

Dr. Thomas Krise
President
University of Guam
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Dr. Ronald L. McNinch-Su
SBPA 136
UOG Station, Mangilao, GU 96923
mcninchr@triton.uog.edu

April 20th 2023

Dr. Roseann M. Jones
Interim Dean, School of Business and Public Administration
jonesr@triton.uog.edu

STEP 3 GRIEVANCE DECISION


On March 28, 2023, the *Ad Hoc* Hearing committee was charged by Acting President, Randall V. Wiegand, to review, hear, and decide the Step 3 Grievance for Ronald L. McNinch-Su, under Article IX.1.3 of the UOG Board Union Agreement. The *Ad Hoc* Hearing committee met to hear the two parties on April 7th and followed up with our April 13th meeting to deliberate on the information and make our decision. Under mentioned Article above, we have decided that our final written decision will be to "grant an alternative relief that addresses the violations" listed in the Step One Grievance. The following decision was made by this committee:

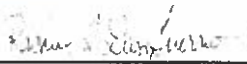
1. The President's "Letter of Warning" is to be removed from Ronald L McNinch-Su's personnel file.
2. Instead, a "Letter of Concern" is to be addressed to Dr. McNinch-Su and a copy to his supervisor, the SBPA Dean, for SBPA Dean's office files. This letter of "grievance decision" shall also serve as the as a "letter of concern". In this "letter of concern" the committee notes and directs the following:
 - a. We conclude that Dr. McNinch-Su violated the Board Union Agreement Article IV.4.3. This Article affords faculty the freedom to communicate with the media without being subject to censorship or disciplinary action by the Administration, however, the section further states: "It is understood that unless authorized to serve as such, faculty members are not the official spokespersons for the University, and Faculty members have the duty to make it clear if and when they do not speak for the University". We believe that Dr. McNinch-Su's email was poorly worded, especially considering the dual audiences it was sent to, it was neither precise nor well thought out. This created an ambiguity that violates this Article because he did not make it clear in his email communications that he was not speaking on behalf of the University.

- b. We, as academic personnel, are also concerned with the flippant and informal tone in the email communication sent to students and members of the news media. The committee finds the tone and language used to lack the professionalism and gravitas we expect of an Associate Professor with decades of experience, when communicating with the public. We also note that as members of UOG academic community, we have a responsibility to exercise professional demeanor in our email communications with outside community members. We conclude this is a matter that should be given serious consideration in your professional CFES performance review.
- c. We note that email communication with students should be just with students and not mixed with other recipients.
- d. We note that the advice and recommendations for Dr. McNinch-Su's work performance and professional behavior should be under the purview of your supervisor, the SBPA Dean, and discussed as part of your CFES performance review.
- e. We recommend that the Dean of SBPA work with Dr. McNinch-Su and the rest of the Public Administration program faculty to develop a written plan or protocol with standards of conduct for the "Great Debate" activity, to be in effect by the next election cycle. This protocol should include a contingency plan for a course of action if only one candidate chooses to participate. This protocol should be made public so that candidates know they are being treated fairly.
- f. We note that it is also the purview of your supervisor, the SBPA Dean, to pursue the appropriate course of action if further or future correction is needed.
- g. We request that the President's office initiate the preparation of a standard disclaimer statement for UOG emails that notes "unless explicitly stated the sender is not speaking for UOG", for review discussion by the UOG community.

Copies of the presentations are attached. For further information please contact Dr. Vuki.

Sincerely,

Dr. Maika V. Vuki, Chair 
Maika V. Vuki Apr 23 2023 15:19 GMT-10

Dr. Rachael T. Leon Guerrero, Member 
Rachael T. Leon Guerrero Apr 23 2023 15:19 GMT-10

Dr. Laurie J. Raymundo, Member 
Laurie J. Raymundo Apr 23 2023 15:19 GMT-10

Dr. L. Robert Barber, Member 
L. Robert Barber, Jr. Apr 23 2023 15:19 GMT-10

Dr. John J. Rivera, Member 
J. Rivera Apr 21 2023 09:43 GMT-10

CONFIDENTIAL

To: **Step 3 Grievance Committee**
UOG Station, Mangilao, Guam, 96923

April 7, 2023

RESPONDENT'S ANSWER TO GRIEVANT'S STEP 3 GRIEVANCE

The Respondent hereby Answers the Grievant's Step 3 Grievance and said Answer is as follows:

I. The Committee is prohibited from deciding Grievant's allegations of procedural error.

The Committee is prohibited from hearing and deciding the Grievant's allegations of procedural error in this matter. The Grievance Hearing Committee shall not consider any new alleged violations or charges other than those presented at Step One. Article IX.3, UOG-Faculty Union Contract. If a party disputes the grievability of an issue, the Grievance Hearing Committee shall first determine whether the issue is grievable and if the issue is not grievable, it shall be referred back to the parties without decision or recommendation on its merits. Article IX.3, UOG-Faculty Union Contract. Here, the Grievant's allegations that: (1) The Board of Regents did not have a set of established rules or procedures to process his Step 2 Grievance; (2) That the Grievant was not provided the opportunity to have a representative to argue for his interests at several of the subsequent regent subcommittee meetings; (3) That the Grievant was not provided with due process in the committee report that was presented to the full Board of Regents; (4) That Grievant was not allowed to speak to the full Board of Regents after the report was read; (5) That Grievant's 2020 disciplinary action was mentioned during the Step 2 Grievance process; (6) Grievant's allegations concerning the Step 2 Grievance Decision; (7) The Grievant's allegations concerning the UOG Administration's denial of the requests for information that the Grievant made in Step 1 and Step 2;

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and (8) Grievant's allegations concerning whether any of the Board of Regents were influenced by "partisan political interests;" are not grievable at Step 3 because they were not alleged in the Grievant's Step 1 Grievance. Accordingly, the Grievance Committee must find that those issues are not grievable and refer them back to the parties without decision or recommendation on their merits.

II. The Grievant's Letter of Warning should not be rescinded.

a. The Grievant's Emails are not Protected Speech.

The Grievant's arguments that his emails were protected speech have no merit. Generally, government employees have some First Amendment rights, they do not relinquish all First Amendment rights otherwise enjoyed by citizens just because their government employment, but when a citizen enters into government service, the citizen by necessity must accept certain limitations on his or her freedom and a government employer may impose certain restraints on the speech of its employees, restraints that would be unconstitutional if applied to the general public. *Charfauros v. Civil Service Commission and the Guam Police Department*, 22 Guam 19, 10-11 (Supreme Court of Guam, December 30, 2022). The First Amendment does not protect speech made by a government employee as part of the performance of their official duties. *Id* at 12. Here, the Grievant sent the emails at issue here as part of his official duties as a member of the University of Guam's (UOG) faculty. Therefore, the emails are not protected speech under the First Amendment and the Grievant is subject to UOG's restraints on its employees regarding contacting the media and in the language they use for official communications.

The Grievant's arguments that he was not speaking for UOG when he made the emails have no merit. Here, the Grievant was acting in his official capacity as a member of UOG's faculty when he

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issued his October 24, 2022 “press release” email to the media. In that email, the Grievant invoked his position as “Chair of Public Administration and Legal Studies.” The Grievant went on to warn, “Do not play with the University of Guam and our students.” Further, this email was sent out on the Grievant’s official UOG email address. The Grievant was not authorized to serve as UOG’s spokesperson for the Great Debate and at no time prior to receiving the Notice of Alleged Inappropriate Behavior on October 26, 2022 did the Grievant make it clear that the statements in the email were his own and not UOGs. Further, the title of the email: “Directive from Chair of Public Administration and Legal Studies,” and the Grievant signing the email as “Chair,” make it clear and unambiguous that the Grievant meant the email to be an official UOG communication made in his official UOG capacity as Chair of Public Administration and Legal Studies. Finally, the Grievant makes that claim that he made it clear that he was not speaking on UOG policy on October 9, 2022. However, the Guam Post Article of that date the Grievant provided in support of this argument merely states that when the Guam Post asked him how the UOG would handle the prospect of just one team agreeing to show up in the interview for that October 9, 2022 article, the Grievant responded, in his personal capacity that: “The show must go on.” This shows that the Grievant was capable of telling the media when he was speaking in his personal capacity instead of his official capacity and that he failed to do so when he sent his October 24, 2022 “press release” email to the media.

b. The Grievant’s emails are not protected by academic freedom.

The language used in the Grievant’s emails are not protected by the academic freedoms set forth in the UOG-Faculty Union Agreement. Generally, UOG’s Board of Regents and Administration

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shall accord to all Faculty members Academic freedom rights which include the right to introduce controversial topics into the classroom as long as these topics are related to the subject under study and the right to express their views orally or in writing on controversial matters within as well as beyond their areas of special expertise without being subject to censorship or disciplinary action by the Administration. Article IV.A.1, UOG-Faculty Union Agreement. However, authorized causes for disciplinary action, including adverse action, against a Faculty member include insulting, rude, or belligerent treatment of the public, students, or other UOG employees. Article X.E.12, UOG-Faculty Union Agreement. Here, as will be shown below, the Grievant's statements that he made in his October 24, 2022 "press release" email to the media violated Article X.E.12, of the UOG-Faculty Union Agreement because they were insulting, rude, and belligerent. Therefore, those statement were not protected exercises of the Grievant's academic freedom and UOG's issuance of the Warning Letter to the Grievant was justified.

III. The President has the authority to impose disciplinary action.

The Grievant's allegation that disciplinary action should have been imposed upon him at a lower level has no merit. Generally, the President shall be the executive head of the internal operating organization of UOG. 17 G.C.A. §16110(a). Further, one of the President's major duties is to ensure that the University, which includes the Grievant, abides by the statutes of Guam and the Board of Regent's policies, rules, regulations, and procedures issued for the operation of the University. Article VII.A.2.a, UOG RRPM. Also, the UOG-Faculty Union Agreement states that UOG's Administration, which includes the President, has the authority to hire, assign, transfer, suspend, promote, evaluate, **discipline**, lay off, or discharge Faculty members (Bold Emphasis

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Added). Article II.B, UOG-Faculty Union Agreement. Here, the Grievant sent his October 24, 2022 emails directly to the President, as will be shown below, those emails violated UOG rules and regulations and the President had to issue his Letter of Warning to the Grievant to ensure that the Grievant abided by those rules and regulations.

IV. The Grievance Committee Must Reinstate the Original Warning Letter.

The Grievance Committee must reinstate the original November 8, 2022 Warning Letter. The UOG-Faculty Union Agreement states that the purpose of disciplinary action by the administration is to recognize, address and, if possible, correct inappropriate behavior and must be based on the model of progressive discipline. Article X.A and C, UOG-Faculty Union Agreement. Here, as will be shown below, the Grievant violated rules and policies and the original Letter of Warning must be reinstated to ensure that the Grievant's inappropriate behavior will not continue. The original Letter of Warning must be reinstated by the Grievance Committee for the following reasons.

a. The Grievant violated Article VII.P of UOG's RRPM.

The Grievant violated Article VII.P of UOG's RRPM. Generally, official UOG news releases and advertisements shall be distributed to the public media through the Public Relations Officer in the Office of the President upon request of the Dean, Director, faculty, staff, student, alumni or administrative officer concerned. Article VII.P, UOG RRPM. Here, the Grievant violated this article because he did not send the email through UOG's Public Relations Officer and instead sent it directly to the public media, specifically news@guampdn.com, news@k57.com, news@kanditnews.com, phill@postguam.com, and NEWS@KUAM.COM.

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b. The Grievant violated Article X.E.12 of the UOG-Faculty Union Agreement.

The Grievant violated Article X.E.12 of the UOG-Faculty Union Agreement. Generally, authorized causes for disciplinary action, including adverse action, against a Faculty member include insulting, rude, or belligerent treatment of the public, students, or other UOG employees. Article X.E.12, UOG-Faculty Union Agreement. Here, the Grievant stated in his email that “Who ever does not show up will not win this election,” “If you don’t show up, you wont win [SIC],” and “Do not play with the University of Guam and our students.” The plain meaning of the words used in the email are insulting, rude, and belligerent to the candidates that UOG invited to participate in the Great Debate and the Grievant violated Article X.E.12, UOG-Faculty Union Agreement by sending them to the public media where he knew or should have known that they would be published.

c. The Grievant violated Article IV.J, UOG RRPM.

The Grievant violated Article IV.J of UOG’s RRPM. Generally, pursuant to P.L. 19-40 (University of Guam Charter), which confirms UOG as the public island University, political activities by faculty, administrators, and other unclassified employees of the University of Guam shall be governed by the laws of the Government of Guam "Mini-Hatch Act" (P.L. 12- 233), as amended. [Public Law 12-233 (Mini-Hatch Act) was enacted on December 30, 1988 and acknowledged by the Board of Regents on January 19, 1989.]. Article IV.J, UOG RRPM. Guam’s Mini-Hatch Act contains a section stating that an employee shall not use his official authority or influence for the purpose of interfering with or affecting the result of an election. 4 G.C.A. §5103(a). Here, in the second email that the Grievant sent on October 24, 2022 he advised other

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UOG employees to: “stay out of this election” and he proceeded to profess his views as to which political party would or would not maintain a majority in the Guam Legislature or win the gubernatorial race to the UOG employees he addressed the email. This conduct violates Article IV.J of UOG’s RRPM and 4 G.C.A. §5103(a) because the Grievant was attempting to influence whether the UOG employees receiving his email should vote in the 2022 General Election, his advice to them was to “stay out of it,” and by professing his views of which candidate or political parties may win or lose he was trying to encourage them to or discourage them from voting for some of the political candidates in that election.

CONCLUSION

Based on the foregoing, the Grievance Committee must deny the Step 3 Grievance and reinstate the original November 8, 2022 Letter of Warning. Alternatively, the Grievance Hearing Committee should keep the revised Letter of Warning to deter any future inappropriate behavior by the Grievant.

SUBMITTED this 7th day of April, 2023 by:



THOMAS W. KRISE, Ph.D.
President

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Thank you Dr. McNinch

My remarks will cover four broad areas:

- the background or context for the grievance;
 - the substantive charges in the Board's Step 2 judgement and the President's letter;
 - a discussion of the larger issues at stake;
 - and the remedies we seek.
1. Context: This grievance concerns, of course, a letter of warning from President Krise to Dr. McNinch. Two aspects of the letter are worth emphasizing at the start:
 - a. *The letter is to be placed in Dr. McNinch's file*, the second highest level of disciplinary action under Level One and also holds out the prospect of a Level Two or Three disciplinary action - loss of rank, pay or job - in the future.
 - b. *The letter is dated Nov. 8, 2022, but was actually written in January 2023*, following a Board of Regents decision that required the original letter be rewritten, removing various charges the President initially made. Since these charges were removed, we will not *focus* on them, but those earlier charges inform the larger issues we believe are at stake.
 2. Substantive charges in the warning letter: The substantive charges both relate to two emails written by Dr. McNinch during the 2022 Guam gubernatorial campaign. One charge is that Dr. McNinch used language that is "**undiplomatic and unrefined.**" The other is that Dr. McNinch showed a "**lack of explicit clarity that you are expressing your own views and not those of the University.**" Both are unfounded.
 - a. When it comes to Dr. McNinch's language, we note that **there is no requirement in the Agreement or any other policy document that faculty be "diplomatic" or "refined."**

To justify finding Dr. McNinch's emails "undiplomatic and unrefined," the Board judged that his "**tone was highly unprofessional and lacked restraint.**" The Board cites UOG RRPM Article II.C.5 in support which reads, in part,

"the college or university teacher is a citizen, a member of a learned profession, and an officer of a learned institution.... Hence he or she should at all times be accurate and, **should exercise appropriate restraint....**"

Judging if a statement is "professional" or exercises "appropriate restraint" is, again, highly subjective and the Board offers no standard by which to do so other than the following:

“The emails are not considered **academic or scholarly** in nature, nor does it reflect the kind of rigorous thinking or writing expected from any faculty member.”

It is unclear what the Board means. **Emails are seldom academic or scholarly in nature.** But the Board seems to think that they should reflect the same “rigorous thinking and writing” that is expected of academics in professional publications. This is unrealistic and unreasonable. The emails are **informal statements of Dr. McNinch’s personal opinion sent to people he had a relationship with.**

The Board appears to be operating on cultural stereotypes about how academics talk rather than showing any real understanding of academic culture. Such a stereotype cannot be a standard to judge how academics should express themselves in an informal medium. Were faculty always to express themselves the way the Board apparently expects, we would put our students and colleagues to sleep!

Dr. McNinch’s emails were not “highly unprofessional and unrestrained.” They were informal, at times even “bombastic,” but as anyone familiar with academic discourse knows, academics are frequently bombastic, especially in the humanities and social sciences where a dramatic method of presentation can serve a rhetorical or even pedagogical purpose.

More importantly, **if there is no requirement to be “diplomatic” and “refined,” there is no basis for a disciplinary action,** much less one that threatens progression to more severe consequences. The Agreement guarantees that disciplinary action will be undertaken only for “**just cause**” (Art. IV.B). Violating a rule that does not exist is not just cause, and treating it as such would establish a dangerous precedent.

The correct place to bring perceived shortcomings of style to the Faculty member’s attention might be an annual job review, where professional expectations can be discussed in a collegial manner that takes disciplinary norms into account. Speaking as a fellow political scientist, I can state that the tone and content of Dr. McNinch’s emails are often found in exchanges among political scientists and violate no norms in our mutual discipline.

- b. With respect to whether Dr. McNinch showed a **“lack of explicit clarity that you are expressing your own views and not those of the University”** we disagree on the interpretation of the Agreement and the facts of the case.

The Board’s judgement cites *Agreement* Article IV.A.3. This provision affirms the right of Faculty to communicate with various bodies including the media without interference, but notes:

“It is understood that unless authorized to serve as such, Faculty members are not the official spokespersons for the University, and Faculty members have the duty to make it clear if and when they do not speak for the University.”

Note that there is **no requirement that the faculty member must explicitly state** that they are not speaking for the University, only that it should be clear they are not. Indeed, the *Agreement* makes a default assumption that Faculty do not speak for the University.

The Board also cites UOG RRPM Article IV.B.4:

“In fulfilling obligations to the community and the public, the professional employee... [must] take precautions to distinguish between personal views and those of the University, knowing that the general public often does not recognize the distinction.”

Again, this not require an explicit statement that the speaker is not speaking for the University. This can be inferred from context.

This is not a semantic point. We believe it was clear Dr. McNinch did not speak or purport to speak for the University from the context of his emails, and from his appearances in the media around this time when he did explicitly state that he did not speak for the University.

The **University has never explicitly stated that this disclaimer needed to be explicit** much less that it needed to be stated at every opportunity. If the University wishes to make such a rule, it should apply going forward, not retroactively. Were the University to enforce such a policy retroactively, many faculty would be in violation of the policy, which raises the question of why Dr. McNinch is being singled out. We will return to this question.

Most importantly, **the Board itself has conceded that the policy does not make clear how a Faculty member should distinguish his or her views from the University.** *The Board's judgement recommends* that the University should

“Develop a standard disclaimer language for Faculty use to ensure all written and oral statements is [sic] explicitly clear if and when Faculty do not speak for the University and are expressing their own views.”

This recommendation clearly acknowledges that there is no standard format for making this distinction at present, so there is **no standard by which Dr. McNinch can be faulted for failing to do so**, at least as long as he did not explicitly claim to speak for the University.

To sum up so far: **both charges are false on both the facts and their interpretations of the rules**, and to permit ANY disciplinary action on their basis would establish a very dangerous precedent.

3. The larger issue: This brings us to the larger issue this case raises. The President and, arguably, the Board, repeatedly **abused the process laid out in the Agreement and violated Dr. McNinch's right to due process.**

These violations take three principal forms:

- *Stretching the meaning of terms in the Agreement or the law to cover cases that clearly did not fit them;*
- *Ignoring important procedural rights guaranteed by the Agreement; and*
- *Proposing consequences for Dr. McNinch's alleged violations that far exceed their seriousness.*

Let's take each in turn.

First, the attempt to stretch provisions of the contract or the law beyond their intent was most egregiously demonstrated in the original warning letter's spurious and even bizarre charge that Dr. McNinch had violated the mini-Hatch Act, in a private email he sent to his superiors predicting a tight race and urging them not to take sides. As we pointed out during earlier stages of the grievance, by this standard every political scientist and many other Faculty would be violating the Act regularly in their classrooms. This kind of statement is clearly not what the Act intended to police. Yet the President persisted in including this charge in his warning, until the Board removed it. The question is, why?

Second, both the President and the Board violated **fundamental procedural rights guaranteed by the Agreement.**

In the President's case, he denied Dr. McNinch his right under the Agreement to information that we believed was pertinent to his case. The relevant section of the Agreement (Article IX.H) reads in full:

“One party may possess relevant information that the other party may need to investigate and process the grievance. If either party requests such information in writing (and **if the information sought is not confidential as defined by Guam statute or Federal law**), **the other party shall, absent extraordinary circumstances, provide the requested information** within five (5) business days at the current duplication costs.”

Note what this Article does *not* say. **It does not say that the requesting party must show relevance or that the requested party may refuse on the grounds of relevance.** The only grounds on which the information may fail to be provided are confidentiality, as provided by law, and “**extraordinary circumstances**” which the *Agreement* defines as follows:

“A circumstance or set of **circumstances that is beyond an individual's control and that he or she could not have reasonably been expected to have taken into account** at the time or to have avoided or overcome it or its consequences.”

Confidentiality was cited by the Administration for only one item. No extraordinary circumstances existed or were cited. **Yet the Administration, and the Board consistently refused to provide information** that may have answered why Dr. McNinch was being targeted by the Administration for these questionable charges. The Administration claimed the information was not relevant to the grievance. This was not theirs to determine.

We sought evidence that **Dr. McNinch was being treated in an inequitable way and that members of the Administration had themselves leaked his second email to the press** in an effort to embarrass him. Since the inequities in his treatment persist, the information is still relevant.

Additionally, **the Board itself violated several basic protections provided to a grievant** while performing its role as the President's supervisor:

- The Board gave the grievant and his representative an opportunity to address an *ad hoc* committee of the Board, but not the full Board. Instead, **the Board voted on the *ad hoc* committee's report without hearing from Dr. McNinch or his advocate.**
- During the meeting of the full Board to vote on the judgement, the President was provided with a copy of the judgement beforehand, but the grievant was not.
- The student regent, a former student of Dr. McNinch, was required to be recused but other Board members who had potential conflicts were not. **The Board President, who has a personal relationship with the President's wife, did not recuse herself,** and consistently put her thumb on the scale in the President's favor.
- We have also heard, but not had confirmed, that the Board allowed the President to introduce orally during his meeting with the *ad hoc* committee an oral warning he issued to Dr. McNinch over a year previously in an unrelated case, but Dr. McNinch was not given an opportunity to respond. Had he had the opportunity, we would have pointed out that the President was at fault in that case for disciplining Dr. McNinch for exercising his legal rights and employing legal language to do so.

Additionally, the Board's judgement betrays a fundamental lack of understanding of Labor Law and of the *Agreement* to which it is party. The first item in the Board's decision calls for "clarification on order of precedence and deconflicting or provisions" between the *Agreement* and the RRPM. No clarification is needed. By law, and by the explicit wording of the *Agreement* in Article XII.C.

"the Agreement shall prevail over all University policies, practices, rules, regulations or guidelines, whether written or unwritten, and over any policy, practice, rule, regularion or guideline, whether written or unwritten, of any component of the University."

To call this into question, as the Board's judgement does, is to violate the Agreement and the law.

This brings us to the third and final abuse of the process: **the Administration has consistently proposed penalties that were out of proportion to the claimed violations.**

Take a step back and realize that the President's current warning letter is saying that if Dr. McNinch is "undiplomatic" in his language, or fails to explicitly state that he is not speaking

for the University, he could suffer loss of pay, suspension, loss of step, demotion or loss of job. Is this really an appropriate set of consequences for this violation? These should, at most, receive the lowest level of disciplinary action, an oral warning. For a formal disciplinary action to go in his file there needs to at least have been a record of prior warnings for similar violations. There is none that we know of, other than the oral warning referred to above, which was inappropriate and violated Dr. McNinch's right to legal redress.

All of this forces us to ask: **Why is Tom Krise intent on punishing Ron McNinch?** I use their personal names to emphasize that this action seems personal. There seem to be only two possible answers. Either the President is conducting a private vendetta, or he has been subjected to political pressure. Either is a highly improper reason for a disciplinary action. This is why we have sought and still seek the information listed in the first level grievance.

If these interpretations seem implausible, or even hyperbolic, note how unusual it is that a disciplinary action or a grievance should begin with the President, requiring an appeal to the Board. The last time was under President Nedadog, **who put the University's accreditation at risk**. Moreover, **this President**, is known to insist **that matters before him come up through the chain of command**. There were four levels of Administrators below the President who could have initiated this disciplinary action: The SVP/Provost, the Vice-Provost, the Dean, and the Associate Dean. But none apparently found it necessary.

4. Conclusion: Remedies sought.

Given the egregious overreach exhibited by the President and the violations of due process by the Board, we believe the remedies we seek are quite modest.

- a. Remove the letter of warning from Dr. McNinch's file immediately. There is no basis for it, in fact or in the rules.
- b. The Board must issue a statement publicly clearing Dr. McNinch of all wrongdoing. Given the publicity this case has received, the slanderous insinuations Dr. McNinch has been subjected to, the demonstrable fact that at least one Administrator fed the flames by forwarding Dr. McNinch's email to the media, and the Board's own errors, nothing less would suffice as a remedy.
- c. This incident has brought to light that the RRPM has not been updated to reflect changes in the Board-Union Agreement for over twenty years. The policy issues raised by this case need to be addressed through the collective bargaining process currently under way between the Union and the Administration. That is the only place these issues should be discussed going forward.

Thank you for your time and consideration.

Handout

Outline of presentation

- (1) Introduction: **Background Context**
- (2) Refuting substantive charges
- (3) The larger **issues**: Abuse of the process
- (4) Conclusion: Remedies sought

Levels of Disciplinary Action

Level One (no loss of pay or loss of job; not an Adverse Action)

- a. Oral or Written Warning, not placed in file
- b. **Written Warning, placed in file**
- c. Letter of Reprimand

Level Two

- a. loss of pay; and/or
- b. suspension without pay; and/or
- c. loss of step; and/or
- d. demotion in rank

Level Three

(Loss of job)