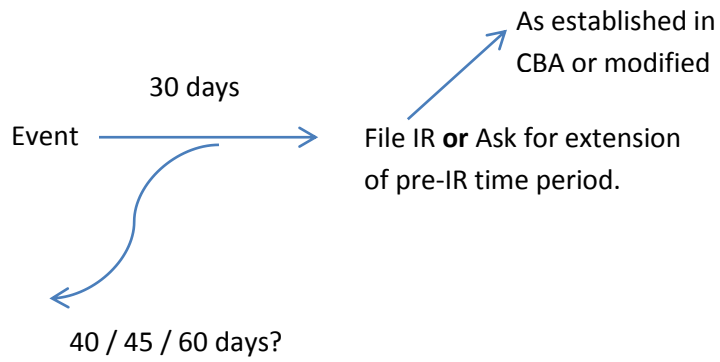
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Next meeting is Monday January 30, 2911, 9-11 a.m. in AB5 309.

The Management team will facilitate the meeting.