



CONFIDENTIAL

To: Grievant
Ronald L. McNinch-Su, Ph.D
SBPA 136
UOG Station, Mangilao, Guam, 96923

November 29, 2022

Grievant's Representative
Arun R. Swamy, Ph.D
HSS 219B
UOG Station, Mangilao, Guam, 96923

Faculty Union President
L. Robert Barber Jr., Ph.D
ALS 105G
UOG Station, Mangilao, Guam, 96923

STEP 1 GRIEVANCE DECISION

In accordance with Article IX.I.1.c of the Negotiated Agreement between the Board of Regents of the University of Guam (UOG) and the UOG Faculty Union, American Federation of Teachers, Local 6282 (Union), December 1, 2018 – April 30, 2023 (Agreement), and after considering Ronald L. McNinch-Su, Ph.D's (McNinch) grievance dated November 14, 2022, the statements and documents made and submitted by McNinch and Arun R. Swamy, Ph.D (Swamy), who served as McNinch's representative, during and after the grievance meeting on November 18, 2022, the Step 1 Grievance Decision is as follows:

I. BACKGROUND

A. McNinch's October 24, 2022 Emails.

At approximately 7:08 p.m., on or about October 24, 2022, McNinch used mcninchr@triton.uog.edu, his official UOG email account, to send an email titled: "Directive from

Chair of Public Administration and Legal Studies,” to, in relevant part, MPA Cohort 2022, the full time UOG faculty of UOG’s School of Business and Public Administration’s (SBPA) Public Administration and Legal Studies (PALS), UOG’s Chief Marketing & Communications Officer, news@guampdn.com, news@k57.com, news@kanditnews.com, phill@postguam.com, and NEWS@KUAM.COM. In the email McNinch stated:

“Dear Students,

Thank you so much for your efforts and the \$20,000 you raised in car washes and research projects to fund the great debates. This is a major production. Do not fear. As Chair of Public Administration and Legal Studies, the Great Debate will occur and I, as chair, or other faculty member in our division will argue with appropriate zealotry, the side(s) that do(es) not appear. The voters of Guam deserve to have issues debated and argued. I can stand in for Felix Camacho or Lou Leon Guerrero, you know I will . I debate very well. Who ever does not show up will not win this election. It is just that simple. This is political calculus everyone can understand.

This is reality. Let everyone else play politics. The Great Debate will Go On!

Do not play with the University of Guam and our students!

Sincerely, Ron McNinch Chair

PS: May the team with the most votes win. If you dont show up, you wont win.”

A true and accurate copy of said email is attached herein as Exhibit A.

At approximately 8:12 p.m., on or about October 24, 2022, McNinch used mcninchr@triton.uog.edu, his official UOG email account, to send an email titled: “Great Debate Update: FYI,” to UOG’s President, UOG’s Senior Vice President, UOG’s Director of Development, Alumni Affairs & Foundation Relations, UOG’s Chief Marketing & Communications Officer, and three members of SBPA’s full-time faculty. In the email McNinch stated:

“Dear Colleagues,

My collegial advice: stay out of this election.

The legislature may remain republican 8-6 but not sure

It may be 9-6 dem.
Felix could win 50-49 but not sure.
It could also flip back to 51-49.
On the other hand Lou could spring out to 60/40. But
this is a spin view. The daily numbers for Guam are
crazy. I think governor is lou at 53-47. But this is a very dynamic election.
Lou's people believe it is set. I think it is closer than others.
So my point is simple: it is easy to think that that the 2018 election holds it is one point.
But they forget, off island pollsters are lied to...

so ?????

ps the lou hacks will say different .. beware”

A true and correct copy of this email is attached herein as Exhibit B.

B. November 8, 2022 Letter of Warning.

In accordance with Article X.B of the Faculty Union Agreement, UOG’s President sent a Notice of Alleged Inappropriate behavior to McNinch on or about October 26, 2022 concerning the emails. The notice advised McNinch that, in accordance with Article X.B of the Faculty Union Agreement, UOG’s President scheduled a meeting with McNinch on October 31, 2022 to discuss the emails and to give McNinch the opportunity to explain his perspective of them to UOG’s President. The notice also advised McNinch of his right to have a representative present with McNinch at the meeting, and that a copy of the notice would be sent to the Faculty Union’s President in accordance with Article X.F.1.b and Article X.F.2.a. of the Agreement, respectively.

A true and accurate copy of the notice is attached herein as Exhibit C.

On October 31, 2022 Barber and Swamy sent UOG’s President a letter in support of McNinch and a fair and accurate copy of the letter is attached herein as Exhibit D. The meeting was subsequently rescheduled to November 1, 2022 and UOG’s President, UOG’s General Counsel, McNinch, Swamy, and Barber appeared at the meeting. On November 8, 2022, UOG’s President issued a Letter of Warning to McNinch. The Letter of Warning stated that McNinch’s

October 24, 2022 email that was sent to the media violated Article VII.P of UOG's Rules, Regulations, & Procedures Manual (RRPM) because it was not sent through UOG's public relations officer and that the email violated Article X.E.12 of the Faculty Union Agreement because it was insulting, rude, and belligerent to the political candidates that were invited to the Great Debate. The Letter of Warning stated that McNinch's second October 24, 2022 email violated Article IV.J, UOG RRPM because he was trying to influence whether the Administrators and faculty members receiving the email would vote in the 2022 General Election and because he was trying to influence or discourage them for voting for some of the political candidates in that election. The Letter of Warning also informed McNinch that if he violated Article VII.P and Article IV.J of UOG's RRPM again, he would be subject to disciplinary action in accordance with Article X of the Faculty Union Agreement and that such disciplinary action may be in the form of an adverse action. The Letter of Warning informed McNinch that the letter would be placed in his official UOG Personnel File. In the letter, UOG's President also directed McNinch to submit, within thirty-days after he received the letter, a development plan for the next Great Debate that describes what measure McNinch would take to prevent violations of Article VII.P and Article IV.J, UOG's RRPM from occurring again and that the development plan must include a full accounting of the \$20,000 that McNinch described in his first email, to include where those funds were deposited and how they will be used now that the Great Debate has been cancelled. A true and accurate copy of the Letter of Warning is attached herein as Exhibit E.

C. November 14, 2022 Grievance.

McNinch filed his Grievance on November 14, 2022, approximately three business days after he received the UOG President's Letter of Warning. A true and accurate copy of the Grievance

is attached herein as Exhibit F. In his grievance, McNinch requested that UOG provide him with copies of: (1) The Guam Post email to UOG from Henry Taitano concerning Dr. McNinch's Research; (2) Information on Faculty Discipline and Adverse Action from August, 2018 to the Present; (3) The identification of which recipient of Dr. McNinch's email dated October 24, 2022 forwarded it to others; (4) Whether anyone from UOG's Administration either orally, by email, or other correspondence or communication contact the student organizers or other faculty assisting in organizing the Great Debate, and convey their thoughts or opinions on UOG's desire to cancel the debate; (5) Whether there was any contact between any member of UOG's Administration and either campaign about the Great Debate; (6) Whether there was a particular news story concerning statements made by Rory Respicio, Campaign Manager for the 2022 Leon Guerrero-Tenorio team; (7) WASC Reports and Correspondence from 1998 to the present; and (8) Alleged comments made by UOG's Senior Vice President concerning McNinch and the Great Debate. Four business days later, on November 18, 2022, UOG responded to these requests by providing documents responsive to McNinch's first and sixth requests, and by denying his second request because such records concerning UOG faculty discipline and adverse actions are confidential and not for public disclosure pursuant to 5 G.C.A. §10108(b), (c), and (i), and Article IX.F.6 of the Faculty Union Agreement. UOG denied the remaining requests because they were not relevant to McNinch's grievance. A true and accurate copy of UOG's responses to McNinch's requests for information made in his grievance is attached herein as Exhibit G.

On November 18, 2022 a grievance meeting was held between UOG's President, McNinch, Swamy, and Barber. At the meeting, McNinch and Swamy provided UOG's President with McNinch's responses to the Letter of Warning and with their response to UOG's response to

their requests for information and true and accurate copies of these documents are attached herein as Exhibit H and Exhibit I respectively.

II. ANALYSIS

A. McNinch's violated Article VII.P of UOG's RRPM.

McNinch 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, McNinch 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.

1. McNinch's claim that his speech in his emails was "Protected Speech" has no merit.

In his grievance, McNinch claims that the speech used in both his emails was "protected speech." McNinch does not explain what he means by this statement, and it is assumed here that he is referring to his Constitutional rights to free speech. A review of the applicable law does not support the McNinch's emails being protected free speech. While public employees may have First Amendment rights to speak out, as private citizens, as to matters of public concern, such rights may not interfere with the legitimate and orderly administration of government affairs. *Pickering v. Board of Education*, 391 U.S. 563, 568 (1968). The First Amendment does not shield speech as a public employee which amounts to sanctionable employee misconduct. *Dahlia v. Rodriguez*, 735 F.3d 1060, 1068 (9th Cir. 2013) (*en banc*). The courts have adopted a balancing test between the right of a public employee, as a citizen, to comment upon matters of

public concern versus the interest of the public employer in promoting the efficiency of the public services which it performs through its employees. See *Moser v. Las Vegas Metro. Police Dept.*, 984 F.3d 900, 905 (9th Cir. 2021). The Ninth Circuit has distilled this balancing test into several factors, which include whether the employee spoke as a private citizen or public employee, and whether the public employer had an adequate justification in taking an adverse employment action against the public employee. *Eng v. Cooley*, 552 F.3d 1062, 1070 (9th Cir. 2009). In making this balancing of interests, the courts must give public employers wide discretion and control over the management of their personnel. *Brewster v. Board of Education of Lynwood Unified School Dist.*, 149 F.3d 971, 979 (9th Cir. 1998).

Here, McNinch was plainly acting as a public employee by issuing his October 24, 2022 “press release” email to the media. In that email, McNinch invoked his position as “Chair of Public Administration and Legal Studies.” McNinch went on to warn, “Do not play with the University of Guam and our students.” Further, this email was sent out via McNinch’s official UOG email address. As previously noted, the RRPM requires that all press releases on behalf of the University be issued by its Public Relations Officer. The University obviously has an interest in insuring that all press releases issued on its behalf are reviewed and authorized by the appropriate officers. Insubordination by a public employee, for example by not following the employer’s rules, is not protected activity. *Ohlson v. Brady*, 9 F.4th 1156, 1163-64 (9th Cir. 2021).

It is also important to note that federal courts have held that warnings to employees similar to the one UOG issued to McNinch do not even constitute adverse employment action in this context. See *Good News Employees Association*, 223 Fed.Appx. 734, 735 (9th Cir. 2007);

Edwards-Yu v. De Joy, 2022 WL 16816529, at *5 (W.D. Wash. 2022); and *Cornfield v. Pickens*, 2017 WL 6527299, at *5 (D. Ariz. 2017).

Based on the foregoing, the Letter of Warning did not improperly infringe on the McNinch's First Amendment rights.

2. McNinch's claim that UOG violated his right to academic freedom has no merit.

In his grievance, McNinch claims that the letter of warning violates his rights to academic freedom. Generally, UOG's Board of Regents and Administration 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, Faculty Union Agreement. Here, McNinch has an expansive interpretation of these general rights. He claims that these rights in the Faculty Union Agreement take precedence over UOG's RRPM. Exhibit F, Grievance, at 2. However, the Faculty Union Agreement states that UOG's Board of Regents retains the right and responsibility for the operations and administration of UOG through their duly designated Administrators, in accordance with all applicable law and University policies, rules, regulations, guidelines, practices and the provisions of the Faculty Union Agreement. Article II.B, Faculty Union Agreement. Further, the Faculty Union Agreement states that Faculty members may be disciplined for violating any provision of UOG policies, rules or regulation. Article X.E.18, Faculty Union Agreement. Finally, the Faculty Union Agreement states that UOG's Administration has the regulated authority to hire, assign, transfer, suspend, promote, evaluate, discipline, law off, or discharge Faculty members. Article II.B, Faculty Union Agreement. Hence, UOG's Administration has the authority under the RRPM

and the Faculty Union Agreement to issue the Letter of Warning to McNinch for his violations of the RRPm.

3. McNinch's claim that the email is an expression of his own views has no merit.

In the written statement McNinch provided during the November 18, 2022 grievance meeting, which is attached herein as Exhibit H, McNinch claims that the first email he sent on October 24, 2022 was not an official UOG news release because he was representing his own views and not those of UOG, that the mere use of McNinch's Triton email account and the fact that some of the public media receiving the email published stories about it did not make it an official UOG news, release. However, neither the Faculty Union Agreement nor the evidence in this support these claims. Generally, UOG Faculty members have the freedom to communicate with the media without being subject to censorship or disciplinary action by the Administration, and it is understood that unless authorized to serve as such, Faculty members are not the official spokespersons for UOG, and Faculty members have the duty to make it clear if and when they do not speak for UOG. Article IV.A.3, Faculty Union Agreement. Here, McNinch 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 McNinch make it clear that the statements in the email attached herein as Exhibit A were his own and not UOGs. Further, the title of the email: "Directive from Chair pf Public Administration and Legal Studies," and the McNinch signing the email as "Chair," make it clear and unambiguous that McNinch meant the email to be an official UOG communication.

Finally, McNinch intended, or he knew or should of known that the public media receiving the email would publish stories about. McNinch sent the email to news@guampdn.com which is the Guam Pacific Daily News' email addresses for press releases

and media information. See Guam Pacific Daily News' "Contact Us" page attached herein as Exhibit J. McNinch sent the email to news@kanditnews.com which is Kandit New Group's hotline where they state: "Have information you want us to know about, or expose? Leave us a news tip here." See Kandit News Group Hotline page attached herein as Exhibit K. Finally, McNinch sent the email to phill@postguam.com which is the email address for Phill Leon Guerrero, Executive Editor of the Guam Daily Post. See Guam Daily Post's "Contact Us" page attached herein as Exhibit L. Thus, McNinch intended, or he knew or should of known that the public media receiving the email would publish stories about it making the email a press release that McNinch was not authorized to send on behalf of UOG.

B. McNinch violated Article X.E.12 of the Faculty Union Agreement.

McNinch's email attached herein as Exhibit A violated Article X.E.12 of the 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, Faculty Union Agreement. Here, as set forth above, McNinch 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 McNinch violated Article X.E.12, Faculty Union Agreement by sending them to the public media where he knew or should have known that they would be published.

1. McNinch’s claim that UOG violated his right to freedom of speech and expression has no merit.

In his grievance, McNinch claims that the Letter of Warning issued in response to his insulting, rude, and belligerent statements in the email violates his freedom of speech and expression. Generally, UOG’s Board of Regents and Administration shall accord to all Faculty members freedom of speech and expression. Article IV.A.2, Faculty Union Agreement. As stated above, this general right does not exonerate him for violating the RRPM.

2. McNinch’s claim that the email was not rude, insulting, or belligerent has no merit.

In the written statement McNinch provided during the November 18, 2022 grievance meeting, which is attached herein as Exhibit H, McNinch claims that a reasonable person would not find the first email he sent on October 24, 2022 as rude, insulting, or belligerent, and that the language McNinch used in the email were commonplace observations about debates or “cheerleading,” are not supported by the Faculty Union Agreement or the evidence in this matter. McNinch himself admitted that: “In retrospect when I read it [The Email Attached herein as Exhibit A], re-read it later on, I thought my tone should have been different, I didn’t like my tone... I like to sound more diplomatic than that.” Interview between McNinch and Patti Arroyo which aired on K57 on October 25, 2022 at 3:00, a hyperlink to this interview and rough transcript is attached herein as Exhibit M and this statement appears on page 5 of the transcript. Hence, McNinch has admitted that the tone he used in the email was improper. Further, McNinch claims, in his grievance, that a reasonable person in Guam would not view his comments as During that interview Patti Arroyo stated that she did not like McNinch’s tone in the email either. Id. On October 25, 2022, Phill Leon Guerrero, Executive Editor of the Guam Daily Post and one of the recipients of McNinch’s email attached herein as Exhibit A, wrote an article that appeared in the Guam Daily Post on October 25, 2022 wherein he interviewed Rory

Respicio, Campaign Manager for the Leon Guerrero-Tenorio team, who stated that: “It is apparent from the recent release of emails and texts that Dr. McNinch’s real motive behind these debates is his reputation and the money that he’s hoping to raise for his department, at the expense of providing real life lessons and practical classroom learning experiences about what it means to stand up for principles.” Exhibit G, Article by Phill Leon Guerrero at 5. Hence, the email’s rude, insulting, and belligerent language, which its own author admitted he did not like, was not received well by some of the public media McNinch sent it to, and by at least one of candidates that was invited to the Great Debate and placed UOG in a very negative light.

C. McNinch violated Article IV.J, UOG RRPM.

McNinch email attached herein as Exhibit B 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 email attached herein as Exhibit B, McNinch advised other 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 McNinch 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.

1. McNinch’s claim that rights to academic freedom and freedom of speech and expression take precedence over the RRPM have no merit.

In his statement provided at the grievance meeting, McNinch claims that his general rights to academic freedom and freedom of speech and expression supersede the RRPM and its prohibitions against violating Guam’s Mini-Hatch Act. As set forth above, this argument has no merit because UOG’s Administration has the authority under the RRPM and the Faculty Union Agreement to issue the Letter of Warning to McNinch for his violations of the RRPM. Additionally, there should be no doubt that restrictions on political activity by public employees similar to those under the Guam Mini-Hatch Act, are enforceable. See *U. S. Civil Service Commission v. National Association of Letter Carriers*, 413 U.S. 548 (1973); *Geary v. Renne*, 880 F.2d 1062, 1067-68 (9th Cir. 1989). Public employees, while permitted to engage in political campaigning as private citizens, are not permitted to use their official authority to influence colleagues. See *McKechnie v. McDermott*, 595 F.Supp. 672, 675 (N.D.Ill. 1984). Thus, a violation of the Mini-Hatch Act constitutes a violation of UOG’s RRPM. McNinch violated Guam’s Mini-Hatch Act by sending the email attached herein as Exhibit B to his UOG colleagues, in an attempt to influence them as to the upcoming election. Accordingly, the University’s Letter of Warning, was also not a violation of McNinch’s general rights to academic freedom or freedom of speech or expression because it addressed McNinch’s violation of the Guam’s Mini-Hatch Act and UOG’s RRPM.

2. McNinch's Claim that UOG must report McNinch's violation to the Guam Civil Service Commission can enforce Guam's has no merit.

In his statement submitted at the grievance hearing, McNinch claims that violations of Guam's Mini-Hatch Act must be investigated by the Guam Civil Service Commission and not UOG. Guam's Mini-Hatch Act states that when any person has reason to believe that an employee has violated 5 G.C.A. §5103, he or she may report the matter to the Guam Civil Service Commission which may investigate the matter. 5 G.C.A. §5105. However, the 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, Faculty Union Agreement. Here, although UOG may report McNinch's violation of Guam's Mini-Hatch Act to Guam's Civil Service Commission it retains the discretion not to. Further, UOG properly followed the Faculty Union Agreement and the model of progressive discipline by issuing a Letter of Warning to McNinch in lieu of filing a report with the Civil Service Commission in the hope that doing so would correct McNinch's inappropriate behavior.

D. The information UOG did not provide McNinch are not relevant to confidential.

In his statements submitted at the grievance hearing, McNinch states that UOG does not have the right to determine what materials are relevant to the grievance and insists that UOG provide him all the information that he requested in his grievance. Generally, in a grievance proceeding, a party may request relevant information from the other party and if such information is not confidential, absent extraordinary circumstances, the party shall provide such information within five (5) business days of the request. Article IX.H, Faculty Union Agreement. Hence, McNinch only has the right to receive the relevant, non-confidential information that he requests. As set

forth in UOG’s responses to McNinch’s requests attached herein as Exhibit G, UOG has properly found that the information McNinch requested regarding Faculty Discipline and Adverse Actions from 2018 to the present is confidential and not relevant. McNinch claims that he is only requesting “numbers, not particulars.” However, this is not true as McNinch actually requested the names of the administrators who processed discipline cases and adverse actions. Further, McNinch claims that the information concerning discipline and adverse actions on other UOG Faculty, which of the recipient’s of his email attached herein as Exhibit B submitted the email to K57, and the alleged verbal statements by the UOG’s SVP are relevant to the question of whether he is being singled out. However, these are not issues in this matter because he did not allege this in his grievance nor are they relevant to McNinch’s October 24, 2022 emails or the Letter of Warning issued in response to them. McNinch claims that the Great Debate items he was seeking are relevant to the issue of whether UOG’s actions were being undertaken due to political pressure, however, this is also not a claim made by McNinch in his grievance and is not relevant to McNinch’s October 24, 2022 emails or the Letter of Warning issued in response to them. Finally, McNinch claims that the WASC information he requested is relevant to whether UOG is attempting to intimidate him, however, this is not alleged in his grievance nor is this issue relevant to McNinch’s October 24, 2022 emails or the Letter of Warning issued in response to them.

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III. DECISION

Based on the foregoing, McNinch's request to rescind the Letter of Warning and other relief as stated in his Grievance is hereby DENIED and McNinch may proceed to Step 2 of the Grievance Procedure as set forth in Article IX.I.2, Faculty Union Agreement.

ISSUED THIS 29th day of November, 2022 by:



THOMAS W. KRISE, PhD
President

EXHIBIT A

From: RONALD L MCNINCH <mcninchr@triton.uog.edu>

Sent: Monday, October 24, 2022 7:08 PM

To: MPA Cohort2022; ROSEANN M JONES; FRED R SCHUMANN; PALS FT FACULTY

Cc: Iris Lapid; reubenbugarin@gmail.com; Jonas Macapinlac; news@guampdn.com; news@k57.com; news@kanditnews.com; phill@postguam.com; phil@postguam.com; NEWS@KUAM.COM

Subject: Directive from Chair of Public Administration and Legal Studies

Dear Students,

Thank you so much for your efforts and the \$20,000 you raised in car washes and research projects to fund the great debates. This is a major production.

Do not fear. As Chair of Public Administration and Legal Studies, the Great Debate will occur and I, as chair, or other faculty member in our division will argue with appropriate zealously, the side(s) that do(es) not appear. The voters of Guam deserve to have issues debated and argued. I can stand in for Felix Camacho or Lou Leon Guerrero, you know I will . I debate very well. Who ever does not show up will not win this election. It is just that simple. This is political calculus everyone can understand.

This is reality. Let everyone else play politics. The Great Debate will Go On!

Do not play with the University of Guam and our students!

Sincerely, Ron McNinch Chair

PS: May the team with the most votes win. If you dont show up, you wont win.

EXHIBIT B

From: RONALD L MCNINCH <mcninchr@triton.uog.edu>

Sent: Monday, October 24, 2022 8:12:18 PM

To: Krise, Thomas <tkrise@triton.uog.edu>; ROSEANN M JONES <jonesr@triton.uog.edu>; Dr. Anita Enriquez <abe@triton.uog.edu>

Cc: NORMAN S ANALISTA <analistan@triton.uog.edu>; Jonas Macapinlac <jmac@triton.uog.edu>; FRED R SCHUMANN <schumannf@triton.uog.edu>; Dr. JUDITH P GUTHERTZ <guthertzj@triton.uog.edu>

Subject: Great Debate Update: FYI

Dear Colleagues,

My collegial advice: stay out of this election.

The legislature may remain republican 8-6 but not sure

It may be 9-6 dem.

Felix could win 50-49 but not sure.

It could also flip back to 51-49.

On the other hand Lou could spring out to 60/40. But

this is a spin view. The daily numbers for Guam are

crazy. I think governor is lou at 53-47. But this is a very dynamic election.

Lou's people believe it is set. I think it is closer than others.

So my point is simple: it is easy to think that that the 2018 election holds it is one point. But they forget, off island pollsters are lied to...

so ?????

ps the lou hacks will say different .. beware



UNIVERSITY OF GUAM
UNIBETSEDAT GUAHAN

President's Office

CONFIDENTIAL

Ronald L. McNinch-Su, Ph.D
SBPA 136
UOG Station, Mangilao, Guam, 96923

October 26, 2022

RE: Notice of Alleged Inappropriate Behavior.

Dear Dr. McNinch:

Pursuant to Article X.B of the Negotiated Agreement between the Board of Regents of the University of Guam (UOG) and the UOG Faculty Union, American Federation of Teachers, Local 6282, December 1, 2018 – April 30, 2023 (Agreement), you are hereby on notice that on or about October 24, 2022, I received information that you sent the email attached herein as Exhibit A to the public media, and that you sent the email attached herein as Exhibit B advising various UOG Administrators to "Stay out of this election." The email attached herein as Exhibit A may violate Article VII.P of UOG's Rules, Regulations, and Procedures Manual (RRPM) which states that 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 because the release to the public media did not follow this procedure. The email may also violate Article X.E.12 of the Faculty Union Agreement because the statements "Who ever does not show up will not win this election," "If you dont show up, you wont win," and "Do not play with the University of Guam and our students," may be perceived as being insulting, rude, or belligerent to the political candidates that were invited to participate in the Great Debate. The email attached herein as Exhibit B may violate Article IV.J, UOG RRPM, which prohibits political activity in contravention of Guam's Mini-Hatch Act as well as 4 G.C.A. §5103(a), which is a section of that act, that prohibits UOG employees from using their official authority or influence for the purpose of interfering with or affecting the result of an election because the email appears to indicate that you are trying to influence whether the Administrators and faculty members receiving the email would vote and influence or discourage them for voting for some of the political candidates in Guam's upcoming General Election in November, 2022.

In accordance with Article X.B of the Agreement, I have scheduled a meeting between you and me at my office at 2:00 p.m. on Monday, October 31, 2022 to discuss the aforementioned emails wherein you may explain your perspective of them.

Further, in accordance with Article X.F.1.b of the Agreement, you have the right to a representative to be present with you at our meeting. A copy of this notice will be sent to the Union President in accordance with Article X.F.2.a. Please contact me if you have any questions.

Sincerely,

THOMAS W. KRISE, PhD
President

UOG Station, Mangilao, Guam 96923 Tel. (671) 735-2990 Fax. (671) 734-2296
A U.S. Land Grant Institution accredited by the WASC Senior College and University Commission.
The University of Guam is an Equal Opportunity Provider and Employer.

EXHIBIT C

EXHIBIT A

From: RONALD L MCNINCH <mcninchr@triton.uog.edu>
Sent: Monday, October 24, 2022 7:08 PM
To: MPA Cohort2022; ROSEANN M JONES; FRED R SCHUMANN; PALS FT FACULTY
Cc: Iris Lapid; reubenbugarin@gmail.com; Jonas Macapinlac; news@guampdn.com; news@k57.com; news@kanditnews.com; phill@postguam.com; phil@postguam.com; NEWS@KUAM.COM
Subject: Directive from Chair of Public Administration and Legal Studies

Dear Students,

Thank you so much for your efforts and the \$20,000 you raised in car washes and research projects to fund the great debates. This is a major production.

Do not fear. As Chair of Public Administration and Legal Studies, the Great Debate will occur and I, as chair, or other faculty member in our division will argue with appropriate zealousness, the side(s) that do(es) not appear. The voters of Guam deserve to have issues debated and argued. I can stand in for Felix Camacho or Lou Leon Guerrero, you know I will. I debate very well. Who ever does not show up will not win this election. It is just that simple. This is political calculus everyone can understand.

This is reality. Let everyone else play politics. The Great Debate will Go On!

Do not play with the University of Guam and our students!

Sincerely, Ron McNinch Chair

PS: May the team with the most votes win. If you dont show up, you wont win.

EXHIBIT B

From: RONALD L MCNINCH <mcninchr@triton.uog.edu>
Sent: Monday, October 24, 2022 8:12:18 PM
To: Krise, Thomas <tkrise@triton.uog.edu>; ROSEANN M JONES <jonesr@triton.uog.edu>; Dr. Anita Enriquez <abe@triton.uog.edu>
Cc: NORMAN S ANALISTA <analistan@triton.uog.edu>; Jonas Macapinlac <jmac@triton.uog.edu>; FRED R SCHUMANN <schumannf@triton.uog.edu>; Dr. JUDITH P GUTHERTZ <guthertzj@triton.uog.edu>
Subject: Great Debate Update: FYI

Dear Colleagues,

My collegial advice: stay out of this election.

The legislature may remain republican 8-6 but not sure

It may be 9-6 dem.

Felix could win 50-49 but not sure.

It could also flip back to 51-49.

On the other hand Lou could spring out to 60/40. But

this is a spin view. The daily numbers for Guam are

crazy. I think governor is lou at 53-47. But this is a very dynamic election.

Lou's people believe it is set. I think it is closer than others.

So my point is simple: it is easy to think that that the 2018 election holds it is one point. But they forget, off island pollsters are lied to...

so ?????

ps the lou hacks will say different .. beware



University of Guam Faculty Union
AFT Local 6282

Thomas W. Krise, Ph.D.
President, University of Guam

October 31, 2022

RE: Notice of alleged inappropriate behavior to Dr. Ronald L. McNinch-Su

Dear President Krise:

We are writing on behalf of the University of Guam Faculty Union to respond to the allegations of inappropriate behavior laid at Dr. Ronald McNinch in your letter of October 26, 2022. We feel strongly that the complaint is unwarranted and, further, violates the Agreement's guarantees of Academic Freedom, Freedom of speech and expression, and Freedom to communicate as laid down in Article IV.A.1-3:

The Board of Regents and the Union agree that the following are rights the Board and the Administration shall accord to all Faculty members:

1. Academic freedom rights, which include:
 - a. the right to introduce controversial topics into the classroom as long as these topics are related to the subject under study;
 - b. the right to pursue research and to publish research findings as part of one's academic duties, and to conduct their research honestly and report their findings accurately; and
 - c. 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.
2. Freedom of speech and expression;
3. Freedom to communicate with members of the Board, with any member of the University Administration, with officials of the Government of Guam and the Legislature, with members of accrediting bodies, and with the media without being subject to censorship or disciplinary action by the Administration. 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.

It is important to note that the specific activities that give rise to the current complaint are explicitly covered by these provisions and unquestionably part of Dr. McNinch's research, instructional, and service activities. The Great Debate, with which Dr. McNinch has been associated for twenty years, is an exemplary opportunity for students to engage in service learning and civic engagement. Dr. McNinch's opinion polls are central to his research activities and, likewise, of long duration. The only concern might be the phrase "Do not play with the University of Guam and our students" in the email Dr. McNinch sent to students (Exhibit A). However, the sentence is simply an expression of pride in the institution, not a claim to represent it. If this statement is seen as claiming to speak for the University, then same would have to be said every time any faculty member or student made reference to the University in a public forum. One could, perhaps, chastise Dr. McNinch for not stating explicitly that he was not speaking for the University, but taken in context it is difficult to read this letter as anything other than the view of the author.

With respect to the various charges made under X.B. we submit that none of the examples cited come even close to being “insulting, rude or belligerent” to the candidates or anyone else, and to construe them as such would represent such a stretch of the wording of Article X as to nullify the guarantees of academic freedom provided in Article IV.

- First, the letter to students (Exhibit A) does not target any particular candidate but rather addresses a hypothetical situation where one of the candidates might not show up, which has come up in previous years as well. It is written to reassure students, whose hard work the author commends, that their work will not be in vain. Phrases like “who ever does not show up will not win this election” and “if you don’t show up you won’t win” are boilerplate political commentary found on every cable news channel. In the context of a letter to students, they resemble the standard exhortations of a coach to his team.
- Second, Dr. McNinch explicitly offers to take the place of either candidate if they did not show up and argue on their behalf, hardly an offer that can be viewed as “insulting, rude or belligerent” to a candidate who did not show up. This offer is standard practice in student debates. It was also reported in *The Guam Daily Post*.
- Finally, the candidates themselves are public figures and criticism of them is clearly covered under the guarantees of Freedom of speech and expression provided by Article IV.A. 2.

As far as Article V.J of the RRPM and Guam’s Mini-Hatch Act are concerned, we note:

- the provisions regarding Academic Freedom in the Agreement trump the RRPM;
- determinations as to whether an employee has violated the Mini-Hatch Act must be made by the appropriate civil service authorities, not by UOG;
- most importantly, the specific evidence claimed as violation of the Act is very thin.

Dr. McNinch’s email to colleagues and administrators (Exhibit B) does not constitute partisan political activity. It does not attempt to “influence” whether and how the recipients vote in the privacy of a voting booth. Dr. McNinch’s advice, based on his survey research, which he has conducted and published for many years is that the recipients should “stay out of this election” which, in this context, clearly means “do not publicly support or endorse either party.” No reasonable person would interpret it otherwise. This advice is entirely in keeping with the spirit of the Mini-Hatch Act.

We regret having to write this letter. However, we are convinced the path the Administration is following in this matter poses a grave threat to Academic Freedom. We urge you to reconsider. The Union is committed to supporting Dr. McNinch on this issue.

Sincerely,



Arun R. Swamy
Professor of Political Science
Member, Faculty Union Board



L. Robert Barber, Jr.
Extension Specialist/Professor of Ag. Economics
President, UOG Faculty Union



Ronald L. McNinch-Su, Ph.D
SBPA 136
UOG Station, Mangilao, Guam, 96923

November 8, 2022

RE: Letter of Warning.

Dear Dr. McNinch:

In accordance with Article X.C.1.b of the Negotiated Agreement between the Board of Regents of the University of Guam (UOG) and the UOG Faculty Union, American Federation of Teachers, Local 6282 (Union), December 1, 2018 – April 30, 2023 (Agreement), and after considering the statements made by you, your representative Arun R. Swamy, and L. Robert Barber, Jr., Union President during our November 1, 2022 meeting, and after considering the Union's Letter dated October 31, 2022, I find that the email you sent to members of the public media on October 24, 2022 attached herein as Exhibit A violates Article VII.P of UOG's Rules, Regulations, and Procedures Manual (RRPM) which states that 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 because the release to the public media did not follow this procedure. The statements made during our meeting that you believed that you were sending the email in your personal capacity and that you were sending it to your "friends" are not supported by the record in this matter. Specifically, you sent out the email using mcninchr@triton.uog.edu which is your official UOG email account. You state in the email that you are sending it as "Chair of Public Administration and Legal Studies" which is one of your official positions at UOG. You addressed the email to news@guampdn.com, news@k57.com, news@kanditnews.com, phil@postguam.com, and NEWS@KUAM.COM. As a result of your actions some of the recipients of these emails published news stories concerning the statements you made the email and you either knew or should have known that they would do so.

I find that the statements in the email violated Article X.E.12 of the Faculty Union Agreement were insulting, rude, and belligerent to the political candidates that were invited to participate in the Great Debate. The statements made during our meeting that they were "boilerplate stuff," or "cheerleading" or "standard fare" are not supported by the record. Specifically, you state in the email that "Who ever does not show up will not win this election," "If you dont show up, you wont win [SIC]," and "Do not play with the University of Guam and our students," are insulting, rude, and belligerent to the candidates that were invited to participate in the Great Debate. Of particular note is that had you followed the procedure in Article VII.P, UOG's RRPM, these offensive statements would likely have been omitted from the email.

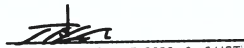
I find that the email attached herein as Exhibit B violates Article IV.J, UOG RRPM, which prohibits political activity in contravention of Guam's Mini-Hatch Act as well as 4 G.C.A. §5103(a), which is a section of that act, that prohibits UOG employees from using their official authority or influence for the purpose of interfering with or affecting the result of an election because you were trying to influence whether the Administrators and faculty members receiving the email would vote in the 2022 General Election and you were trying to influence or discourage them for voting for some of the political candidates in that election. The statements made during the meeting that UOG may not impose disciplinary actions for UOG employees violating Guam's Mini-Hatch Act have no merit. Be advised that as a member of UOG's faculty, you are subject to the provisions of the UOG-Faculty Union Agreement. That Agreement states authorized causes for disciplinary action, including adverse action, against a Faculty member include violation of any provision of the University policy, rules and regulations. Article X.E.18, UOG-Faculty Union Contract. UOG's RRPM states that 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. Article IV.J, UOG RRPM. Hence, a violation of Guam's Mini-Hatch Act would violate Article IV.J, UOG RRPM, and can be the subject of disciplinary action pursuant to Article X.E.18, UOG-Faculty Union Contract. The statements made in the meeting that the email did not attempt to influence how the UOG Administrators and faculty receiving the email vote in the upcoming General Election have no merit. In the email you advise the UOG Administrators and faculty receiving the email to "stay out of this election," and then you proceed to state which political party may or may not have a majority in the Guam Legislature or who may or may not be elected as Governor.

Finally, I find no merit in the statements that were made in the meeting that sending the emails attached herein as Exhibits A and B were proper exercises of your right to "Academic Freedom" or "Free Speech." Those rights do not excuse you from complying with Article VII.P and Article IV.J, of UOG's RRPM or exonerate your violations of these Articles as set forth above. These violations are serious because they threaten UOG's political neutrality as the organizer of the Great Debate. Further, attempting to coerce political candidates to participate in the debate or threatening to stand-in for the ones who do not appear at the debate is not conducive to encouraging the voluntary participation of the candidates in the debate and maintaining the public's confidence in UOG's political neutrality in conducting the debate.

Accordingly, you are hereby WARNED that if you violate Article VII.P and Article IV.J, of UOG's RRPM again, you will be subject to disciplinary action in accordance with Article X of the UOG-Faculty Union Contract and that such disciplinary action may be in the form of an adverse action. This letter of warning will be placed in your Official UOG Personnel File. You are hereby directed to submit, within thirty (30) days after receiving this letter, a development plan for the next great debate that describes what measures you will take to prevent violations of Article VII.P and Article IV.J, of UOG's RRPM from occurring again. That development plan shall also include a full accounting of the \$20,000 identified in the email attached herein as Exhibit A, to include where those funds are deposited and how they will be used now that the Great Debate has been cancelled.

Sincerely,


Thomas Krise (Nov 7, 2022 19:16 HST)

THOMAS W. KRISE, PhD
President

EXHIBIT A

From: RONALD L MCNINCH <mcninchr@triton.uog.edu>

Sent: Monday, October 24, 2022 7:08 PM

To: MPA Cohort2022; ROSEANN M JONES; FRED R SCHUMANN; PALS FT FACULTY

Cc: Iris Lapid; reubenbugarin@gmail.com; Jonas Macapinlac; news@guampdn.com; news@k57.com; news@kanditnews.com; phill@postguam.com; phil@postguam.com; NEWS@KUAM.COM

Subject: Directive from Chair of Public Administration and Legal Studies

Dear Students,

Thank you so much for your efforts and the \$20,000 you raised in car washes and research projects to fund the great debates. This is a major production.

Do not fear. As Chair of Public Administration and Legal Studies, the Great Debate will occur and I, as chair, or other faculty member in our division will argue with appropriate zealously, the side(s) that do(es) not appear. The voters of Guam deserve to have issues debated and argued. I can stand in for Felix Camacho or Lou Leon Guerrero, you know I will. I debate very well. Who ever does not show up will not win this election. It is just that simple. This is political calculus everyone can understand.

This is reality. Let everyone else play politics. The Great Debate will Go On!

Do not play with the University of Guam and our students!

Sincerely, Ron McNinch Chair

PS: May the team with the most votes win. If you dont show up, you wont win.

EXHIBIT B

From: RONALD L MCNINCH <mcninchr@triton.uog.edu>
Sent: Monday, October 24, 2022 8:12:18 PM
To: Krise, Thomas <tkrise@triton.uog.edu>; ROSEANN M JONES <jonesr@triton.uog.edu>; Dr. Anita Enriquez <abe@triton.uog.edu>
Cc: NORMAN S ANALISTA <analistan@triton.uog.edu>; Jonas Macapinlac <jmac@triton.uog.edu>; FRED R SCHUMANN <schumannf@triton.uog.edu>; Dr. JUDITH P GUTHERTZ <guthertzj@triton.uog.edu>
Subject: Great Debate Update: FYI

Dear Colleagues,

My collegial advice: stay out of this election.

The legislature may remain republican 8-6 but not sure

It may be 9-6 dem.

Felix could win 50-49 but not sure.

It could also flip back to 51-49.

On the other hand Lou could spring out to 60/40. But

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crazy. I think governor is lou at 53-47. But this is a very dynamic election.

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So my point is simple: it is easy to think that that the 2018 election holds it is one point. But they forget, off island pollsters are lied to...

so ?????

ps the lou hacks will say different .. beware

Ron McNinch, PhD, SPHR, CFE, CFD
SBPA PALS

14 November 2022

Memo to the Executive Office; SVP Anita Enriquez (Acting President) and Dr. Krise (Off island); Joseph Gumataotao, UOG HR
Cc: Dr. Barber, Union President
Dr. Arun Swamy, Requested Advisor

Dear University Administrators, Observers and Advisors,

Under the provisions of the faculty union contract, I would like to respectfully grieve my recent disciplinary action. The rule is quoted below and this request is submitted in a timely manner. "Disciplinary actions such as letters of reprimand, which the Administration can issue but which do not involve Adverse Actions as defined in Article X herein, may be subjects of a grievance as provided for in Article IX herein." (Page 52 of the UOG Union Agreement, hereafter, "Agreement.")

The grievance procedures are in Article IX of the Agreement. The following points apply:

First, "All parties, however, are encouraged to communicate and attempt to resolve their differences informally before, during, and after any formal conflict resolution procedure." (Paragraph One of Article IX.A, page 44.) Under this concept, I would like to request that this action be set aside and the university administration and the faculty union engage in a collegial discussion on the critical faculty rights and accreditation concerns that this case raises. The goal, if this option is taken, would be to improve our systems and ensure basic faculty and student rights. It would also demonstrate that the internal collegial process works.

Second, I would like to ask certain persons to advise me. (Article IX.C.1). Dr. Barber can attend as observer and union president and Dr. Swamy can be my advisor, if they both agree.

Third, this grievance is filed within the five business day timeframe. (Article IX.E).

Fourth, under Article IX.H, I will need several points of information from the administration. I have attached this list of items to this grievance.

Fifth, this brief memo serves to meet the requirements of Step One in the grievance process. Step one has four parts.

(1) Description of Facts: The university asserts that I violated several speech related provisions by sending emails to students, friends and university colleagues. I believe that my actions are a form of protected activity under the union contract, federal and Guam laws, accreditation standards, academic freedom and other general academic principles. The university also asserts that I violated 4 GCA 5 because I cited election statistics and warned colleagues this was a turbulent election. I believe that the university RRPm states that the university will follow Guam laws related to political activity concerns. If the university believes there is a violation, it can be reported to the Guam Civil Service Commission per the law. Further, I believe my statements are

RECEIVED
University of Guam
Office of the General Counsel
Date: 11/14/22

EXHIBIT F

also protected speech. The allegations are in the warning letter and is attached. There is a fundamental contrast in views on these questions and rights between the university administration and me. There are quite a few gray areas and thus a policy remedy approach may be more suitable to addressing these concerns. The university mission and RRPM discuss a number of times that the university studies and teaches political topics. Discussing and teaching politics has been in the WASC accreditation review cycles for many years at the university. Suddenly claiming that teaching, researching and sharing political opinions are 4 GCA 5 violations would be a major shift in policy. I further believe that due process and just cause were not used with this discipline process. I assert my rights to appeal this action in total related to all aspects of the warning letter. The university has made some rules and policies that conflict with the basic rights provided to faculty and this is also part of the concerns raised.

(2) Citations of the Agreement and Related Policies

Agreement: As noted in the letter from Dr. Swamy and Dr. Barber, dated October 31, 2022, this warning letter against me is in direct conflict with the guarantees of academic freedom and expression provided in the Agreement. (Article IV.A.1.-3). As the Agreement clearly takes precedence over the RRPM when the two are in conflict, especially when the Agreement is the more recent document, your references to the RRPM have no merit. With respect to the specific concerns you raise in your letter, I note the following:

Art. IV.A.1.c guarantees me "the right to express [my] views (orally or in writing) on controversial matters without being subject to censorship or disciplinary action." The requirement that I submit my email for prior approval clearly violates this provision.

Art. IV.A.2 guarantees me "Freedom of speech and expression." The various - and inaccurate - characterizations of my language as "rude, insulting and belligerent" are in violation of this provision, especially when taken in context: the alleged targets of my comments were and are public figures. The charge of violating the mini-Hatch Act for simply expressing an opinion in a private email also violates these provisions. Furthermore, the language used, while informal, would not be seen as "rude, insulting and belligerent" by any reasonable member of the public.

Art. IV.A.3. guarantees me the "Freedom to communicate with ... any member of the University Administration, with officials of the Government of Guam and the Legislature, ... and with the media without being subject to censorship or disciplinary action by the Administration." Both the requirement that I submit my communications to the University for pre-approval and the charge of violating the 4 GCA 5 for simply communicating my political analysis to administrators and colleagues violates this important faculty right.

Art. IV.A.4 guarantees me a "Freedom of association." A rule that states that I cannot talk with friends that also happen to be in the media would violate this provision.

Art. IV.B Due Process and Just cause. There was no reason for the university president to process this action. At least two lower levels could have processed it and respected the format of the hierarchy of review in the Agreement. The allegations do not fit the criteria of just cause and are likely violations of university policy, accreditation standards and public laws.

Guam Laws:

4 GCA 5: The Guam Civil Service Commission investigates these kinds of questions. The university does not have the authority to make investigative determinations. After the Civil Service stage, then the university can act, if needed. Under WASC Standards and Guam Laws, the university has a duty to comply with Guam laws. This law states at 4 GCA 5105:

“§ 5105. Investigations by Civil Service Commission. **When any person has reason to believe that an employee has violated § 5103, he may report the matter to the Civil Service Commission.** On receipt of a written report which seems to the Commission to warrant an investigation, the Commission may investigate the matter in accordance with the provisions of the rules and procedures, if any, established by the Civil Service Commission and the following...”

The reason the civil service was tasked with this investigative duty was to ensure a uniform application of this law. By seeking to act on a 4 GCA 5 concern outside of the statutory process, due process and just cause concepts are violated.

I believe that a reasonable person in Guam would not view my comments as interfering or affecting the 2022 elections. I have made similar comments many times over the last 26 years. In fact, my comments accurately reflected the reality of the race. This is my academic field.

UOG RRPM:

Several sections of the RRPM discuss teaching and studying politics and government at the university. Thus, this subject is an integral part of the university mission.

UOG Mini-Hatch Act Rule, Page 145

J. POLITICAL ACTIVITIES Pursuant to P.L. 19-40 (University of Guam Charter), which confirms the University of Guam 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.]

The university human resources website has an old version of this law from 1996. The law was amended in 2012 and greatly increased the basic rights for all employees.

(3) Proposed Remedies

- a. I would like the written warning rescinded.
- b. I would like to ask the administration and the union to work on better policies in protecting academic freedom and campus speech.
- c. I would like for the faculty to be reassured that the administration will work to better promote and protect academic freedom and campus speech.

(4) Request to Meet

I would like to meet to discuss these concerns.

Sixth, these points were made to you previously, in writing and in personal communication. Your letter dismisses them as having "no merit" without explanation or justification. I can therefore only reiterate them and spell out their relevance. I urge you to reconsider. This action is too serious an assault on academic freedom and the specific guarantees provided in the Agreement for me not to pursue every remedy available to me.

Sincerely, 
Ron McNinch

Attachment 1: Union Agreement Cites

Attachment 2: Request for Information to assist with grievance. (Article IX.H.)

Attachment 3: Warning Letter

Attachment 1

Union Agreement Cites
Article IV.A.1-3:

The Board of Regents and the Union agree that the following are rights the Board and the Administration shall accord to all Faculty members, especially the highlighted text below.

1. Academic freedom rights, which include:
 - a. the right to introduce controversial topics into the classroom as long as these topics are related to the subject under study;
 - b. the right to pursue research and to publish research findings as part of one's academic duties, and to conduct their research honestly and report their findings accurately; and
 - c. 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.
2. Freedom of speech and expression;
3. Freedom to communicate with members of the Board, with any member of the University Administration, with officials of the Government of Guam and the Legislature, with members of accrediting bodies, and with the media without being subject to censorship or disciplinary action by the Administration. 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.
4. Freedom of association;

Attachment 2

Request for Information under Article IX.H

To assist me with this step in the grievance process, I would like the following points of information to assist me. I would like the Guam Post email to UOG from Henry Taitano. (See below)

Information on Faculty Discipline and Adverse Actions: August 2018-present

1. The number of faculty disciplined during this timeframe. _____
 2. The number of faculty receiving adverse actions during this timeframe. _____
 3. The names of the administrator(s) who processed the discipline cases. _____
 4. The names of the administrator(s) who processed adverse action cases. _____
 5. The reason(s) for discipline. (IE Agreement violation citation)
 6. The reason(s) for adverse action. (IE Agreement violation citation.)
 7. How many discipline and adverse actions cases proceeded to Step One? _____
 8. How many discipline and adverse actions cases proceeded to Step Two? _____
 9. How many discipline and adverse actions cases proceeded to the ad hoc process? _____
- (Items 3, 4, 5 and 6 may be put on the back of the form if needed.)

Information on Who Sent My Comments to the News Media

The university uses "Exhibit B," as evidence that I sought to influence or interfere with the election process in violation of 4 GCA 5. This email was sent to less than seven academics and administrators and simply talked about how dynamic the 2022 elections were. I do not believe any of these comments violate the law, these are normal topics that we discuss nearly every day in my classes. I said it was likely a 53-47 race favoring Governor Leon Guerrero and the final result was a 55-44 race. All of the off island polls were claiming high 60s at this time. I was receiving all kinds of pressure at the time to say higher numbers in my estimate.

The following people received this email: Thomas Krise, Anita Enriquez, Roseann Jones, Jonas Macapinlac, Norman Analista, Judy Guthertz and Fred Schumann. One of them forwarded this directly or indirectly to Patti Arroyo and possibly other partisan political actors.

I would like to know who sent this email to others. The university can check the triton email and see who forwarded this email and to whom. I would like the list of persons this was forwarded to within two days after receiving it. I would also like the emails themselves.

Guam Post and Henry Taitano

Earlier this year, I was told that Henry Taitano of the Guam Post had contacted the university about my research. I believe he may have contacted Jonas Macapinlac or Anita Enriquez via email. I spoke to both of them about this. I would like a copy of the email Mr. Taitano sent to UOG about me. I believe he was conducting political operations and I complained about it. I would also like any other correspondence or information on this point. The university likely knew or should have known I was being targeted by campaign political operatives.

Great Debate Items

1. Did anyone from the UOG Administration either orally, by email or other correspondence or communication contact the student organizers or other faculty assisting in organizing the Great Debate, and convey thoughts or opinions on UOG's desire to cancel the debate? If so, who and what were the reasons given? I request a copy of the written communication, email or a recall narrative of those comments and to whom they were addressed or delivered?
2. Was there any contact between any member of the UOG Administration and either campaign about the Great Debate? If so, what role, if any, did this play in the cancellation of the Great Debate?
3. At the meeting to discuss this discipline item, the university administration mentioned that Rory Respicio, the Campaign Manager for the 2022 Leon Guerrero-Tenorio Election Campaign was somehow directly or indirectly involved in motivating this action. I believe Atty. Camacho mentioned this point. Can this point of influence be further explained? Is there a particular news or media story or was this from direct contact from the campaign? I would like the reference, email, written communication or recall reference related to this point. Who received these communications?

WASC Report Items: 1998-present:

WASC has interacted with the university over the years regarding a culture of fear and retaliation, academic freedom and political interference. I would like to have access to WASC Reports and correspondence between 1998 and present. I do not need copies, I can simply go to the sections in existing reports. (This will save time and effort on the university side.)

Dr. Enriquez 's Comments to Staff Regarding McNinch and Retaliation

I was told that around October 25 or 26, Dr. Enriquez was in the SBPA Office talking in the open about me, retaliation complaints and the Great Debate. Can this please be explained? What was the context of this retaliation talk? Dr. Enriquez was a university representative on my 2018 settlement proceedings at the Federal Court. These points are supposed to be sealed. I am not sure of the total context of this point, but it does raise concerns on why this discipline action was taken.

Attachment 3

Warning Letter

(not numbered, copy attached)



UNIVERSITY OF GUAM
UNIBETSEDAT GUAHAN

President's Office

Ronald L. McNinch-Su, Ph.D
SBPA 136
UOG Station, Mangilao, Guam, 96923

November 8, 2022

RE: Letter of Warning.

Dear Dr. McNinch:

In accordance with Article X.C.1.b of the Negotiated Agreement between the Board of Regents of the University of Guam (UOG) and the UOG Faculty Union, American Federation of Teachers, Local 6282 (Union), December 1, 2018 – April 30, 2023 (Agreement), and after considering the statements made by you, your representative Arun R. Swamy, and L. Robert Barber, Jr., Union President during our November 1, 2022 meeting, and after considering the Union's Letter dated October 31, 2022, I find that the email you sent to members of the public media on October 24, 2022 attached herein as Exhibit A violates Article VII.P of UOG's Rules, Regulations, and Procedures Manual (RRPM) which states that 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 because the release to the public media did not follow this procedure. The statements made during our meeting that you believed that you were sending the email in your personal capacity and that you were sending it to your "friends" are not supported by the record in this matter. Specifically, you sent out the email using mcninchr@triton.uog.edu which is your official UOG email account. You state in the email that you are sending it as "Chair of Public Administration and Legal Studies" which is one of your official positions at UOG. You addressed the email to news@guampdn.com, news@k57.com, news@kanditnews.com, phil@postguam.com, and NEWS@KUAM.COM. As a result of your actions some of the recipients of these emails published news stories concerning the statements you made the email and you either knew or should have known that they would do so.

I find that the statements in the email violated Article X.E.12 of the Faculty Union Agreement were insulting, rude, and belligerent to the political candidates that were invited to participate in the Great Debate. The statements made during our meeting that they were "boilerplate stuff," or "cheerleading" or "standard fare" are not supported by the record. Specifically, you state in the email that "Who ever does not show up will not win this election," "If you dont show up, you wont win [SIC]," and "Do not play with the University of Guam and our students," are insulting, rude, and belligerent to the candidates that were invited to participate in the Great Debate. Of particular note is that had you followed the procedure in Article VII.P, UOG's RRPM, these offensive statements would likely have been omitted from the email.

I find that the email attached herein as Exhibit B violates Article IV.J, UOG RRPM, which prohibits political activity in contravention of Guam's Mini-Hatch Act as well as 4 G.C.A. §5103(a), which is a section of that act, that prohibits UOG employees from using their official authority or influence for the purpose of interfering with or affecting the result of an election because you were trying to influence whether the Administrators and faculty members receiving the email would vote in the 2022 General Election and you were trying to influence or discourage them for voting for some of the political candidates in that election. The statements made during the meeting that UOG may not impose disciplinary actions for UOG employees violating Guam's Mini-Hatch Act have no merit. Be advised that as a member of UOG's faculty, you are subject to the provisions of the UOG-Faculty Union Agreement. That Agreement states authorized causes for disciplinary action, including adverse action, against a Faculty member include violation of any provision of the University policy, rules and regulations. Article X.E.18, UOG-Faculty Union Contract. UOG's RRPM states that political activities by faculty, administrators, and other unclassified employees of the University of Guam shall be

UOG Station, Mangilao, Guam 96923 Tel. (671) 735-2990 Fax. (671) 734-2296
A U.S. Land Grant Institution accredited by the WASC Senior College and University Commission.
The University of Guam is an Equal Opportunity Provider and Employer.

EXHIBIT F

governed by the laws of the Government of Guam. Article IV.J, UOG RRPM. Hence, a violation of Guam's Mini-Hatch Act would violate Article IV.J, UOG RRPM, and can be the subject of disciplinary action pursuant to Article X.E.18, UOG-Faculty Union Contract. The statements made in the meeting that the email did not attempt to influence how the UOG Administrators and faculty receiving the email vote in the upcoming General Election have no merit. In the email you advise the UOG Administrators and faculty receiving the email to "stay out of this election," and then you proceed to state which political party may or may not have a majority in the Guam Legislature or who may or may not be elected as Governor.

Finally, I find no merit in the statements that were made in the meeting that sending the emails attached herein as Exhibits A and B were proper exercises of your right to "Academic Freedom" or "Free Speech." Those rights do not excuse you from complying with Article VII.P and Article IV.J, of UOG's RRPM or exonerate your violations of these Articles as set forth above. These violations are serious because they threaten UOG's political neutrality as the organizer of the Great Debate. Further, attempting to coerce political candidates to participate in the debate or threatening to stand-in for the ones who do not appear at the debate is not conducive to encouraging the voluntary participation of the candidates in the debate and maintaining the public's confidence in UOG's political neutrality in conducting the debate.

Accordingly, you are hereby WARNED that if you violate Article VII.P and Article IV.J, of UOG's RRPM again, you will be subject to disciplinary action in accordance with Article X of the UOG-Faculty Union Contract and that such disciplinary action may be in the form of an adverse action. This letter of warning will be placed in your Official UOG Personnel File. You are hereby directed to submit, within thirty (30) days after receiving this letter, a development plan for the next great debate that describes what measures you will take to prevent violations of Article VII.P and Article IV.J, of UOG's RRPM from occurring again. That development plan shall also include a full accounting of the \$20,000 identified in the email attached herein as Exhibit A, to include where those funds are deposited and how they will be used now that the Great Debate has been cancelled.

Sincerely,



Thomas Krise (Nov 7, 2022 19:16 HST)

THOMAS W. KRISE, PhD
President

EXHIBIT A

From: RONALD L MCNINCH <mcninchr@triton.uog.edu>
Sent: Monday, October 24, 2022 7:08 PM
To: MPA Cohort2022; ROSEANN M JONES; FRED R SCHUMANN; PALS FT FACULTY
Cc: Iris Lapid; reubenbugarin@gmail.com; Jonas Macapinlac; news@guampdn.com; news@k57.com; news@kanditnews.com; phill@postguam.com; phil@postguam.com; NEWS@KUAM.COM
Subject: Directive from Chair of Public Administration and Legal Studies

Dear Students,

Thank you so much for your efforts and the \$20,000 you raised in car washes and research projects to fund the great debates. This is a major production.

Do not fear. As Chair of Public Administration and Legal Studies, the Great Debate will occur and I, as chair, or other faculty member in our division will argue with appropriate zealously, the side(s) that do(es) not appear. The voters of Guam deserve to have issues debated and argued. I can stand in for Felix Camacho or Lou Leon Guerrero, you know I will. I debate very well. Who ever does not show up will not win this election. It is just that simple. This is political calculus everyone can understand.

This is reality. Let everyone else play politics. The Great Debate will Go On!

Do not play with the University of Guam and our students!

Sincerely, Ron McNinch Chair

PS: May the team with the most votes win. If you dont show up, you wont win.

EXHIBIT B

From: RONALD L MCNINCH <mcninchr@triton.uog.edu>
Sent: Monday, October 24, 2022 8:12:18 PM
To: Krise, Thomas <tkrise@triton.uog.edu>; ROSEANN M JONES <jonesr@triton.uog.edu>; Dr. Anita Enriquez <abe@triton.uog.edu>
Cc: NORMAN S ANALISTA <analistan@triton.uog.edu>; Jonas Macapinlac <jmac@triton.uog.edu>; FRED R SCHUMANN <schumannf@triton.uog.edu>; Dr. JUDITH P GUTHERTZ <guthertzj@triton.uog.edu>
Subject: Great Debate Update: FYI

Dear Colleagues,

My collegial advice: stay out of this election.

The legislature may remain republican 8-6 but not sure

It may be 9-6 dem.

Felix could win 50-49 but not sure.

It could also flip back to 51-49.

On the other hand Lou could spring out to 60/40. But

this is a spin view. The daily numbers for Guam are crazy. I think governor is lou at 53-47. But this is a very dynamic election.

Lou's people believe it is set. I think it is closer than others.

So my point is simple: it is easy to think that that the 2018 election holds it is one point. But they forget, off island pollsters are lied to...

so ?????

ps the lou hacks will say different .. beware






Letter of Warning to R. McNinch 11-8-22

Final Audit Report

2022-11-08

| | |
|-----------------|---|
| Created: | 2022-11-08 |
| By: | Cynthia Guerrero (cguerrero@triton.uog.edu) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAHAH2dmV4uVXNqgBkcJRF8xA8kdmuzOvpUd |

"Letter of Warning to R. McNinch 11-8-22" History

-  Document created by Cynthia Guerrero (cguerrero@triton.uog.edu)
2022-11-08 - 0:50:52 AM GMT
-  Document emailed to Thomas Krise (tkrise@triton.uog.edu) for signature
2022-11-08 - 0:51:51 AM GMT
-  Email viewed by Thomas Krise (tkrise@triton.uog.edu)
2022-11-08 - 5:16:01 AM GMT
-  Document e-signed by Thomas Krise (tkrise@triton.uog.edu)
Signature Date: 2022-11-08 - 5:16:14 AM GMT - Time Source: server
-  Agreement completed.
2022-11-08 - 5:16:14 AM GMT

UOG RESPONSE TO DR. MCNINCH GRIEVANCE REQUEST FOR INFORMATION

The responses to the information requests made in the grievance Dr. McNinch filed on Monday, November 14, 2022 are as follows:

Request No. 1: The Guam Post email to UOG from Henry Taitano concerning Dr. McNinch's Research.

UOG RESPONSE: The email is attached herein.

Request No. 2: Information on Faculty Discipline and Adverse Action from August, 2018 to the Present.

UOG RESPONSE: This information is not relevant to the grievance. Further, it is confidential information which is not for public disclosure pursuant to 5 G.C.A. §10108(b), (c), and (i), and Article IX.F.6, UOG-Faculty Union Agreement.

Request No. 3: The identification of which recipient of Dr. McNinch's email dated October 24, 2022 forwarded it to others.

UOG RESPONSE: This information is not relevant to the grievance.

Request No. 4: Great Debate items.

UOG RESPONSE: The information requests in subsections 1 and 2 of the request are not relevant to the grievance. For the information request in subsection 3, the October 25, 2022 Guam Post Article titled "Debate may feature stand in candidates," is attached herein.

Request No. 5: WASC Reports and Correspondence from 1998 to the Present.

UOG RESPONSE: The WASC Reports and Correspondence from 1998 to the present are not relevant to the grievance.

Request No. 6: Alleged verbal statements made by the SVP.

UOG RESPONSE: If these alleged verbal statements were in fact made, they are not relevant to the grievance.

From: Henry Taitano <henry.taitano@postguam.com>

Sent: Wednesday, August 17, 2022 12:30 PM

To: Jonas Macapinlac <jmac@triton.uog.edu>

Subject: Media inquiry on UOG polls

[EXTERNAL EMAIL - Please use caution when opening attachments or clicking links.]

Hafa Adai!

The Guam Daily Post is working on a story about Ron McNinch's aggressive efforts to get media exposure on his University of Guam political polls. In past elections we have observed McNinch's handling of the polls and the premature release even of exit polls to certain political campaigns to assist them in their election efforts.

With regard to our story on the University of Guam political polls, we have the following questions:

What is the funding source for these polls?

When did UOG first begin conducting polls?

May we please have a copy of the UOG SOP or UOG guidelines for the polling?

What steps does UOG take to ensure the validity of the polls?

What steps does UOG take to ensure that the professor overseeing the UOG poll does not prematurely release the results?

If this professor is meeting privately with certain candidates who are the subject of the polling to give them insider insight on polling does that violate any of the ethical standards the university has established with regard to the polling process?

If UOG claims that these are not UOG polls what action have you taken to prevent the professor from claiming publicly that these polls are done by the university?

Thank you for your time and we look forward to your response.

Henry

"Disclaimer: The content of this message is confidential and intended only for the use of the individual or entity to which it is addressed. If you have received it by mistake, please inform us by an email reply and then delete the message. It is prohibited to copy, forward, or in any way reveal the contents of this message to anyone. The integrity and security of this email cannot be guaranteed over the Internet. Therefore, the sender will not be held liable for any damage caused by the message."

https://www.postguam.com/news/local/debate-may-feature-stand-in-candidates/article_e6ff8062-5411-11ed-8664-af6e984d1aa6.html

Debate may feature stand-in candidates

PHILL LEON GUERRERO | THE GUAM DAILY POST
OCT 25, 2022

A long-standing tradition for gubernatorial elections may proceed with an unprecedented feature: a University of Guam professor appearing and speaking in a candidate's stead.

"The voters of Guam deserve to have issues debated and argued. I can stand in for Felix Camacho or Lou Leon Guerrero; you know I will," Ron McNinch, the faculty chairman for UOG's Great Debate wrote in an email to student organizers and island media.

According to McNinch, he "or (another) faculty member in our division will argue with appropriate zealouslyness" for either or both gubernatorial teams, depending on who does not appear for the event, which is scheduled for Nov. 3.

The incumbent team of Gov. Lou Leon Guerrero and Lt. Gov. Josh Tenorio pulled out of the debate, and other pending joint appearances with their Republican opponents after the team of former Gov. Felix Camacho and Sen. Tony Ada declined invitations to appear at forums organized by island media and the Women's Chamber of Commerce, and a CHamoru language debate.

Rory Respicio, the incumbents' campaign manager, expressed his appreciation for the organizers of the UOG debate, and said the decision not to participate is not a "reflection" of their work, but rather the campaign's "principled stance" of not allowing their opponents to pick and choose which organizations receive a two-sided conversation.

"We will not be forced to debate only in those venues where our

opponent decides he is comfortable. A governor must be fair to all of the people," Respicio said, later adding: "We will not stand for the favoritism, nor will we be bullied by him. This type of behavior should never be tolerated by anyone, especially those enrolled in the public administration master program."

Respicio said the campaign is "open to any creative suggestions" for how the team can engage with UOG's public administration students.

"We are asking for their understanding and thoughtful consideration of our position and the greater impact that such a principled stance will have on the public conscience," he said.

But McNinch is holding out hope that, like in previous elections, the Leon Guerrero-Tenorio team will reconsider and agree to attend, noting "a national trend" this year to avoid or limit debates. The one taken up by UOG is "not a minor student effort," according to McNinch.

“We have communicated with the teams on this debate since March. It is a project management exercise for the students. It is a tradition in Guam politics, he told The Guam Daily Post.

'The show will go on'

The UOG professor, who has helped plan every iteration of the debate since 1998, also said the backup plan of stand-in candidates has “always” been in place.

“Every Great Debate, I remind everyone that the show will go on. Often the folks who talk backing out are not the candidates themselves, but their people. The candidates value this debate generally and know that elections are won or lost at these debates,” he said. “I always say we will argue any side that is not present. This is nothing new.”

Respicio's statement to the Post, however, does not show a positive reception to the announced plan to deal with candidate absences.

"It is apparent from the recent release of emails and texts that Dr. McNinch's real motive behind these debates is his reputation and the money that he's hoping to raise for his department, at the expense of providing real life lessons and practical classroom learning experiences about what it means to stand up for principles," Respicio said.

The Post reached out to the Camacho-Ada campaign, asking whether it would agree to participate in a debate with a proxy opponent. The campaign said it would provide a substantive response following a meeting with debate organizers scheduled for Thursday evening.

"Who ever does not show up will not win this election. It is just that simple," McNinch wrote in his email to students and reporters. "This is political calculus everyone can understand."



Responses to Dr. Krise's Warning letter to Dr. McNinch.

| | |
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| <p>Dr. Krise's letter (emphasis added)</p> <p>"I find that the email you sent to members of the public media on October 24, 2022 attached herein as Exhibit A violates Article VII.P of UOG's Rules, Regulations, and Procedures Manual (RRPM) which states that <i>official UOG news releases and advertisements shall be distributed to the public media through the Public Relations Officer in the Office of the President</i> upon request of the Dean, Director, faculty, staff, student, alumni or administrative officer concerned <i>because the release to the public media did not follow this procedure.</i>"</p> <p>"The statements made during our meeting that you believed that you were sending the email in your personal capacity and that you were sending it to your "friends" are not supported by the record in this matter. <i>Specifically, you sent out the email using mcninchr@triton.uog.edu which is your official UOG email account. You state in the email that you are sending it as "Chair of Public Administration and Legal Studies" which is one of your official positions at UOG.</i>"</p> | <p>McNinch response.</p> <p>We disagree on the meaning of "<i>official UOG news releases and advertisements.</i>" Messages from faculty members representing their own views do not constitute official UOG news releases and advertisements. It is the nature of an academic institution that faculty may hold views at variance from the official university position and from each other but still express them in their capacity as faculty. Applying this rule to all such faculty utterances would make it impossible for faculty to do their jobs which includes responding to queries from the media or public.</p> |
| <p>"You addressed the email to news@guampdn.com, news@k57.com, news@kanditnews.com, phil@postguam.com, and NEWS@KUAM.COM. As a result of your actions some of the recipients of these emails published news stories concerning the statements you made the email and you either knew or should have known that they would do so."</p> | <p>Neither using a triton email account nor identifying oneself by one's university title constitutes making an "<i>official UOG news releases or advertisements.</i>" As noted above, the role of a faculty member includes many times when faculty may speak to their expertise or duties without making a statement on behalf of the university. Faculty are regularly contacted on their tritons email by other scholars, officials, members of the media and members of the public and cannot possibly have their responses vetted by UOG in all these instances. The positions faculty hold at the University attest to their expertise and qualifications to speak. They do <i>not</i> indicate that they are speaking for or presenting the views of the University. If they did, the University would always be contradicting itself since faculty do not agree on everything and their roles as faculty entail a debate among various points of view.</p> |
| <p>Neither contacting the media nor having the media publish an article based on a faculty member's words constitutes making an official UOG news release. Faculty are called upon to make statements to the media about areas within their expertise all the time. Moreover, the right to contact the media without censorship is clearly covered by the Agreement's guarantees of freedom of expression. And if the media publishing articles based on what a professor says were grounds to censure (or censor) the professor, this would extend to all academic work, since academic work is published, available to the public and the media, and frequently written about in the media.</p> | <p>Neither contacting the media nor having the media publish an article based on a faculty member's words constitutes making an official UOG news release. Faculty are called upon to make statements to the media about areas within their expertise all the time. Moreover, the right to contact the media without censorship is clearly covered by the Agreement's guarantees of freedom of expression. And if the media publishing articles based on what a professor says were grounds to censure (or censor) the professor, this would extend to all academic work, since academic work is published, available to the public and the media, and frequently written about in the media.</p> |

"I find that the statements in the email violated Article X.E.12 of the Faculty Union Agreement were insulting, rude, and belligerent to the political candidates that were invited to participate in the Great Debate."

As the Legal Counsel himself pointed out at the previous meeting, neither the President's views nor the individual views of those present are relevant. A "reasonable person standard" applies here. The Legal Counsel suggested the "reasonable person" was the candidate. We pointed out this argument was circular. The purpose of a reasonable person standard in judging offenses that are highly subjective is to use a standard outside of the immediate claimants. President Krise has provided no justification for claiming the language would be viewed by a reasonable person as "rude, insulting or belligerent." We do not believe it would. Even individuals who are not well-disposed to Dr. McNinch have described his comments as "anodyne" and at worst "bombastic."

"The statements made during our meeting that they were "boilerplate stuff," or "cheerleading" or "standard fare" are not supported by the record. *Specifically, you state in the email that "Who ever does not show up will not win this election," "If you dont show up, you wont win (SIC)," and "Do not play with the University of Guam and our students," are insulting, rude, and belligerent to the candidates that were invited to participate in the Great Debate. Of particular note is that had you followed the procedure in Article VU.P, UOG's RRP, these offensive statements would likely have been omitted from the email."*

As was clearly explained in the letter signed by Dr. Swamy and Dr. Barber, and explained in person by Dr. Swamy, the island's (and UOG's) senior political scientist, the first two statements are "boilerplate" precisely because they are commonplace observations about debates. The third statement - "Do not play with the University of Guam..." - is "cheerleading" because it is addressed to students who had worked hard on the event to assure their efforts would not be in vain. Again, we do not believe they would appear rude, insulting or belligerent to a reasonable person on Guam or anywhere else. Bombastic, perhaps, but not rude. More importantly, Dr. McNinch's position on holding the debate even if one candidate did not attend is in keeping with the practice of debate organizers in the United States.

As Dr. Swamy noted in our previous meeting, when the McCain campaign suspended its campaign in 2008 and held out the prospect of not participating in the first debate, then-Sen. Obama decided to attend the debate even if Sen. McCain was not present to debate him. Commentators made the same kinds of observation Dr. McNinch made about the political costs of not showing up, and the network hosting it agreed to continue with just Obama, forcing McCain's hand. In the recently concluded midterm elections, during the Arizona gubernatorial election, Democratic candidate Katie Hobbs refused to debate her opponent, and commentators similarly opined that she was losing as a result. At least one station scheduled an interview with Republican candidate Kari Lake to replace the debate. Notably, the Arizona Clean Election Commission was forced to offer this interview by public pressure.

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| <p>This claim is utterly unfounded. The letter is clearly aimed at urging administrators not to make public commitments to either candidate which is precisely what the mini-Hatch Act would also require. No one who is aware of this exchange seriously takes these words as an attempt to influence private voting behavior. Nowhere in the email does Dr. McNinch refer to voting for or against any candidate or voting at all. Moreover, Dr. McNinch has no authority over those to whom he sent this message. To the contrary, several have authority over him.</p> | <p>"I find that the email attached herein as Exhibit B violates Article IV J, UOG RRPm, which prohibits political activity in contravention of Guam's Mini-Hatch Act as well as 4 G.C.A. §5103(a), which is a section of that act, that prohibits UOG employees from using their official authority or influence for the purpose of interfering with or affecting the result of an election because you were trying to influence whether the Administrators and faculty members receiving the email would vote in the 2022 General Election and you were trying to influence or discourage them for voting for some of the political candidates in that election."</p> |
| <p>The Agreement also provides the Academic Freedom provisions cited earlier. These were added to the Agreement at a later date than the RRPm. It is the Administrator's responsibility to update the RRPm after every Agreement to make sure that the RRPm is consistent with the current Agreement. The RRPm has not been updated since 2000 and is not even up to date on the current version of the Hatch Act. By this reasoning the Administration can simply nullify the fruits of collective bargaining (or statutory revision) by refusing to update the RRPm. That is unacceptable.</p> | <p>"The statements made during the meeting that UOG may not impose disciplinary actions for UOG employees violating Guam's Mini-Hatch Act have no merit. Be advised that as a member of UOG's faculty, you are subject to the provisions of the UOG Faculty Union Agreement. That Agreement states authorized causes for disciplinary action, including adverse action, against a Faculty member include violation of any provision of the University policy, rules and regulations. Article X.E.18, UOG-Faculty Union Contract."</p> |
| <p>The laws of Guam state that violations of the Hatch Act must be investigated by the appropriate civil service bodies. The claim that UOG or any other agency can interpret and punish perceived violations unilaterally is clearly in violation of the law.</p> | <p>"UOG's RRPm states that 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. Article IV.J, UOG RRPm. Hence, a violation of Guam's Mini-Hatch Act would violate Article IV.J, UOG RRPm, and can be the subject of disciplinary action pursuant to Article X.E.18, UOG Faculty Union Contract."</p> |
| <p>There is simply no logic to claiming that "stay out of this election" means anything other than "do not publicly take sides." No reasonable person would interpret Dr. McNinch's words in the way the warning letter does. The fact that Dr. McNinch cited his opinion poll predictions as a reason to "stay out of this election" is more reason to see it as a legitimate exercise in academic inquiry and expression. More generally, the claim that discussing the dynamics of the race or exchanging views about the candidates with colleagues constitutes a violation of the mini-Hatch act would put at risk any classroom instructor who permitted classroom discussions of local politics and rob employees of their right as citizens to discuss public affairs.</p> | <p>"The statements made in the meeting that the email did not attempt to influence how the UOG Administrators and faculty receiving the email vote in the upcoming General Election have no merit. In the email you advise the UOG Administrators and faculty receiving the email to "stay out of this election," and then you proceed to state which political party may or may not have a majority in the Guam Legislature or who may or may not be elected as Governor."</p> |

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| <p>"Finally, I find no merit in the statements that were made in the meeting that sending the emails attached herein as Exhibits A and 8 were proper exercises of your right to "Academic Freedom" or "Free Speech." <i>Those rights do not excuse you from complying with Article VII.P and Article IV .J, of UOG's RRRPM or exonerate your violations of these Articles as set forth above.</i>"</p> | <p>We have responded to this above. When the Agreement and the RRRPM are clearly in conflict, the Agreement must govern. The University is at fault for not updating the RRRPM to reflect the changing contractual conditions of faculty employment. We find the University's actions to be similar to those of the <u>University of Florida</u>, which attempted to prevent experts from offering testimony that conflicted with the Florida government's priorities. The faculty sued and the <u>University lost</u>.</p> |
| <p>"These violations are serious because <i>they threaten UOG's political neutrality</i> as the organizer of the Great Debate. Further, attempting to coerce political candidates to participate in the debate or threatening to stand-in for the ones who do not appear at the debate is not conducive to encouraging the voluntary participation of the candidates in the debate and maintaining the public's confidence in UOG's political neutrality in conducting the debate."</p> | <p>It is unclear how trying to get both candidates to attend the debate is violating neutrality, but canceling the debate when one candidate clearly wanted it to go on is not. At present it is the Administration's actions that appear to favor one candidate over the other, not Dr. McNinch's; by canceling the debate over the objections of one candidate, the University took sides in the election, and that is how the public views it. It is also, we warrant, how the Civil Service Commission, the AAUP, WASC and other relevant agencies would view it.</p> |

..

..REQUESTING INFORMATION 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. "

The Agreement does not give the party being requested for information the right to determine if it is relevant to the grievance. No extraordinary circumstances have been cited to deny information yet information in response to four of six questions has been denied. Confidentiality has been cited only for one and that inaccurately as the quantitative information cited is not confidential.

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| <p>Request No. 1: The Guam Post email to UOG from Henry Taitano concerning Dr. McNinch's Research.</p> <p>UOG RESPONSE: The email is attached herein.</p> | <p>Thank you.</p> |
| <p>Request No. 2: Information on Faculty Discipline and Adverse Action from August, 2018 to the Present.</p> <p>UOG RESPONSE: This information is not relevant to the grievance. Further, it is confidential information which is not for public disclosure pursuant to 5 G.C.A. §10108(b), (e), and (i), and Article IX.F.6, UOG-Faculty Union Agreement.</p> | <p>The information is relevant as it is pertinent to the question of equity and whether Dr. McNinch is being singled out unfairly. The request is for numbers, not particulars, so the concern about confidentiality is not germane.</p> |
| <p>Request No. 3: The identification of which recipient of Dr. McNinch's email dated October 24, 2022 forwarded it to others.</p> <p>UOG RESPONSE: This information is not relevant to the grievance.</p> | <p>The information is relevant as it is pertinent to the question of equity and whether Dr. McNinch is being singled out unfairly. Whoever forwarded the email acted unethically and prejudicially to Dr. McNinch.</p> |
| <p>Request No. 4: Great Debate items.</p> <p>UOG RESPONSE: The information requests in subsections 1 and 2 of the request are not</p> | <p>The information in subsections 1 and 2 is relevant as it is pertinent to whether the Administration's actions in this instance are being undertaken due to political pressure.</p> |

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| <p>relevant to the grievance. For the information request in subsection 3, the October 25, 2022 Guam Post Article titled "Debate may feature stand in candidates," is attached herein.</p> | |
| <p>Request No. 5: WASC Reports and Correspondence from 1998 to the Present.</p> <p>UOG RESPONSE: The WASC Reports and Correspondence from 1998 to the present are not relevant to the grievance.</p> | <p>The reports are public and are pertinent because of UOG's history of intimidation of faculty, which appears to be at issue here as well.</p> |
| <p>Request No. 6: Alleged verbal statements made by the SVP.</p> <p>UOG RESPONSE: If these alleged verbal statements were in fact made, they are not relevant to the grievance</p> | <p>The information is relevant as it is pertinent to whether Dr. McNinch is being singled out of a desire to retaliate against him for past actions that were within his rights.</p> |

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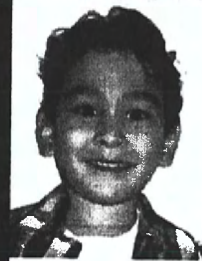
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EXHIBIT M

October 25, 2022 McNinch Interview with Patti Arroyo:
<https://k57.com/uogs-dr-ron-mcninch-talks-directive-memo-sent-to-public-admin-students-on-the-great-debate-event-with-patti/>

Audio file

[102522_Dr.-Ron-McNinche-with-Patti.mp3](#)

Transcript: Speaker 1 McNinch, Speaker 2 Patti Arroyo

00:00:00 Speaker 2

642 in the morning I'm gonna go to Phoenix, AZ where the chair of the public administration and Legal Studies department from the University of Guam joins us in.

00:00:10 Speaker 2

Zoom, that'll be Ron McNinch I I wanted to just first of all just go ahead and read a release that I got from you yesterday.

00:00:17 Speaker 2

Good morning, Ron.

00:00:18 Speaker 2

How are you in your time zone?

00:00:20 Speaker 1

Hey, how many petty healthy Guam?

00:00:22

So it.

00:00:22 Speaker 2

Says dear students, thank you so much for your efforts in the \$20,000 you raised in car washes and research projects to fund the great debates. This is a major.

00:00:30 Speaker 2

Reduction do not fear as chair of public administration and legal studies, the great debate will occur and I, as chair or other faculty member in our division, will argue with appropriate zealousness the side sides that do does not appear.

00:00:45 Speaker 2

The voters of Guam deserve to have issues debated and argued.

00:00:48 Speaker 2

I can stand in for Felix.

00:00:50 Speaker 2

Camacho or Lula younger arrow, you know I will.

00:00:53 Speaker 2

I debate very well whoever does not show up will not win this election.

00:00:57 Speaker 2

It's just that simple.

00:00:58 Speaker 2

This is a political calculus.

00:01:00 Speaker 2

Everyone can understand.

00:01:01 Speaker 2

This is reality.

00:01:02 Speaker 2

Let everyone else play politics.

00:01:04 Speaker 2

The great debate will go on, so you're going to pinch hit for whoever side.

00:01:09 Speaker 2

Is it is it does not show up?

00:01:17 Speaker 1

I, I think both sides are.

00:01:19 Speaker 1

Are going to show up and.

00:01:21 Speaker 1

And I know that I just need to.

00:01:23 Speaker 1

Reassure the students that.

00:01:24 Speaker 1

Don't worry that their efforts are are are going to be well accepted by the community.

00:01:29 Speaker 1

We've always had very great support by the Community and that's that's the key.

00:01:35 Speaker 1

And by the way.

00:01:38 Speaker 1

I think I learned a lesson yesterday and that is don't write emails after getting off a.

00:01:43 Speaker 1

Long airplane ride.

00:01:44 Speaker 2

I was wondering, I was wondering about this wrong because I was thinking how is Ron Mcninch gonna pinch hit for Lillian Guerrero where he seemingly supports Felix Camacho and has of Mike Saint Nicholas this past election?

00:01:44

So think.

00:01:57 Speaker 1

Oh, I support all candidates, hopefully hopefully equally Patty.

00:01:59 Speaker 2

Do you know where do you know?

00:02:02 Speaker 2

Well, I hope so too I.

00:02:03 Speaker 1

Do you know?

00:02:04 Speaker 1

Do you know, I'll tell you?

00:02:05 Speaker 1

Do you know who I vote?

00:02:06 Speaker 1

For in every election I will.

00:02:07 Speaker 2

Wouldn't know.

00:02:09 Speaker 1

I vote for the winner.

00:02:11 Speaker 1

And and that's the reality.

00:02:12 Speaker 2

So what you're saying you've been 100% correct.

00:02:12 Speaker 1

And I I do.

00:02:13 Speaker 1

Try figure.

00:02:15 Speaker 1

Oh, absolutely, absolutely. And I do. I gotta tell you, it's hard to run for governor. It really is. And you know, there are always these accusations. One time back in 1998.

00:02:26 Speaker 1

I went to Clark Central High School in Athens, GA.

00:02:29 Speaker 1

I had a red cap with the C and everyone said oh you recall get error supporter.

00:02:33 Speaker 1

So then I switched to an Atlanta Braves cap which was blue.

00:02:37 Speaker 1

With an A and they all.

00:02:38 Speaker 1

You're a you're a governor.

00:02:40 Speaker 1

Camacho support.

00:02:41 Speaker 1

You can't win in this town in.

00:02:42 Speaker 2

Well, no, well I mean no try. Try being in a talk show seat where the the the family of the estate of the Leon Guerrero's have a minor investment in this company. Or be Felix Camacho cousin. I mean you don't talking about not ever winning any anyway let let me let me just.

00:02:42 Speaker 1

Politics, that's the reality.

00:03:02 Speaker 2

Let me just say so.

00:03:03 Speaker 2

So what you're saying is that you wrote that you wrote that e-mail and you were half awake.

00:03:09 Speaker 2

So do we negate it?

00:03:11 Speaker 2

We is that reply all.

00:03:11 Speaker 1

Neil, though I was just tired and I don't.

00:03:12 Speaker 2

What do?

00:03:12 Speaker 2

We do send it.

00:03:14 Speaker 1

I didn't.

00:03:14 Speaker 1

I in retrospect when I.

00:03:15 Speaker 1

Read it, we read it later on.

00:03:17 Speaker 1

One I thought my tone should have been different.

00:03:20 Speaker 1

I don't like my tone.

00:03:22 Speaker 1

I like to try to sound.

00:03:22 Speaker 2

Didn't I didn't either.

00:03:25 Speaker 1

Yeah, I like to sound more diplomatic than that Patty and and and hopefully.

00:03:27 Speaker 2

It it's yeah.

00:03:29 Speaker 1

And you know in general though.

00:03:31 Speaker 1

Elections are great opportunities to learn things and there are great opportunities to discuss.

00:03:38 Speaker 1

Things and and.

00:03:39 Speaker 1

Debates always happen, whether they're with candidates or not, with candidates, that is, the public debates these things at fiestas at every side, meeting every time.

00:03:51 Speaker 1

People see something in the media.

00:03:53 Speaker 1

People will debate.

00:03:54 Speaker 1

Everything and anything election related at election time and and not only that information.

00:04:01 Speaker 1

There's an old.

00:04:02 Speaker 1

Saying in in.

00:04:03 Speaker 1

Public affairs that information is like money.

00:04:06 Speaker 1

People speculate with it.

00:04:08 Speaker 1

People counterfeit it people save it for a rainy day.

00:04:13 Speaker 1

No information is just like that and so during election season this flood of information, good, bad and ugly comes out.

00:04:21 Speaker 1

And the and the public really need the assistance of either the candidates or or media folks to help them make sense of things.

00:04:29 Speaker 1

And that's an important part of the civic process.

00:04:32 Speaker 2

OK, so so then you said in this thing, whoever does not show up will not win this election so.

00:04:41 Speaker 2

The great debate is the tale tale sign that is the nail in the coffin for the person who doesn't show up, and it's quite clear that Luliang Guerrero is not going to show up because she's already said that.

00:04:53 Speaker 1

Well, her people have said that and and in in my experience, Governor Leon Guerrero has always been supportive.

00:05:00 Speaker 1

Across the board of these kinds of efforts, and and again, if she doesn't show up, that's you know, going to be her choice, but I I think that she has always shown up, and she's always participated and she's always been a very strong supporter of our students and.

00:05:21 Speaker 1

And then in all kinds of efforts and and by the way, I one thing I would like.

00:05:28 Speaker 1

To clarify, and I think it's important.

00:05:31 Speaker 1

I have no.

00:05:32 Speaker 1

Negatives to say at all about Governor Leon Guerrero or or Josh.

00:05:36 Speaker 1

I think they're both wonderful people, and I also highly respect Governor Camacho and and Senator Adam I.

00:05:44 Speaker 1

To be blunt and as a bureaucrat, I hate to sound so so blunt like.

00:05:49 Speaker 1

This is a bureaucrat.

00:05:50 Speaker 1

We really don't care who gets selected because you're going to have to deal with politicians regardless.

00:05:56 Speaker 1

And the reality is, the people we elect, our politicians, and they do try to make everybody happy.

00:05:57

OK.

00:06:03 Speaker 1

And it's hard to make even anyone happy, even people that you think you would make happy.

00:06:09 Speaker 1

They're not happy with.

00:06:10 Speaker 1

That's that's still saying.

00:06:12 Speaker 1

What have you done for me lately? That's where that comes from. Comes from Auburn Barkley in the 1940s that you know he did so many things for one particular farmer and the farmer came back.

00:06:23 Speaker 1

And said, yeah, you did all that, but you haven't done.

00:06:25 Speaker 1

Anything for me lately.

00:06:26 Speaker 2

Yeah, I I for some reason I just thought it was a Janet Jackson song.

00:06:29 Speaker 2

Thank you for that education.

00:06:30 Speaker 1

Oh no, it's an actual political axiom.

00:06:31 Speaker 2

I'm kidding, I'm kidding.

00:06:32 Speaker 2

I know.

00:06:32 Speaker 1

Yeah, absolutely.

00:06:33 Speaker 2

I I I'm I'm joking.

00:06:35 Speaker 2

So will you also get lagged when you wrote a text to or a message?

00:06:43 Speaker 2

That somebody sent to me about the great debate update that went out to President Tom Christ, Doctor Nieder Enriquez, Joanne Roseanne Jones and CC to Jonas Macapinlac Norman and Doctor Judy Guthart.

00:06:58 Speaker 2

With your advice, Michael legal advice.

00:07:00 Speaker 2

Stay out of this election.

00:07:02 Speaker 2

The legislature.

00:07:03 Speaker 2

May remain Republican 8 to 6 but not sure. It may be 6-9 to six Democrats. Felix could win 50 to 49 but not sure.

00:07:11 Speaker 2

It could also flip back to 51 to 49. On the other hand, Luke could spring out of 6040, but this is a spin view. The daily numbers for gore. More crazy, I think governor is.

00:07:22 Speaker 2

Is Governor Lou is at 5347, but this is a very dynamic election. This.

00:07:29 Speaker 2

Were you were you.

00:07:30 Speaker 2

Jet lag when you wrote that to your colleagues.

00:07:32 Speaker 1

No, that's that's just what the numbers are.

00:07:36 Speaker 1

They're all over the place.

00:07:37 Speaker 1

It's incredibly dynamic.

00:07:39 Speaker 1

This this election is much more dynamic than some people may think.

00:07:44 Speaker 1

Some people I've talked to it said oh, it's straight line.

00:07:47 Speaker 1

Nothing is ever going to happen.

00:07:48 Speaker 1

I hear this every election, by the way, straight line.

00:07:51 Speaker 1

Nothing is ever going to happen.

00:07:53 Speaker 1

But people it's good, bad and ugly, and I'm being very blunt when I.

00:07:57 Speaker 1

Say that and so.

00:07:57 Speaker 2

Is there if?

00:07:58 Speaker 1

That's why that's why you can never tell.

00:08:02 Speaker 1

Others the the.

00:08:02 Speaker 2

I think, yeah, I think though that.

00:08:04 Speaker 1

The only poll that matters is on Election Day.

00:08:07 Speaker 2

Yeah, I, I think that.

00:08:09 Speaker 2

The question here is whether or not.

00:08:11 Speaker 2

It was ethical.

00:08:14 Speaker 2

To send this message out to your colleagues.

00:08:17 Speaker 1

Yeah, I'm an academic.

00:08:19 Speaker 1

Academics have a lot of wide opinion discretion, and by the way, if you notice, I didn't say one side or the other.

00:08:29 Speaker 1

I said this is.

00:08:30 Speaker 1

Just with the dynamics, all we're in a very dynamic election space right now.

00:08:35 Speaker 2

Well, what you?

00:08:35 Speaker 2

Said it was a was, you know, it could flip either way, but it still shows that the the gap between Felix and Lou is much as much closer than the 35% of that. Carla Gutierrez was telling the Republicans.

00:08:54 Speaker 2

At the on.

00:08:55 Speaker 2

The hotspot last weekend on K Umm.

00:08:59 Speaker 1

Sure, and and when we talk election numbers, it's like measuring the height of bouncing balls.

00:09:05 Speaker 1

Depending on when you're looking at it, where the ball is, you know how fast is balancing and and by the way.

00:09:14 Speaker 1

Uh, these dynamics happen very, very quickly. It's within a two to three day cycle. We've seen major opinion shifts, and by the way, every person who has diligently followed the estimates we produced in the last 26 or so you.

00:09:32 Speaker 1

Here's knows very well with these I used to publish every single poll we ever did, and then I realized that it was creating terror among the candidates, so I didn't, you know, send it out to the public.

00:09:45 Speaker 1

I just made.

00:09:46 Speaker 1

Them internal polls and the numbers you just mentioned.

00:09:50 Speaker 1

If you notice good, bad and ugly.

00:09:52 Speaker 1

Up, down, sideways.

00:09:55 Speaker 1

That's like the formative watching the sausage.

00:09:58

Being made in.

00:09:59 Speaker 1

The public opinion formation process.

00:10:02 Speaker 1

It's really tough to look at it.

00:10:04 Speaker 1

It really is.

00:10:05 Speaker 2

So going back to the original premise of this call, are you now saying that?

00:10:13 Speaker 2

You are not going to pitch hit for for Lou Leon Guerrero because it it sounds like she's not going to show up.

00:10:21 Speaker 2

But you, on the other hand.

00:10:21 Speaker 1

Well, every and here's the key point.

00:10:22 Speaker 2

Believe there's a hope.

00:10:24 Speaker 1

It's a great point at.

00:10:26 Speaker 1

Every voter will pinch, hit and fill in the gaps for every candidate.

00:10:32 Speaker 1

Who does not speak?

00:10:33 Speaker 1

That's just the reality of politics.

00:10:36 Speaker 1

When candidates don't don't say anything, people will make assumptions and speculations.

00:10:41 Speaker 1

About them and then they don't have their own.

00:10:42 Speaker 2

Yeah, I mean, that's that?

00:10:44 Speaker 2

That's absolutely, that's absolutely the case when Felix Camacho who didn't want to turn out for the general language debate at the University of Guam.

00:10:52 Speaker 2

He didn't want to turn out for the Guam Women Chamber of Commerce and he didn't want to face the media in those three debates and scheduled forms.

00:11:02 Speaker 1

And I think that you're going back and forth in terms of of having a debate is always positive.

00:11:09 Speaker 1

I think that candidates should show up for all major legitimate debates that are sponsored.

00:11:15 Speaker 1

I think that this is one of the lessons learned from the 2020202022 election cycle.

00:11:22 Speaker 1

That is, uh, we should probably at the beginning of the year every governor race here make a schedule and get all the candidates to agree to it in terms of of the format and schedule.

00:11:35 Speaker 1

But I think in general.

00:11:39 Speaker 1

It is, you're absolutely right.

00:11:40 Speaker 1

Also, it's the Candace choice whether.

00:11:42 Speaker 1

To show up.

00:11:42 Speaker 1

Or not, no, no doubt.

00:11:44 Speaker 2

And so again, are you going to pitch hit for Lula younger arrow in the great debate?

00:11:50 Speaker 1

I think that anyone are not the same one.

00:11:53 Speaker 1

I think that there will always be voices that will pinch hit if a candidate doesn't show up to a major event.

00:11:59 Speaker 2

But that's not, that's not what I'm asking you.

00:12:02 Speaker 1

Yeah, well I'm sorry I.

00:12:05 Speaker 1

I I made the point that the gap will always be filled, so if it's not me, it's somebody else that is the the side of the king.

00:12:12 Speaker 1

We've done this before, also when candidates or when we had the gambling propositions that were coming up, the gambling people skipped all of them.

00:12:20 Speaker 1

We debated their side.

00:12:21 Speaker 1

Anyway, we prepped in zealously and strongly debated their side because the the argument still needs to be made.

00:12:31 Speaker 2

OK, so I'm still.

00:12:32 Speaker 1

But but I.

00:12:33 Speaker 1

But I do think I do think that it's not just in in your right.

00:12:39 Speaker 1

It's not just Governor Leon Guerrero, who said she's not going to show up.

00:12:44 Speaker 1

Camacho is also not showed up and you know this is a national trend.

00:12:49 Speaker 1

It's an unfortunate national trend.

00:12:51 Speaker 1

Then that a lot of politicians.

00:12:53 Speaker 1

A lot of politicians are skipping debates and there.

00:12:55 Speaker 2

Yeah, and but I think that I think in this case you know the trends in electioneering in in the main line are different than the trends in Guam because we also have sort of cultural election seasons.

00:13:06 Speaker 2

But my point is that it's it's it's.

00:13:09 Speaker 2

Lou Leon Guerrero will lose the great will lose the election based on her choice not to show up at the great debate, but Felix Camacho suffers no repercussions by not showing up for the media.

00:13:23 Speaker 2

For the Chamorro language group and for the Guam Women Chamber of Commerce.

00:13:28 Speaker 1

Any candidate that does not participate in debates or forums loses.

00:13:34 Speaker 1

That's the bottom line, and that's.

00:13:35 Speaker 2

So how many?

00:13:36 Speaker 2

How many?

00:13:37 Speaker 2

How many no shows constitute a loss of an election?

00:13:42 Speaker 2

You know, because right now, right?

00:13:42 Speaker 1

I think that's that's going to be the the end point assessment.

00:13:46 Speaker 1

We're all going to have to make, and that is.

00:13:48 Speaker 1

And, to be blunt, I think that.

00:13:51 Speaker 1

Candidates should show up for debate and I I think and, and I think that that they it was a shame that they didn't show up for the debate that you were hosting I.

00:13:54 Speaker 2

Yeah, well, that's not yeah.

00:14:02 Speaker 2

So I'm OK, so I'm asking.

00:14:02 Speaker 1

Think that that was.

00:14:04 Speaker 2

I'm asking then if somebody just to use your words I as chair or other faculty member in our division, will argue with appropriate zealously sides that do not or do up here.

00:14:15 Speaker 2

So you are prepared if no other faculty member or no other person steps into debate.

00:14:22 Speaker 2

As well as you are a good debater.

00:14:25 Speaker 2

Then you you said it, you said I debate very well.

00:14:28 Speaker 2

So I mean, it looks like you're the guy so.

00:14:30 Speaker 2

Are you going to do it isn't question.

00:14:31 Speaker 1

But but but Patty, there's another thing too.

00:14:34 Speaker 1

You've got thousands of people saying no, he isn't right now, that's the the wonderful thing about talk radio.

00:14:40 Speaker 1

And that's the wonderful thing about the base.

00:14:42 Speaker 2

Well, it's a wonderful thing about talk radio.

00:14:44 Speaker 2

When you get a jet lag professor, that's going to write a memo that he might change or try to rescind the next day.

00:14:50 Speaker 1

No no no.

00:14:51 Speaker 1

No, I I have to say I have to say that.

00:14:54 Speaker 1

This won't be the first time I would have stuck.

00:14:56 Speaker 1

My foot in my mouth.

00:14:58 Speaker 2

No kidding.

00:14:59 Speaker 1

And and, and, and and and to be fair, yeah, a lot of people in our community don't speak up at all.

00:15:01 Speaker 2

OK.

00:15:10 Speaker 2

No, they just go to the polls.

00:15:12 Speaker 1

Or or and and they in a kind of low key way communicate in a way that some folks don't measure very well.

00:15:21 Speaker 1

So they think that because there's no one speaking up that everything stopped.

00:15:25 Speaker 1

You know everything is good to go, and it's not.

00:15:27 Speaker 2

Right?

00:15:28 Speaker 1

And and that's the danger.

00:15:30 Speaker 1

And that's why I.

00:15:30 Speaker 1

Love talk radio that and.

00:15:31 Speaker 1

And I love your show.

00:15:33 Speaker 1

You know, I remember back in the day you and John every single day we we cover your your your show in every one of my classes we go over the major points.

00:15:43 Speaker 1

That's how important talk radio.

00:15:45 Speaker 1

Was to one particular class I taught for many years.

00:15:48 Speaker 2

OK, well make sure you wear the colors of blue and Josh when you get up there on the Greater Bay because I think that if you're going to pinch it for him and you're going to be, you're gonna have to wear everything.

00:15:58 Speaker 1

Other thing you know I it.

00:15:59 Speaker 2

Like what?

00:16:01 Speaker 1

In politics on Guam.

00:16:03 Speaker 1

You know you.

00:16:05 Speaker 1

We we have people that are on.

00:16:09 Speaker 1

I don't want to say a carousel of of community or public service.

00:16:13 Speaker 1

This, but we people stay here and we live with them and you know elections are tough and and things go up and down in sideways.

00:16:23 Speaker 1

And I think this election though is not the straight line.

00:16:27 Speaker 1

You know, be line numbers that you.

00:16:30

But people think.

00:16:31 Speaker 1

It is, I think it's much more dynamic than that and and that's the danger is when people start thinking that you know done deal, you know nothing is going to change, that's when they they probably need to step back and take a quick look and.

00:16:47 Speaker 1

And you know, and and.

00:16:48 Speaker 1

And also there's.

00:16:50 Speaker 1

There's nothing harder than running for political office, especially running for governor of law, because it's not that everybody knows you, it's everybody.

00:17:00 Speaker 1

Thinks that they know you.

00:17:03 Speaker 1

And once you think that they know you, then they're filling in the gaps based on assumption, and that's why debates are important.

00:17:03 Speaker 2

Well I will.

00:17:11 Speaker 1

And that's why.

00:17:12 Speaker 1

Participating in Talk radio is important for Candace all.

00:17:15 Speaker 2

Well, I appreciate you participating too.

00:17:17 Speaker 2

Thanks Ron.

00:17:17 Speaker 2

Are you, are you gonna?

00:17:18 Speaker 2

What do you?

00:17:18 Speaker 2

Are you gonna be?

00:17:19 Speaker 2

You're obviously going to be back 'cause you're going to be having.

00:17:22 Speaker 2

To find their orange and and and blew out there while you're in Phoenix.

00:17:25 Speaker 2

I don't know if they have this.

00:17:27 Speaker 2

You know, that's a that's a class for you, but anyway, I appreciate that I appreciate the time.

00:17:33 Speaker 2

Thanks a lot and I'm sure we'll see at the great debate.

00:17:36 Speaker 1

Oh Patty, thank you so much and you know.

00:17:37 Speaker 2

You're welcome.

00:17:39 Speaker 1

I I have to say if I.

00:17:41 Speaker 1

Offended anyone?

00:17:42 Speaker 1

I do apologize that.

00:17:43 Speaker 1

It wasn't my simply.

00:17:44 Speaker 1

OK, all right and and and you know our community is.

00:17:49 Speaker 1

Full of great people.

00:17:51 Speaker 2

Yes, there it is.

00:17:52 Speaker 2

I appreciate this.

00:17:53 Speaker 2

Thanks Ron.

00:17:54 Speaker 2

Have a good day alright, take good care all the way in Phoenix AZ.

00:17:58 Speaker 2

I'm really.