



**31 March 2024**

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## What's Happening in April

**Post Tenure Review.** The original timeline had April be the month when PTR'd faculty were told their ratings. **For more on the constitutionality of the PTR law, the anti-arbitration law, and all these other laws, see below.**

But first, a critical point of law.

- **Post Tenure Review was not bargained, so violation of the Post Tenure Review process is *not* grievable.** That's why UFF has not filed grievances on the, ahem, irregularities in the process.
- **Having a plan imposed, or being dismissed, as a result of PTR, *is* grievable.** And UFF will defend the rights of UFF members who are subjected to a plan or told that they will be dismissed.

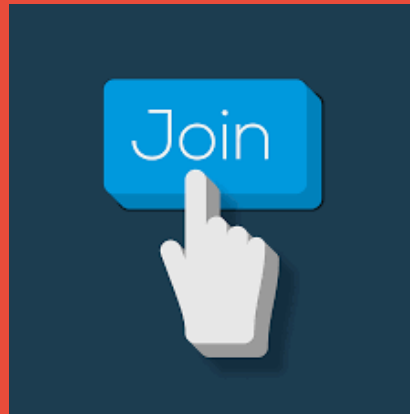
If you are tenured, and you were PTR'd and are rated a 3 (so you will be subjected to a plan) or a 4 (and so will be dismissed), your contractual rights will have been violated. **UFF is willing and able to defend a PTR'd faculty employee *if and only if* that employee was a UFF member *prior* to receiving the 3 or 4.**

**Chapter Elections.** If you were a UFF member as of March 17, you should have received a ballot at your home address. All ballots are due on April 4, so return them asap. Ballots will be counted at the April 5 chapter meeting (see below) to which all UFF members are invited. If you have not received your ballot packet, contact [the Chapter Secretary](#).

**Bargaining.** The union and administration bargaining teams will start bargaining a successor contract in April. Bargaining sessions are open to the public, and they will be streamed. Stay tuned.

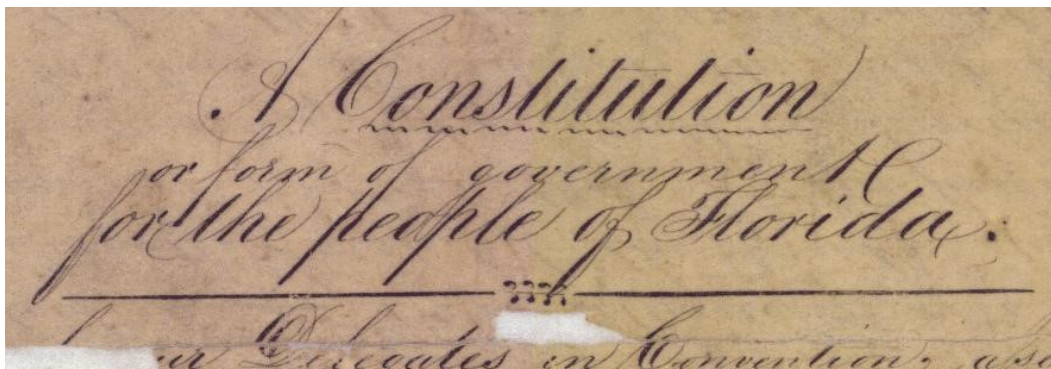
**Chapter Meeting on April 5.** The Chapter will meet on Friday, April 5, at 12 noon, on USF St. Petersburg, in the University Student Center, in the Ocean Room. All UFF members - and

interested non-members - are invited to observe (and participate) in democracy in action.



## Union Membership

If you are not a union member, please [join today](#) (the form connects automatically to the eDues form, so you will want to have your banking information or checkbook information handy). We are stronger standing together in solidarity.



## Is It Constitutional?

UFF, our affiliates, and several other organizations are litigating a flurry of dubious laws passed recently, and all of them have been very careful about what (if anything) they say about their legal positions.

But outside of the courtroom, there has been a discussion of some of these laws with respect to [Article IX Section 7 of the Florida constitution](#), which made the Board of Governors a constitutional body and granted it the authority to "operate, regulate, control, and be fully responsible for the management of the whole university system" but gave the Legislature only the authority to "appropriate for the expenditure of funds." Here are a few highlights.

This is an account of a public debate and does **not** reflect UFF's legal position, much less the legal positions of our affiliates and other organizations litigating these laws. For example, in [UFF's](#)

[lawsuit](#) concerning the law banning the last step of the grievance process - thus letting universities sit in judgment of themselves in grievances - UFF observes that this final step providing for outside arbitration before a neutral arbitrator *is* in the contract. [Article I Section 6](#) of the Florida constitution gives unions the right to bargain contracts that will presumably be in force during the life of the contract. In addition, these contracts already existed and [Article I Section 10](#) says that you cannot pass a law impairing existing contracts. Since grievances are how unions enforce contracts, this is a critical case, and you can see [the brief itself here](#).

Returning to the authority of the Board of Governors...

In [Graham v. Haridopolos](#), the Florida Supreme Court held that the Legislature can set tuition and fees because that (financial) authority was not among the enumerated powers of the Board listed in the constitution. In addition, while the Legislature argued that "the appropriations power includes the authority to attach contingencies to the appropriation of funds," the Court emphasized that "such authority is not without limits." Justice Jorge Labarga, concurring, added, "The power to attach contingencies to funds appropriated to the university system may not be employed to impair the constitutional authority of the Board to operate and manage the university system."

Shortly afterwards, in [NAACP v. Florida Board of Regents](#), the First District Court of Appeal observed of Article IX Section 7 that, "The plain language of the provision clearly contemplates that the Board of Governors' exercise of its powers is subject only to the legislature's authority to appropriate funds, to confirm the Board's appointed members, and to set members' staggered terms."

Subsequently, former UFF Executive Director Ed Mitchell (and current UFF USF Bargaining Committee co-chair) asked the author of Article IX Section 7 (who represented former Governor Bob Graham) about *Graham v. Haridopolis*, and that lawyer [outlined](#) the history and effect of Article IX Section 7 and concluded that since the constitution assigned management to the Board, not the Legislature, "the Legislature was without the authority" to enact "any" of [Statute 1001.741](#) (which bans arbitration over faculty employment actions - including dismissals).

In 2010, the Board of Governors, some senior legislators (including now-USF Board of Trustees chair Will Weatherford) and Governor Charlie Crist [divided the authority](#) over the universities so that the Board would manage and the Legislature provide for the money (including tuition and fees).

So that is the argument. The recent troubling laws exceeded the authority that the state constitution grants the Legislature.

For more on this thread, here are [the slides](#) of a presentation that Professor Richard Manning presented to the USF Faculty Senate on March 27. (In addition to being the Faculty Senate secretary, he is also a co-chair of the UFF USF Bargaining Committee, but he was speaking for himself).

### What can YOU can do about this.

- [Join UFF today and help pay for the lawyers.](#)
- [Check your voting status NOW.](#) These laws were passed and signed by our *elected* representatives. **We strongly urge EVERYONE vote in this year's elections** - both the August 20 primary election (don't ignore this one!) and the November 5 general election. And if you are interested in helping the union educate legislators this summer, please contact the [Chapter Secretary](#).

## Remember

NOTE: The USF-UFF Chapter website is <http://www.uff.ourusf.org>, and our e-mail address is [uff@ourusf.org](mailto:uff@ourusf.org).

About this broadcast: This Newsletter was broadcast from Constant Contact, and is intended for all USF faculty and professionals in the UFF USF Bargaining Unit.

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