

STATE OF FLORIDA  
PUBLIC EMPLOYEES RELATIONS COMMISSION  
CASE NO. SM-2017-023

TALLAHASSEE COMMUNITY COLLEGE  
BOARD OF TRUSTEES,

and

**VOLUME 1**

**Pages 1 through 140**

UNITED FACULTY OF FLORIDA.

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PROCEEDINGS: IMPASSE HEARING

BEFORE: M. SCOTT MILINSKI,  
SPECIAL MAGISTRATE

DATE: Wednesday, February 28, 2018

TIME: Commencing at 10:10 a.m.  
Concluding at 6:15 p.m.

PLACE: Tallahassee Community College  
Hinson Administration Building  
1st Floor Eagle's Conference Room

REPORTED BY: LAURA MOUNTAIN,  
Court Reporter  
Notary Public in and for  
the State of Florida at  
Large

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APPEARING ON BEHALF OF TALLAHASSEE COMMUNITY COLLEGE:

JAMES C. CROSLAND, ESQUIRE

and

DENISE M. HEEKIN, ESQUIRE

Bryant Miller & Olive  
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APPEARING ON BEHALF OF UNITED FACULTY OF FLORIDA:

TOM WAZLAVEK, UNION REPRESENTATIVE

United Faculty of Florida  
115 Calhoun Street, Suite 6  
Tallahassee, Florida 32301

and

MARTIN BALINSKY, FACULTY REPRESENTATIVE

\* \* \*

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1   P R O C E E D I N G S

2                   SPECIAL MAGISTRATE: Good morning. My name is  
3 Scott Milinski. I'm the Special Magistrate selected by  
4 the parties to hear this impasse dispute. And just for  
5 the record, there's probably some people here who have  
6 never been involved in a Special Magistrate hearing.

7                   The statute states that the Special Magistrate  
8 shall hold hearings in order to define the areas of  
9 dispute, to determine the facts relating to the dispute  
10 and to render a decision on any and all unresolved  
11 contract issues. My decision really isn't a decision,  
12 it's put in the form of recommendations, which then come  
13 back to the parties.

14                   Let's start with -- there's a lot of people in the  
15 room. Would you like the names of all of them on the  
16 record right now? That's up to me? I'm going to start  
17 with the principal parties I'm going to call the college  
18 and the union, and won't ask everyone else to be for the  
19 record. Go ahead, starting with -- who declared  
20 impasse? Starting with the college.

21                   MR. CROSLAND: All right, as counsel for the  
22 college, I am James Crosland, C-r-o-s-l-a-n-d.

23                   MS. HEEKIN: Counsel for the college, Denise  
24 Heekin.

25                   MR. CROSLAND: Do you want me to introduce our

1 other people?

2 SPECIAL MAGISTRATE: Sure, sure, yes, whoever is  
3 with you.

4 MR. CROSLAND: Right behind me is Scott Balog,  
5 B-a-l-o-g. He is the Chief of Staff for the President  
6 of the college. He's a Doctor, but he doesn't go around  
7 calling himself Dr. Balog. I couldn't resist that,  
8 Scott.

9 Directly behind me is Dr. Feleccia Moore-Davis.  
10 She is the Vice-President for Academic Affairs, slash,  
11 Provost. She will testify.

12 SPECIAL MAGISTRATE: Okay.

13 MR. CROSLAND: Where am I? And the lady with the  
14 long black hair is Dr. Barbara Wills, W-i-l-l-s. She is  
15 the Vice-President for Finance or Financial Affairs.  
16 Also with her is Bobby Jones. He works with her. And  
17 what's your title exactly?

18 MR. JONES: Assistant Vice-President,  
19 Administrative Affairs or Services.

20 MR. CROSLAND: Okay. Over in the corner, hiding  
21 in the corner over there, the guy in the gold tie, is  
22 Al Moran. He's Vice-President for Communications and  
23 Marketing. Is that correct?

24 MR. MORAN: That's correct, yes.

25 MR. CROSLAND: And the two ladies next to him are

1 executives in his office. The lady in white is Candice  
2 Grause and the lady in the red shirt is Alice Maxwell.

3 SPECIAL MAGISTRATE: Thank you.

4 MR. CROSLAND: I don't think they'll be  
5 testifying, but they are part of our team.

6 SPECIAL MAGISTRATE: Okay. Tom, would you like to  
7 introduce who you have here?

8 MR. WAZLAVEK: Sure. I'm Tom Wazlavek,  
9 W-a-z-l-a-v, as in Victor, e-k. And I'm the Associate  
10 Director for the Northwest Florida region of the United  
11 Faculty of Florida. And beside me is my co-chief  
12 negotiator, Martin Balinsky. He's a faculty member here  
13 at TCC and the Vice-President of the chapter. And  
14 behind me is my supervisor, Marshall Ogletree. He's the  
15 Executive Director of United Faculty of Florida. And I  
16 think we have a number --

17 SPECIAL MAGISTRATE: Would you two introduce  
18 yourself just for the record?

19 MR. DOBSON: Byron Dobson, a reporter with the  
20 Tallahassee Democrat.

21 MS. AUSTIN-HICKEY: I'm Rachel Austin-Hickey. I'm  
22 faculty.

23 SPECIAL MAGISTRATE: I didn't get the last part.

24 MS. AUSTIN-HICKEY: I'm faculty.

25 SPECIAL MAGISTRATE: Okay, that does that. Prior

1 to the hearing, we looked at some exhibits, and I'd like  
2 to put these into the record. We have two binders here,  
3 and the one handed to me first was the community  
4 college's initial exhibits that would be -- both parties  
5 will probably have additional exhibits, but the binder  
6 I've entitled College 1, Composite 1 through 35. And  
7 the union has no objections? Any objections?

8 MR. WAZLAVEK: No, no objections.

9 (Whereupon, TCC Composite Exhibit No. 1 was marked for  
10 identification.)

11 SPECIAL MAGISTRATE: And the union has submitted a  
12 Composite, also, which I've entitled Union 1, and it's  
13 tabs 1 through 4. Any objections?

14 MR. CROSLAND: No, sir.

15 (Whereupon, UFF Composite Exhibit No. 1 was marked for  
16 identification.)

17 SPECIAL MAGISTRATE: I'm going to be very liberal  
18 with respect to evidence that's brought into the hearing  
19 because at this point in time I cannot determine its  
20 relevance or its worth, but there may be some things  
21 that we can talk about if there's an issue with  
22 objections for exhibits.

23 The parties had -- we had an off-the-record  
24 discussion on how to organize this hearing. I came here  
25 expecting many issues on the table and I understand that

1 a number of them have been resolved. So would either of  
2 you like to comment on what we came up with or how you  
3 would like to present your case? I'm amenable to it.  
4 I'm amenable to whatever is easier for the parties to  
5 present these complex issue, as long as I can understand  
6 and follow along. Tom?

7 MR. WAZLAVEK: Well, as we discussed in the  
8 caucus, our approach would be to start at Article 1 and  
9 go through Article 32 sequentially. We're obviously not  
10 going to cover all 32 articles, but of those -- I think  
11 there are 15 or 16 different articles. But if there are  
12 issues with any of those then we'll just deal with those  
13 linearally as we go through the process.

14 Since the college declared impasse, then they'll  
15 go first, obviously, and then we'll respond and then  
16 just move to the next issue.

17 SPECIAL MAGISTRATE: So as I understand, just for  
18 some of the people here who don't do Special Magistrate  
19 hearings every week, typically we go -- with cases like  
20 this, one party presents all their issues and then the  
21 next party presents all their issues.

22 But what we've decided to do this time is do it  
23 issue by issue. So one issue will come up and both  
24 parties will present their positions on that and their  
25 witnesses and their evidence. That's going to make this



1 a lot easier to follow, as opposed to, yesterday, what  
2 did the other side say or whatever. So they'd like to  
3 do that, and I think it's a wise thing to do with this  
4 number of issues, and the complexity of them, most  
5 likely.

6 Housekeeping, if the parties need to take a break,  
7 talk to your principal representatives, we can take a  
8 break if you need a caucus or whatever. Those in the  
9 back who aren't actively involved in this, feel free to  
10 come and go, just do it as quietly as you can,  
11 obviously.

12 We've scheduled three days for this. I've been  
13 advised it may take only two days. We'll see. You  
14 never can tell. And I think that's everything we've  
15 covered. The witnesses who testify will sit in that  
16 chair. I have to find them a pencil or pen to write  
17 their name down, and title, so I can keep a separate  
18 list of witnesses, sequentially, and we'll do that.

19 MR. WAZLAVEK: I've got it.

20 MS. HEEKIN: I've got one, also.

21 MR. WAZLAVEK: We'll use a good union pen.

22 MS. HEEKIN: Well, I have a whole pack.

23 SPECIAL MAGISTRATE: Okay, as the community  
24 college is the party that declared impasse, meaning  
25 they'd like to invoke the Special Magistrate process,

1 was the college, would you like to make an opening  
2 statement?

3 MR. CROSLAND: I would, sir. Very, very brief,  
4 okay? As Tom said, also, in our caucus before the start  
5 of the hearing, in our Exhibit College 1, we have all of  
6 our proposals with a list of them by number. Also  
7 included -- I think it's about the third page -- is a  
8 separate list of all the items that have been agreed to  
9 by the parties. Having said that, the college, from the  
10 outset of these negotiations, has bargained from a,  
11 quote, package concept.

12 That's a familiar concept in bargaining, well  
13 recognized, and by that I mean, for the record, that we  
14 have reached tentative agreement on certain items but  
15 our position is we don't have a complete agreement until  
16 we have a complete agreement. So we may have 15 or 20  
17 items that are not going to be discussed here today.  
18 We've reached tentative agreement, but we don't have a  
19 complete contract. So kind of a colloquial way to put  
20 it is we don't have a deal until we have a complete  
21 deal.

22 As I said, there was a list. Let me just run by  
23 you -- and Tom may want to add one or subtract one or  
24 something -- of what we think the main issues are that  
25 you'll be faced with. One is an area called work

1           responsibilities. That's probably the most complicated  
2           issue we're facing.

3                     Part of that -- it's encompassing many issues.  
4           Part of that is the so-called workload. We're talking  
5           about credit hours, contact hours. We have a  
6           substantial difference of opinion on how to handle work  
7           responsibilities and the workload.

8                     The system that is in place today is the one that  
9           the union wishes to keep. We wish to move to a new  
10          workload formula which in our opinion -- and I won't  
11          belabor that at this point -- but which in our opinion  
12          brings us into the modern era.

13                    The current system has been in place for many  
14          years. You will hear from our witnesses why it needs to  
15          be changed and why it's a better system, and why, in  
16          fact, most if not all other community colleges in  
17          Florida follow the system we want.

18                    In fact, just to give you 30 seconds of history,  
19          what started all of this, essentially, and why we're all  
20          looking at each other today is that several years ago  
21          the college broached the subject of changing this  
22          formula and there was resistance from the faculty and it  
23          was not implemented. And eventually that led to the  
24          unionization of the faculty.

25                    There's an issue, a substantial issue, on

1 contracts. As you know, I think, in the college system  
2 there are annual contracts whereby faculty members who  
3 are on annual contract are renewed or not renewed every  
4 year. They have no expectation of continued employment,  
5 and need not be given a reason why they're not renewed.  
6 And as your review will reveal, that's in the State  
7 Board of Education rules.

8 Then there are continuing contracts. Eventually  
9 most people reach the continuing contract status, and  
10 once you get into that status, you're a legally  
11 different animal, so to speak.

12 It is our position that if you are on an annual  
13 contract, tracking state law, that faculty cannot grieve  
14 or arbitrate non-renewal of an annual contract. The  
15 union feels otherwise.

16 As an extension of that, the college takes the  
17 position that just as you have no right to go from one  
18 annual contract to another, you should not be able to  
19 grieve or arbitrate the denial of continuing contract  
20 status. In our view, denial of continuing contract  
21 status is no different from just renewal -- non-renewal  
22 of an annual contract, because while you have -- while  
23 you're still in annual contract status, you have no  
24 property right and until you have a property right we  
25 feel that's an exclusive management right.

1           Another issue that you'll hear about is  
2           evaluations of faculty. We've gone back and forth on  
3           that. It is our position that as far as evaluations are  
4           concerned that we propose that faculty can grieve the  
5           process of evaluations, which is covered in the  
6           collective bargaining agreement proposals we made. And  
7           you can grieve -- what is the term --

8           MS. HEEKIN: False statement.

9           MR. CROSLAND: -- false statement. But you can't  
10          grieve the ultimate substantive decision of an  
11          evaluation.

12          SPECIAL MAGISTRATE: Just to clarify that, you  
13          mean the rating?

14          MR. CROSLAND: Yeah. You can't grieve the rating.  
15          Now, in my mind, at least -- and Denise may hit me or  
16          something and say you're misstating this -- but in the  
17          evaluation process, just to illustrate, if there's --  
18          and I'm just making this up -- if there's ten factors  
19          and the evaluator forgets to fill out number seven or  
20          doesn't give a rating on seven, an arbitrator can say  
21          this was an incomplete evaluation, you need to go back  
22          and look at number seven and then render your evaluation  
23          again.

24          But we don't feel that an arbitrator has the  
25          ability, really, to say Professor X is a great professor

1 or a poor professor, make a substantive decision on  
2 that. I don't know what your experience has been on  
3 that. It may be varied. But that's the issue.

4 Another issue is so-called extra teaching  
5 assignments. You're going to hear from Dr. Moore-Davis  
6 on that. Those have to do with the workload formula,  
7 and pretty complicated stuff. But the simplest example  
8 is you normally would teach five three-hour courses, but  
9 you may teach a sixth, and get extra pay for that, of  
10 course.

11 Or you may teach only four and get a so-called  
12 reassignment to do something other than teaching a  
13 class, but then get the extra teaching assignment. And  
14 it really results in an imbalance between the person who  
15 is teaching the normal five courses and a person who is  
16 really teaching only four, gets a reassignment, and then  
17 picks up another class.

18 Another issue is the librarians, and there are  
19 librarians and counselors in this bargaining unit, but  
20 we do not consider librarians as faculty, nor do we  
21 consider counselors as faculty. In fact, there are no  
22 counselors currently at the college, so it's sort of a  
23 moot issue as to that, at least in our opinion.

24 But as far as the librarians are concerned, the  
25 union wishes them to be eligible for continuing

1 contract. It is the college's position that they are  
2 not eligible for continuing contract. They do not  
3 teach. So while they're in the bargaining unit, they're  
4 not truly faculty.

5 There is another issue involved in that regarding  
6 extra teaching assignments, but we'll discuss that at  
7 the time. Have I listed -- is there one more?

8 MS. HEEKIN: I think that's just the big issue.

9 MR. CROSLAND: As then as Tom has mentioned  
10 outside, a big issue is seniority. You will see, as  
11 these various articles come up, that they're involved in  
12 course schedules, extra teaching assignments, which I've  
13 mentioned, summer assignments, that's in the summer  
14 term, the RIF article, lay-off article, and in some  
15 respects the right of first refusal for certain classes.

16 The seniority issue is sprinkled throughout their  
17 proposals. And I will be up front and frank with you.  
18 It is the college's position that seniority should not  
19 be applicable for this bargaining unit. We don't  
20 propose to use seniority to gauge any of the items I  
21 just mentioned.

22 And then one last thing from me. This is the  
23 first attempt at a contract for both parties. We don't  
24 have a -- what I think is termed a mature bargaining  
25 relationship, much less a mature collective bargaining

1 unit. And it is our feeling certainly with respect to  
2 some of these issues that the UFF is attempting to, in  
3 one fell swoop, achieve things it has taken many, many  
4 years to achieve, in some respects.

5 And speaking from experience, for example, we  
6 represent Broward College and have done their bargaining  
7 for longer than I want to admit. But it's been an  
8 incremental process over the years, but they just want  
9 to come in and say here it is, and we don't go with  
10 that. Did we have something else for me to mention?

11 MS. HEEKIN: No. You can mention that if you want  
12 to.

13 MR. CROSLAND: Okay, wages is an issue in a couple  
14 of technical respects. The basic, across-the-board  
15 issue has been resolved. The union has an issue with  
16 regard to wages which we'll address in due time.

17 Now, in closing this, Mr. Milinski, we thought it  
18 would be helpful if Mr. Balog presented a short sort of  
19 a history and mission of the college and get you  
20 familiar with what we do here. And that will take five  
21 minutes, okay?

22 Would this be College --

23 SPECIAL MAGISTRATE: Would you like -- I was going  
24 to call this College 2? One second.

25 (Whereupon, TCC Exhibit No. 2 was marked for



1 identification.)

2 SPECIAL MAGISTRATE: The statute requires that  
3 parties be or witnesses be sworn in. I just would like  
4 to know, particularly on your side, do you consider him  
5 as a witness at that point or -- is he going to testify  
6 later?

7 MR. CROSLAND: No, sir.

8 SPECIAL MAGISTRATE: Let's swear him in, just for  
9 the record.

10 Thereupon,

11 SCOTT E. BALOG

12 was called as a witness, having been first duly sworn, was  
13 examined and testified as follows:

14 THE WITNESS: Magistrate Milinski, we're always  
15 glad to be able to tell our story and we feel that we've  
16 got a great story to tell here at Tallahassee Community  
17 College. My presentation may likely be the lone  
18 unifying presentation this week, but -- and we do have  
19 a great story to tell. We wish, though, that we were  
20 sharing this story with you today under different  
21 circumstances, but we're always glad to tell our story.

22 We have proudly served the citizens of Gadsden,  
23 Leon, and Wakulla Counties since 1966. Across our  
24 three-county service district we have seven sites, two  
25 in Gadsden County, three in Leon, and two in Wakulla

1 County.

2 Our Board is representative of those three  
3 counties, and they have developed, approved, and adopted  
4 our current mission statement, which conveys the  
5 comprehensive nature of our institution. In offering a  
6 robust portfolio of post-secondary education and  
7 workforce training programs, we offer over 70 workforce  
8 and certification programs at our college.

9 Each semester we serve approximately 13,000  
10 students who are enrolled in programs leading to a  
11 degree or workforce certification. We proudly offer  
12 training in the top ten careers in highest demand in our  
13 region. We work with the Florida Department of Economic  
14 Opportunity. We study their target occupations list to  
15 make sure that our programs are demand driven, that they  
16 are relevant, and that they are timely.

17 We're recognized nationally for the return on  
18 investment by our students in their educational  
19 experience here at the college. That is due in part to  
20 the low cost of their college experience here at TCC, to  
21 the quality, and also to job placement and their  
22 earnings.

23 I mentioned earlier and it will be shared by  
24 Dr. Wills, our Chief Business Officer, that TCC, in  
25 ensuring access to students, maintains a very low

1           tuition. Our tuition is less than half of the  
2           neighboring state universities, and it is one of the  
3           lowest in the State of Florida among community and state  
4           colleges.

5           Just a brief profile or look at our students: Our  
6           students, compared to many colleges across our state,  
7           tend to be a little bit younger. The average age is 21.  
8           About half of our students are the first in their family  
9           to attend college. Sixty percent of our first-time  
10          college students receive Pell grants, and that is  
11          significant in demonstrating that our students come from  
12          lower socioeconomic backgrounds and four out of five of  
13          our students juggle school and work.

14          Our students are diverse. They represent over 34  
15          states. They represent over 80 different countries from  
16          around the world, and that really contributes to the  
17          richness of the learning environment here at TCC. We  
18          have the highest percentage of graduates with  
19          disabilities among all Florida state and community  
20          colleges, and over three-quarters of our students  
21          transfer to a university following graduation.

22          It should also be noted that the students that are  
23          enrolled in our workforce programs are very successful  
24          in being placed into jobs in this community. Roughly  
25          nine out of ten students who graduate from those and

1 complete those workforce training programs are employed  
2 following completion of their program here at the  
3 college.

4 I'm happy to answer any other questions you may  
5 have about our institution, but just wanted to take a  
6 brief moment to share with you some of the highlights of  
7 our college.

8 SPECIAL MAGISTRATE: Thank you very much. That's  
9 very enlightening. I didn't know all that about your  
10 college. Thank you.

11 THE WITNESS: My pleasure.

12 SPECIAL MAGISTRATE: You rest?

13 MR. CROSLAND: Oh, I'm sorry. Yes.

14 (Witness excused)

15 SPECIAL MAGISTRATE: Tom, any opening?

16 MR. WAZLAVEK: I'll make a few remarks. We'll  
17 agree with the College that the major issue that we need  
18 to resolve is the area of work responsibilities. We  
19 have what we think is a very legitimate argument about  
20 why we should -- why the college should retain the  
21 current workload formula, and it's a pretty simple  
22 reason. It works.

23 Inasmuch as TCC would like to look at the numbers,  
24 think the numbers ought to drive the conversation, I  
25 think the faculty's position is that what's best for

1 students ought to drive the situation. Smaller class  
2 sizes are better. More qualified instructors are  
3 better. People who are paid a wage that's commiserate  
4 with their skills and education are more happy employees  
5 and they're more productive.

6 We certainly agree about the contractual issue in  
7 contract versus continuing contract but -- and this is  
8 where I think we -- the Magistrate may have a tough  
9 decision on his hands, and that is, in spite of what TCC  
10 would have us -- have you believe, the law is very clear  
11 when it comes to waivers of the right to grieve. In  
12 fact, go back to what I think is the seminal case,  
13 Orange County Classroom Teachers Association, out of  
14 1981, a PERC decision. PERC, and then, I think,  
15 ultimately the Florida Supreme Court, made it very clear  
16 that we have a right to grieve over all terms and  
17 conditions of employment, period, with no exceptions.

18 There is no doctrine that allows an employer to  
19 avoid the grievance process if the union insists on it.  
20 So essentially what TCC is asking you to do is allow  
21 them to have a waiver of our right to grieve, which you  
22 have no authority to do, and neither do they. And they  
23 know -- we've told them repeatedly -- you cannot take  
24 these issues all the way to impasse.

25 So for the record -- and we will say this multiple

1 times during the course of this proceeding -- we object  
2 to any attempt to waive our right to grieve all terms  
3 and conditions of employment and we will take the  
4 appropriate legal action if the College continues to  
5 insist on its position.

6 The same thing goes to evaluation. Of course you  
7 can grieve a rating. There's nothing in the law that  
8 says you cannot grieve a rating. And if TCC has got  
9 different case law they can show us and show you, then  
10 we'll move on with our argument.

11 The issue of the extra teaching assignments, yeah,  
12 it's easy to make it sound like the faculty are trying  
13 to game the system, but in fact what the faculty is  
14 trying to do is deal with a reasonable workload, which,  
15 understanding that there is no -- there's no -- the myth  
16 of the faculty member who teaches five courses at three  
17 credit hours each, year in, year out, that's a myth,  
18 because people have other duties, they have other  
19 responsibilities that go along with being a faculty  
20 member.

21 And that's why there are deviations -- one reason  
22 why there are deviations to their -- to the 15-hour  
23 rule. Another reason is because the type of class that  
24 they're dealing with warrants it. They may need more  
25 individualized instruction in some courses.

1           So there's no one size fits all approach to this,  
2           and I think you'll see that the testimony we'll provide  
3           will bear that out.

4           As far as librarians and counselors go, well, I  
5           would beg to differ with the college, because PERC has  
6           said that they're faculty. They're all in the same  
7           bargaining unit. And there's nothing in the Board rule  
8           that differentiates teaching faculty from counselors or  
9           librarians. In fact, I think there's an argument that  
10          the College is violating the State Board rule by denying  
11          librarians and counselors continuing contract.

12          We'll discuss at length during the proceedings  
13          about the issue of seniority. That's right, seniority  
14          is -- go figure, a union wants seniority. It's simply  
15          the most objective criteria that you can come up with  
16          when it comes to layoffs, when it comes to promotions,  
17          when it comes to extra assignments, the things that  
18          otherwise lend themselves to being manipulated by  
19          administrators.

20          Without seniority, you wind up with a system of  
21          cronyism, favoritism, and if there's a layoff the Dean  
22          can say, well, okay, I'm not going to let you off,  
23          Mr. Milinski, because you're my golfing buddy, but I'll  
24          lay off Jim Crosland because I don't like him. Absent  
25          any seniority clause in the contract, you know, they're

1 free to do that kind of thing.

2 And I was surprised to hear Mr. Crosland say that  
3 we were attempting to achieve a mature contract with our  
4 first agreement. And, no, actually not; we've been  
5 focused and trying to get what we think is a good basic  
6 contract. But apparently their idea of a good contract  
7 and our idea of a good contract are at odds, because we  
8 believe a good contract balances power, makes sure that  
9 while employees are held accountable, they also are  
10 treated fairly.

11 And I guess, lastly, we appreciated Mr. Balog's  
12 presentation of the overview of TCC. As you can see,  
13 TCC is very successful. And there's one reason for that  
14 success, and that's the faculty that make it happen. So  
15 that's all I have.

16 SPECIAL MAGISTRATE: Okay. I just have a few  
17 comments, questions, just to make sure I'm on the same  
18 page with everyone. My understanding is, this is the  
19 first contract? There was no contract prior to this?  
20 Okay, this is not a successor contract issue, so  
21 everything I see in here is new language?

22 MR. CROSLAND: Yes, sir.

23 SPECIAL MAGISTRATE: Okay. I was wondering where  
24 was the underlines. That's technical stuff. But when  
25 was the union certified?



1 MR. WAZLAVEK: August of 2016. Yeah, August of  
2 2016.

3 SPECIAL MAGISTRATE: And when did bargaining  
4 begin, approximately?

5 MS. HEEKIN: September, October, 2016.

6 MR. WAZLAVEK: Late September, 2016.

7 SPECIAL MAGISTRATE: So you've been going at it  
8 since September, 2016. And I can understand that if  
9 it's a brand new contract. Impasse was declared when?

10 MR. BALINSKY: September, 2017.

11 MR. WAZLAVEK: September, 2017, yeah.

12 SPECIAL MAGISTRATE: The size of the bargaining  
13 unit?

14 MR. WAZLAVEK: About 192, I think, give or take a  
15 couple.

16 SPECIAL MAGISTRATE: Okay. How does -- just very  
17 briefly, just define the bargaining unit.

18 MR. WAZLAVEK: Just off the top of my head --

19 SPECIAL MAGISTRATE: Off the top -- I'm not going  
20 to hold you to --

21 MR. WAZLAVEK: It's all counselors, librarians,  
22 and teaching faculty.

23 MS. HEEKIN: All full-time, all full-time faculty,  
24 librarians, and counselors, I believe.

25 SPECIAL MAGISTRATE: All full-time counselors,

1 librarians, and teaching faculty?

2 MS. HEEKIN: That's not exactly how it reads.

3 SPECIAL MAGISTRATE: Okay, that's close enough.

4 We don't have attendance people in there or --

5 MR. WAZLAVEK: No, this is strictly a professional  
6 unit.

7 SPECIAL MAGISTRATE: A professional unit. That's  
8 it, thank you. Ready to start with the first issue?

9 MR. CROSLAND: Right.

10 MR. WAZLAVEK: And just for the record,  
11 Mr. Balinsky is taping, so if anybody has an objection  
12 to that -- we're in a public meeting --

13 SPECIAL MAGISTRATE: Yeah, okay.

14 MR. WAZLAVEK: Just so everybody knows.

15 MS. HEEKIN: You know we also have a court  
16 reporter.

17 MR. WAZLAVEK: Yeah, I know, but --

18 MR. CROSLAND: What number is this?

19 MS. HEEKIN: This will end up being College 3.

20 SPECIAL MAGISTRATE: Just a real quick question,  
21 this is an issue I think we can address right now. Both  
22 parties agree that they're going to use the  
23 transcription? Are there issues about that?

24 MR. CROSLAND: Well, we are.

25 MR. WAZLAVEK: Well, we may. I don't know. We

1 haven't gotten that -- I was surprised to see the court  
2 reporter, but --

3 SPECIAL MAGISTRATE: Okay, okay. Very quickly, we  
4 can talk about this at the end and see what you want to  
5 do, but basically if -- I would probably like the  
6 transcript. I will need the transcript. If both  
7 parties do not want the transcript -- I'm presuming you  
8 called for the --

9 MR. CROSLAND: We ordered the court reporter.

10 SPECIAL MAGISTRATE: -- the transcript. So you're  
11 going to use it.

12 MR. CROSLAND: Yes, sir.

13 SPECIAL MAGISTRATE: I will give you a heads up,  
14 I'm going to use it. And if the union declines not to  
15 use that, does not want to use it, you've got your tape  
16 recording, but I will usually -- I afford the party  
17 not -- electing not to use a transcript to make an  
18 appointment to come in and review the transcript, not to  
19 make copies of it. I give them that opportunity, by  
20 appointment, to come in and look at the transcript, et  
21 cetera.

22 MR. WAZLAVEK: Okay. Well, like I say, we'll make  
23 that decision.

24 SPECIAL MAGISTRATE: Just give you that heads up,  
25 as we go down this road, so you know in your mind when

1           you're making those decisions as we go along.

2                   Are you okay?  If you need a break, you just say  
3 something because I'm not staring at -- I'm not looking  
4 at you, I've got everything kind of the way we've got it  
5 set up.  Go ahead.

6                   MR. CROSLAND:  This would be Composite College --  
7 or College Composite 3.

8                   (Whereupon, TCC Composite Exhibit No. 3 was marked for  
9 identification.)

10                   SPECIAL MAGISTRATE:  And this is -- this is on  
11 Article 3?

12                   MR. CROSLAND:  Yes, sir.  This is the civility and  
13 mutual respect article.  We feel it's appropriate to  
14 include in any collective bargaining agreement.  As Tom  
15 has just related, it consists of professional employees.  
16 We think everyone at the school should demonstrate  
17 civility and mutual respect.

18                   There is -- strike that.  Our proposal is a  
19 summary of a proposed agenda item that's going on the  
20 next board agenda of a college-wide policy on civility  
21 and mutual respect.  We've also included, Mr. Milinski,  
22 the union's proposal here.  So the first one is our  
23 proposal.

24                   SPECIAL MAGISTRATE:  This here?

25                   MS. HEEKIN:  Page one.

1 MR. CROSLAND: Yes, page one.

2 SPECIAL MAGISTRATE: I see. I see it has two  
3 pages in it. Okay.

4 MR. CROSLAND: The one that's in yellow is the  
5 union's proposal, with our proposal struck out and their  
6 language added in.

7 SPECIAL MAGISTRATE: So the first paragraph the  
8 union does not agree to. The second paragraph is the  
9 union's proposal?

10 MR. CROSLAND: Yes, the first paragraph is just a  
11 copy, right.

12 SPECIAL MAGISTRATE: This is what you have for  
13 yours. Okay, got it.

14 MR. CROSLAND: Then their added language. The  
15 next document in this composite exhibit is Policy 04-13  
16 which is a policy which we intend to implement school  
17 wide, other than this bargaining unit. And this is  
18 simply a summation or a tracking of that.

19 The other set of documents you have after that,  
20 beginning with Ohio State University, this is just a  
21 sample -- University of New Mexico, State University of  
22 New York and Portland is a sampling of other academic  
23 institutions' policies in this regard.

24 SPECIAL MAGISTRATE: Okay.

25 MR. CROSLAND: And we just feel that especially in

1 a professional agreement that there's no reason not to  
2 have this. People should treat each other  
3 professionally, nicely, and civilly. I'll turn it over  
4 to Tom if he wants to address this issue.

5 MR. WAZLAVEK: Yeah. I'll direct the Magistrate  
6 to our slide up on the screen. Basically we object to  
7 their proposal as being overly broad and subjective.  
8 The language could be used to retaliate against faculty  
9 who are engaged in protected activity. I'll draw your  
10 attention to their proposed Board policy, on the second  
11 page, under B, disrespectful, retaliatory or disruptive  
12 behavior.

13 MR. CROSLAND: Where are you, Tom?

14 MR. WAZLAVEK: The second page of the TCC policy.

15 MR. CROSLAND: Oh, the policy. I'm sorry.

16 MR. WAZLAVEK: Right. And looking at the second  
17 page, under B, the heading B, disrespectful, retaliatory  
18 or disruptive behavior, looking at Subsections B and C,  
19 those are two -- actually, the first three, A, B, and C.  
20 You know, what form of political correctness is the  
21 college after? Because arrogance or condescending  
22 behaviors or comments, well, who is going to be the  
23 judge of that?

24 And so what happens when Martin Balinsky gets up  
25 in front of the Board of Trustees, clearly acting in his

1 capacity as the union official, and makes sarcastic  
2 comments? Is he going to be subject to discipline then?  
3 That would violate his -- not only his free speech  
4 rights, but his right to concerted activity free from  
5 retaliation.

6 This is a solution in search of a problem.  
7 There's been no disrespect to the administrators.  
8 But frankly, given the past behavior of some of the  
9 administration officials at this College, we're  
10 concerned that what this is really trying to do is set  
11 up faculty, particularly active -- faculty who are  
12 active in the union, to set them up for disciplinary  
13 action and termination.

14 There's no need for what is onerous, unneeded  
15 language. Our proposal is straightforward. Faculty,  
16 other college employees and students have a right to be  
17 treated in a professional manner. During personal  
18 interactions each will treat the others with respect and  
19 courtesy and refrain from rude and disrespectful  
20 behavior.

21 We think that encapsulates everything they're  
22 trying to do. If all they're trying to do is make sure  
23 that people treat each other with respect, then they  
24 certainly don't need a paragraph full of loaded words,  
25 or a policy that's a three, four, five-page policy on

1           how people ought to get along with each other.

2           MR. CROSLAND: Well, just two points, and we can  
3           move on. We're not proposing to incorporate the actual  
4           policy by reference in the agreement, it's just sort of  
5           a summary of the concept, as I said.

6           Secondly, the college is well aware of Chapter 447  
7           prohibitions against retaliation against employees for  
8           union activity or concerted, protected activity. And  
9           there's nothing in this proposal that is intended to  
10          give the college the right to violate those rights.  
11          That's not the intent of this at all. That's a little  
12          paranoia on Tom's part. I'm just kidding you, Tom.

13          MR. WAZLAVEK: Well, again, we find the language  
14          unacceptable, unnecessary, overly broad, possibly --  
15          possibly illegal, and object to it completely, and  
16          insist that if they want something about professional  
17          behavior and respect for each other, we've got a very  
18          simple, straightforward solution. And I guess I would  
19          also add that if this is such a problem on campus with  
20          the faculty, where are their examples?

21          SPECIAL MAGISTRATE: Before we move on, I'd like  
22          to ask a question about Article 3.

23          MR. WAZLAVEK: Sure.

24          SPECIAL MAGISTRATE: I guess this is directed  
25          towards Jim, or the college. The policy here that's



1 going to be implemented, Number 04-13, for everyone  
2 other than this bargaining unit --

3 MR. CROSLAND: Well, we couldn't -- we can't just  
4 implement it unilaterally now.

5 SPECIAL MAGISTRATE: Sure, you've got to move  
6 forward, yeah, yeah. That's not the same language  
7 that's in here?

8 MR. CROSLAND: No, it's not, no. This is just  
9 sort of a -- choose your words -- summary of the  
10 concept, but --

11 SPECIAL MAGISTRATE: Okay, got it. Thank you.

12 MR. CROSLAND: All right, the College Composite 4  
13 would be Article 4, the management rights article.

14 (Whereupon, TCC Composite Exhibit No. 4 was marked for  
15 identification.)

16 MR. CROSLAND: The first set of documents is our  
17 actual language proposal. The second set is the union  
18 proposal. Give me one second. The third set is the  
19 Florida Statute, the Florida -- the 447 management's  
20 rights clause. And the last set of documents are some  
21 illustrative management's rights clauses out of other  
22 state college or community colleges in Florida, Florida  
23 Southwestern State, Hillsborough Community College,  
24 Broward Community College, and Miami-Dade.

25 It's our position that the items listed in our

1 management's rights clause are tied to the provisions of  
2 447. Everything we've got listed here can be tied back  
3 to the specific provisions of 209, 447.209.

4 The union proposal is not even -- is not even a  
5 tracking of the state statute. The union proposal  
6 leaves out some very important aspects of even the state  
7 statute, which I have somewhere here.

8 The union's proposal makes no mention of the  
9 statutes dictate that the employer has the -- can  
10 unilaterally determine things listed in the statute.  
11 The union's proposal omits anything about standards of  
12 service, which is reserved to a public employer, omits  
13 any reference to control, and have discretion over  
14 services provided by the college, omits any reference to  
15 the college's ability to direct employees, omits  
16 reference to discipline. As the statute says,  
17 discipline for proper cause. Omits a mention to relieve  
18 employees from duty, or even the right to relieve  
19 employees for lack of work or other legitimate reasons.

20 And as I said before, there are a number of  
21 schools in the state that have -- and I'm not telling  
22 you that they're exactly the same as ours, but they are  
23 a longer list of specific items reserved to the college  
24 in management's rights.

25 So we don't think we're an outlier on this. I

1 know -- we know for a fact that both Broward College and  
2 Miami-Dade College have been unionized for many, many,  
3 many years. And we know from personal experience in  
4 representing Broward, they have a pretty strong  
5 bargaining unit there. But they have these similar type  
6 provisions in these contracts, and we think this is  
7 appropriate.

8 SPECIAL MAGISTRATE: Tom?

9 MR. WAZLAVEK: I think that if the Magistrate just  
10 carefully reads our proposal we incorporate by reference  
11 447.209. What the employer is proposing, basically, we  
12 believe, is permissive bargaining, expanding their  
13 rights beyond what the statute requires. So that's our  
14 initial objection to it.

15 Beyond that, this, again, is part of the  
16 administration's pattern of trying to find problems to  
17 solutions. And this laundry list of so-called  
18 management rights, you know, I guess maybe it makes the  
19 administration feel better, but, you know, we just see  
20 this, again, as being onerous and an attempt to dominate  
21 the relationship between management and the union.

22 If there's some problem with the state statute,  
23 again -- if there's a problem with the state statute, if  
24 there was something happening on the ground here that  
25 violates the state statute, then, by all means, let's

1 have that conversation. But they haven't provided any  
2 proof other than showing you where it's in other union  
3 contracts.

4 Well, that's great, but it doesn't make it -- the  
5 long laundry list of ongoing contracts doesn't make it  
6 okay for TCC. It's not necessarily what we need. And,  
7 you know, again, management has the rights outlined in  
8 the statute. They're pretty straightforward. We see  
9 no need for the college to have a long laundry list of  
10 things it claims as management rights. So that's --

11 MR. CROSLAND: Well -- I'm sorry, I thought you  
12 were finished.

13 SPECIAL MAGISTRATE: Are you done, Tom?

14 MR. WAZLAVEK: Yes.

15 SPECIAL MAGISTRATE: Go ahead.

16 MR. CROSLAND: The only other thing I would add,  
17 and I think it's obvious from reading the documents,  
18 that these are management's rights and clauses at these  
19 other schools that this union has agreed to.

20 MR. WAZLAVEK: Well, some are. And we're not part  
21 of the -- what are they, Southwest Florida College --

22 MR. BALINSKY: And Miami-Dade.

23 MR. WAZLAVEK: That's not ours, that's certainly  
24 not ours.

25 MR. CROSLAND: Excuse me just a second.

1           MR. WAZLAVEK: Miami-Dade is actually not one of  
2           ours, either. Did we give management -- did we give  
3           them exhibit numbers on those?

4           SPECIAL MAGISTRATE: Yes. Right now they're right  
5           in line with Article numbers; C-3 is Article 3, and C-4  
6           is Article 4.

7           MR. WAZLAVEK: Okay. Thank you, sir.

8           SPECIAL MAGISTRATE: And I called that C-3, but  
9           it's also got your proposal in it. You may have more  
10          for it, but they both have your proposals in it, so --

11          MR. WAZLAVEK: No, no, that's -- we were --

12          MR. CROSLAND: We were just trying to be nice in  
13          case Tom couldn't keep them straight.

14          SPECIAL MAGISTRATE: Just please don't throw them  
15          up in the air and give them to me. That's the scariest  
16          thing someone like me could have in a case like that.  
17          One second here.

18          MR. CROSLAND: Let me suggest, what we're going to  
19          do now is discuss Article 8 and Article 11 together,  
20          which are similar issues. And our suggestion is let us  
21          do this and let Tom respond, and then -- I don't know  
22          what your process is on breaking --

23          SPECIAL MAGISTRATE: Whatever you guys can do. I  
24          brought a Power Bar. I've got a Power Bar in here. I  
25          don't like them, but I'll eat them. It's like K

1 rations.

2 MR. CROSLAND: But after that we're probably going  
3 to do the first PowerPoint, and it might be a good  
4 breaking point.

5 SPECIAL MAGISTRATE: Yeah, that would be -- yeah.

6 MR. CROSLAND: Before we do the PowerPoint.

7 MS. HEEKIN: And if I can add, it's 8 and 11, just  
8 with respect to the grievance process, for annual  
9 contract, non-renewal of annual contract, and denial of  
10 continuing contract. There's an additional issue in  
11 Article 11.

12 SPECIAL MAGISTRATE: One second. Say those two  
13 things that it covers.

14 MS. HEEKIN: It addresses the grievability and  
15 arbitrability of the denial of annual contract or  
16 non-renewal of annual contract, and denial of continuing  
17 contract.

18 SPECIAL MAGISTRATE: Okay.

19 MS. HEEKIN: There's an additional issue in  
20 Article 11 which deals with continuing contract for  
21 librarians and counselors, and that's going to be  
22 addressed in the PowerPoint.

23 MR. CROSLAND: Well, there's an additional issue  
24 in 8, too.

25 MS. HEEKIN: Exactly, which we'll cover, a legal

1 issue in the grievance process.

2 SPECIAL MAGISTRATE: Okay, this will be College 5.

3 MS. HEEKIN: So 8 will be College 5?

4 SPECIAL MAGISTRATE: It's not complete, it's not  
5 complete, 8 and 11. Got it.

6 MS. HEEKIN: So let's do 8 as College 5 and 11 as  
7 College 6?

8 SPECIAL MAGISTRATE: Okay, 8 is 5 and Article 11  
9 is 6.

10 (Whereupon, TCC Exhibit Nos. 5 and 6 were marked for  
11 identification.)

12 SPECIAL MAGISTRATE: These are all 11, so I only  
13 need one of those, right?

14 MS. HEEKIN: Yeah, one of each.

15 MR. CROSLAND: There is your 8.

16 SPECIAL MAGISTRATE: Okay, you want to do -- 8 is  
17 5. College 5 is Article 8, in part. Let me write "in  
18 part" there. And College 6 is Article 11.

19 MR. CROSLAND: Ready?

20 SPECIAL MAGISTRATE: Ready.

21 MR. CROSLAND: Let's talk about Article 8,  
22 grievance and arbitration procedure first, Mr. Milinski.  
23 And as we both referred to in our opening argument, it's  
24 our position that the faculty member, slash, the union  
25 should not have the ability to grieve or arbitrate

1 non-renewal of an annual contract. And this is a pure  
2 legal issue, and it's going to be briefed or outlined to  
3 you afterwards.

4 But certainly one of the bases for -- bases for  
5 our position is the State Board of Education rule, which  
6 says annual contract instructors have no expectation of  
7 continuing employment.

8 And we think state law gives us the ability for  
9 our position. The state law does not give them that  
10 right. If they don't have the right, how can they  
11 grieve the loss of an alleged right.

12 And as I said in my opening, the continuation of  
13 that thought is that that, in effect, gives us a  
14 management right to make that decision, which cannot be  
15 challenged. In a similar vein, we take the position  
16 that the denial of continuing contract status is no  
17 different legally.

18 If you don't have a right to go from annual  
19 contract to continuing contract because you have no property  
20 right in that job by state regulations, and because it  
21 is therefore a management right, you don't have any  
22 right to go to continuing contract status. That is also  
23 a management right of the college.

24 Obviously Tom and the union strongly disagree with  
25 that position. We feel we're on solid ground in this



1 area. Again, it will be briefed. I want to -- where is  
2 that -- give me just a second.

3 SPECIAL MAGISTRATE: Sure.

4 MR. CROSLAND: Let me direct you in Article 8 to  
5 paragraph nine. Why don't you take a moment and read  
6 that, if you want to, and I'll discuss it.

7 SPECIAL MAGISTRATE: Starting with consistent with  
8 the provisions --

9 MR. CROSLAND: Yes, sir.

10 SPECIAL MAGISTRATE: Okay.

11 MR. CROSLAND: First we'll point out that actually  
12 the union agrees with the first sentence in the  
13 proposal. As to the rest of it, starting with the word  
14 "accordingly," here's the philosophy behind that. And  
15 I'll do it by way of example. If you have a faculty  
16 member who, during the -- now I'm not talking about  
17 non-renewal of annual contracts or not giving a  
18 continuing contract to someone. I'm talking about  
19 during the course of the academic year that a faculty  
20 member is terminated, for example, for some wrongdoing.

21 SPECIAL MAGISTRATE: Okay, for cause.

22 MR. CROSLAND: For cause.

23 SPECIAL MAGISTRATE: Okay.

24 MR. CROSLAND: There is a grievance. There's an  
25 arbitration. And the arbitrator says, college, you

1 shouldn't have fired this person. We all agree, I  
2 think, that an appropriate remedy would be  
3 reinstatement. And in most cases it would involve back  
4 pay, with perhaps some set-offs, and restoration of any  
5 benefits that would normally accrue during that back pay  
6 period. That's not an issue with us, and that's not --  
7 there's no attempt here to negate that type of  
8 traditional remedy.

9 The reason this language was put in there is to  
10 prevent an arbitrator from -- if I can use a slang term  
11 or colloquial expression -- getting off the leash. We  
12 don't want an arbitrator saying reinstate him, give him  
13 his back pay, give him his leave that he would have  
14 accrued during this period, and also, I just am offended  
15 by what the college did, so I'm going to award  
16 attorney's fees to the union.

17 That's not a remedy that's provided in here, not a  
18 traditional remedy, unless it's written in the contract,  
19 which is not contained in either of our proposals. Or,  
20 I'm going to fine you for doing this. There are legal  
21 reasons why we would say he couldn't do that, but,  
22 anyway, it could happen.

23 And to use one final example -- I actually had an  
24 arbitration many years ago in Miami where the -- I still  
25 laugh about this -- the arbitrator said in his decision,

1 City, I don't like what you did, I don't think it's  
2 right, but technically you're correct. So I'm going to  
3 deny the grievance, but I am directing you to pay -- and  
4 I don't -- I'm making this number up because I can't  
5 remember it -- something like \$5,000 to donate to a  
6 charity, or something like that. It was bizarre.

7 That's what this is attempting to stop, is a  
8 so-called runaway arbitrator, and that's all it's meant  
9 to be. No one is making the argument that if a person  
10 is wrongly terminated and reinstated he shouldn't be  
11 given his back pay, accrued benefits, all that stuff.  
12 That's all this is attempting to address.

13 And as I say, on the, frankly, the more important  
14 issue, the grievability issue of the annual contract and  
15 continuing contract, that's going to be --

16 SPECIAL MAGISTRATE: Now, I haven't had time to  
17 read it and digest it like you have, and it's probably  
18 well thought out, and there's a reason for every word,  
19 but this has nothing to do with reinstating contracts?

20 MR. CROSLAND: No, nothing.

21 SPECIAL MAGISTRATE: Okay. This is -- this  
22 deals -- your proposal in paragraph nine deals entirely  
23 with expenses and arbitration awards.

24 MR. CROSLAND: Your traditional arbitration  
25 issues. Somebody -- the most prominent example being,

1 as you said, somebody terminated for cause. It has  
2 nothing to do with non-renewal or failure to grant a  
3 continuing contract.

4 The issue you just asked about, Denise just  
5 reminded me, is covered in paragraph two of our --

6 MS. HEEKIN: And paragraph 17.

7 SPECIAL MAGISTRATE: Are we going to go over that,  
8 also, in this chapter or article, and then get back to  
9 that later in the language at issue? Here we go. Are  
10 you going to talk about two, or are you finished with  
11 article --

12 MR. CROSLAND: Well, two is pretty simple.

13 SPECIAL MAGISTRATE: Okay, but I just -- I like to  
14 have it pointed out so I can see it jump out at me.

15 MR. CROSLAND: Oh, I'm sorry.

16 SPECIAL MAGISTRATE: So this includes an annual  
17 contract and a continuing contract?

18 MR. CROSLAND: And that's all that's limited to,  
19 is number two.

20 SPECIAL MAGISTRATE: Okay.

21 MS. HEEKIN: And paragraph 17, the last sentence  
22 in paragraph 17. But consistent with paragraph two  
23 above, the union has struck that from their proposal.

24 SPECIAL MAGISTRATE: So there's two issues in  
25 here?

1 MS. HEEKIN: There's two issues in Article 8.

2 SPECIAL MAGISTRATE: Contracts and everything and  
3 then paragraph nine?

4 MS. HEEKIN: Correct.

5 SPECIAL MAGISTRATE: One second. Let me write  
6 this down to make it easier for me later. Okay, thank  
7 you for giving me that moment. That will help me.

8 MS. HEEKIN: No problem. Why don't we walk you  
9 through Article 11, also, because there's additional  
10 language in there about not being able to grieve the  
11 non-renewal of an annual contract and denial of  
12 continuing contract.

13 SPECIAL MAGISTRATE: Wait a second, let me write  
14 this down. We'll go to Article 11 now?

15 MS. HEEKIN: Correct.

16 MR. WAZLAVEK: I'll just point at the screen; it's  
17 the same issue.

18 SPECIAL MAGISTRATE: Okay, okay.

19 MR. WAZLAVEK: And that's the various sections  
20 that you'll find on the same issue.

21 SPECIAL MAGISTRATE: Okay, let me follow this,  
22 thank you.

23 MS. HEEKIN: Correct, I'll point it out for you in  
24 Article 11. Article 21 has to do with the evaluations.

25 SPECIAL MAGISTRATE: Okay, Article 11. I'm on

1 Article 11.

2 MS. HEEKIN: Okay, so Article 11, if you go to  
3 page 17, at the bottom, Section 4.A, and it's the last  
4 sentence. Go down to Section C on that page, and it's  
5 the last sentence.

6 SPECIAL MAGISTRATE: I see it.

7 MS. HEEKIN: Then if you move over to page 20,  
8 Subsection G -- well, yeah, Subsection G, the last  
9 sentence, Subsection H, the last sentence, Subsection I,  
10 the last sentence.

11 SPECIAL MAGISTRATE: Let me note that very  
12 quickly. Continuing contracts, G?

13 MS. HEEKIN: Correct.

14 SPECIAL MAGISTRATE: H is continuing contract?

15 MS. HEEKIN: Correct.

16 SPECIAL MAGISTRATE: And I is --

17 MS. HEEKIN: The last sentence.

18 SPECIAL MAGISTRATE: Okay.

19 MS. HEEKIN: Yeah. I missed one on the first  
20 page, which is Section 3.A, the last sentence,  
21 non-renewal of an annual contract.

22 SPECIAL MAGISTRATE: Any librarian or counselor?  
23 Starting there?

24 MS. HEEKIN: At the bottom, non-renewal of an  
25 annual --

1           SPECIAL MAGISTRATE: Oh, I'm sorry.

2           MS. HEEKIN: Yeah.

3           SPECIAL MAGISTRATE: Thank you.

4           MS. HEEKIN: Okay, so just as an aside, when we  
5 started this off, I said there was an additional issue  
6 with Article 11, and that's the continuing contract for  
7 librarians and counselors. So we'll deal with that  
8 next, but that change is pointed out in Article 11,  
9 Section 3. But for right now we're just addressing the  
10 nongrievability, arbitrability of the non-renewal of  
11 annual contract, denial of continuing contract, and that  
12 paragraph nine in Article 8.

13          SPECIAL MAGISTRATE: Okay.

14          MR. CROSLAND: I would point out, too, that just  
15 by way of contrast in our article -- let me get my  
16 papers straight here -- there is, in Article 11, it's  
17 made clear that dismissal of a faculty member during the  
18 term of their annual contract, during the course of the  
19 academic year, the school year, or dismissal of a  
20 continuing contract faculty member, they've already made  
21 their continuing contract, but dismissal of them, or,  
22 thirdly, return of the faculty member with a continuing  
23 contract to annual contract, those are -- those are all  
24 grievable. We're not taking the position they're not.  
25 And that's at --

1           SPECIAL MAGISTRATE: This language that is in  
2           dispute is when the contract, whichever one it is,  
3           terminates, it reaches termination date?

4           MR. CROSLAND: Yes. Right. That's correct. And  
5           what I was just referring to is Article 11, paragraph  
6           5.A.

7           SPECIAL MAGISTRATE: So whether I have an annual  
8           contract or continuing contract, and I am dismissed,  
9           it's not because the contract is expired, it's for  
10          reasons other than that?

11          MR. CROSLAND: Yeah.

12          SPECIAL MAGISTRATE: I become disqualified, a  
13          dismissal case; that'S grievable, it can be arbitrated?

14          MR. CROSLAND: Yeah, and the State Board rules --  
15          and we'll point this out to you -- for example, say even  
16          an annual contract teacher, if they're dismissed during  
17          the course of the school year, they have redress. So  
18          our proposal is consistent.

19          SPECIAL MAGISTRATE: It's about continuing their  
20          employment when the contract expires. Okay.

21          MR. CROSLAND: I think that concludes our  
22          presentation on this issue, on 8 and 11.

23          SPECIAL MAGISTRATE: Okay. Tom?

24          MR. WAZLAVEK: Okay, well, we're back at the same  
25          argument. You know, I'll read the excerpt from the



1 Orange County case decision that I think --

2 SPECIAL MAGISTRATE: I'm going to get a copy of  
3 that?

4 MR. WAZLAVEK: Yes, sir. I'll have to make some  
5 copies during the break. But the apparent goal of an  
6 employer in seeking to exclude certain contractual  
7 language from the grievance procedure, according to the  
8 School Board of Orange County, is to provide contractual  
9 language for certain terms and conditions of employment,  
10 but to prevent an arbitrator from reviewing the  
11 correctness of management's decisions with regards to  
12 those terms and conditions of employment.

13 Under this theory, an employer would be able to  
14 negotiate working conditions, a collective bargaining  
15 agreement, incorporate the agreed-upon conditions in a  
16 collective bargaining agreement, and then retain the  
17 ultimate authority to determine what remedy, if any, is  
18 appropriate if it breaches the agreement. Such a  
19 procedure directly conflicts with the legislative  
20 judgment that is -- that an impartial arbitrator is in a  
21 better position to fairly decide whether a contractual  
22 breach has occurred.

23 The law is very clear. It's been said long ago.  
24 They've continued to push an illegal position, an  
25 impermissible waiver of our right to grieve. We have a

1 right to grieve everything in that contract. The  
2 statute doesn't say we only have a right to grieve  
3 certain aspects of management's decisions. The law is  
4 very clear. So we will continue to object to their  
5 inclusion of that clause. And, now, in regards to --

6 SPECIAL MAGISTRATE: Hold on a second. Let me see  
7 what I'm going to do with this. I'm going to give this  
8 a number. Okay, all this is just Florida Statutes?

9 MR. WAZLAVEK: Right, it's just Florida Statutes.

10 SPECIAL MAGISTRATE: I don't need to give that a  
11 number.

12 MR. WAZLAVEK: Got you.

13 SPECIAL MAGISTRATE: Wait, hold on. I'm going to  
14 give it a number; that way I'll be able to pull it out.

15 MR. WAZLAVEK: Got you.

16 SPECIAL MAGISTRATE: Florida Statute 407.401,  
17 Union 2.

18 (Whereupon, UFF's Exhibit No. 2 was marked for  
19 identification.)

20 MR. WAZLAVEK: Now, looking at their Article 8  
21 proposal, page 11, Section 4 -- I'm sorry, not that  
22 page. I apologize. Page 12, paragraph nine,  
23 Mr. Crosland's statement that the language that we  
24 object to in that section is not intended to do anything  
25 nefarious -- you know, we find this hard to accept,

1 because, first of all, if the concern is that the  
2 College wants to make it clear what the arbitrator's  
3 authority is, well, in paragraph eight it spells that  
4 out pretty thoroughly.

5 It says that the -- I don't know how many  
6 different ways the contract can say the arbitrator has  
7 no authority to levy a fine or a penalty. They get to  
8 decide on the -- they get to decide the case based on  
9 the facts and the contract. They can't change the  
10 contract, they can't supplement the contract.

11 SPECIAL MAGISTRATE: Real quick, Tom, I'm looking  
12 at Article 9, your proposal? Or I'm looking at their  
13 proposal?

14 MR. WAZLAVEK: You can look at ours.

15 SPECIAL MAGISTRATE: I'm looking at yours, and  
16 which number would it be there? Because I see the  
17 numbering is different. Okay, here it is, it's Number  
18 7.

19 MR. WAZLAVEK: Right. That's correct, it's the  
20 highlighted page.

21 SPECIAL MAGISTRATE: Got it.

22 MR. WAZLAVEK: So, anyway, if you look at our  
23 Number 7, their Number 8, and read through that, all the  
24 issues that TCC is concerned about are addressed in that  
25 paragraph. All that -- a careful reading of, again,

1           their 9, from about the fourth line down, mutually  
2           acknowledge a grievance disagreement shall be  
3           administered within the amounts appropriate.

4           Our concern is, the way that this language is  
5           written, that we could file a grievance, go to  
6           arbitration alleging that Dr. Balinsky was shorted  
7           \$10,000 in his pay, and we could go in front of an  
8           arbitrator, win that case, and what this would appear to  
9           do is negate that award, because the college could say,  
10          oh, we didn't budget \$10,000 for his salary so it's  
11          beyond what we budgeted, it's null and void. We don't  
12          have to honor it.

13          So if the college's intent is truly not what we  
14          just described, then change or amend the language to  
15          make it say what you want it to say. Contract language  
16          should mean what it says and says what it means.

17          And again, there in Article -- the same article,  
18          very last section, their 17, again, we object to that  
19          waiver. The last paragraph is the waiver of our right  
20          to grieve. And the same thing goes with Article 11.  
21          That would be --

22                 SPECIAL MAGISTRATE: One second.

23                 MR. WAZLAVEK: I'm sorry.

24                 SPECIAL MAGISTRATE: Just give me a second. I  
25          don't want to fall behind here. I don't want to miss

1 any words. Article 11, I'm with you.

2 MR. WAZLAVEK: Okay. And the bottom of the first  
3 page, again, looking at our proposal, Subsection 3.A,  
4 the last sentence, non-renewal of an annual contract  
5 cannot be challenged, again, we believe that's a waiver  
6 of our right to grieve. The same follows for the next  
7 Section 4.A, 4.C -- I think that's it. Yeah, 4.C, G, H,  
8 and I.

9 MR. CROSLAND: Oh, I'm sorry.

10 MR. WAZLAVEK: You did that on purpose, Jim. You  
11 find that on page 31, G, H, and I. They all have the  
12 same language and we object to the language in all  
13 those.

14 SPECIAL MAGISTRATE: Okay.

15 MR. WAZLAVEK: That's our presentation on those  
16 aspects of 8 and 11.

17 MR. CROSLAND: Can I just add one thing?

18 SPECIAL MAGISTRATE: Sure.

19 MR. CROSLAND: I thought I had explained it, but  
20 I want to thank Tom for using Martin as an example, if  
21 he were terminated.

22 SPECIAL MAGISTRATE: How does it feel, Martin?

23 MR. BALINSKY: Feels great.

24 MR. CROSLAND: But that was my -- what I attempted  
25 to say is our very point. In that example, if he were

1 terminated, and he were reinstated, our language says  
2 the contract will be administered within the budget and  
3 the contract approved by the Board.

4 His salary and benefits would have been in the  
5 budget. It's not a question of him not getting that  
6 money back. That's not the issue at all. That's the  
7 first sentence in our paragraph nine which Tom has  
8 agreed to.

9 MR. WAZLAVEK: We don't have a problem with the  
10 initial statement. Again, it's the follow-on sentence  
11 that sounds onerous now.

12 MR. CROSLAND: But, Tom, all I meant was we  
13 wouldn't -- we wouldn't take the position that, oh,  
14 the \$10,000 he's due when he was out, when he was  
15 terminated, we wouldn't pay him because that's not in  
16 the budget. It was originally in the budget to fund the  
17 collective bargaining agreement and those salaries. So  
18 that's just --

19 MR. WAZLAVEK: So your proposal is that the  
20 faculty work for free, Jim, is that --

21 MR. BALINSKY: What if they were underpaid,  
22 though, and they found out?

23 MR. CROSLAND: That's it for us on that one.

24 SPECIAL MAGISTRATE: One second.

25 MR. CROSLAND: What I want to suggest is we just

1 go ahead and include the discussion on Article 21,  
2 because Tom refers to it up here.

3 MR. WAZLAVEK: Right. Right.

4 MR. CROSLAND: And it's the same issue about the  
5 grievability of evaluations, which we've already  
6 discussed, or I did, in my opening. It's a little  
7 different because we're not saying you can't grieve it  
8 at all. There are some limitations on it.

9 MR. CROSLAND: So what number are we on?

10 SPECIAL MAGISTRATE: 21?

11 MR. CROSLAND: It's Article 21, but it would be  
12 Exhibit 7, I guess.

13 SPECIAL MAGISTRATE: Seven, yes.

14 (Whereupon, TCC Exhibit No. 7 was marked for  
15 identification.)

16 MR. CROSLAND: No charge.

17 MR. WAZLAVEK: Jim, we appreciate that. With  
18 friends like you, Jim --

19 MR. CROSLAND: I know.

20 SPECIAL MAGISTRATE: You're a pretty civil bunch.  
21 We've all seen much worse than this.

22 MR. CROSLAND: Our language is at page 53, the  
23 very last paragraph. And as I said earlier, it's -- we  
24 certainly agree that they can grieve the process, but  
25 I find it difficult to understand how any type of judge

1 can make the ultimate substantive decision on somebody's  
2 worth to the employer.

3 If you screwed up the evaluation process, we  
4 certainly agree that could be challenged and ruled upon.  
5 But to simply assign a different score to someone  
6 because they don't agree with the employer is just a  
7 difficult concept for us to accept.

8 SPECIAL MAGISTRATE: I'm looking at page 52,  
9 Number 7. Is that where I should be?

10 MR. CROSLAND: No, page 52 -- 53.

11 SPECIAL MAGISTRATE: Okay. I thought I heard you  
12 say page 52.

13 MR. CROSLAND: The very last paragraph, it's  
14 called grievance of evaluations, number ten. It's  
15 really kind of related to 8 and 11, I thought we just  
16 talked about, and Tom's already covered it on his --

17 MR. WAZLAVEK: Yeah, it's the same argument. And  
18 clearly I can -- I've got three cases at the University  
19 of West Florida now that are directly related to this  
20 issue. We have cases where we've filed grievances over  
21 the rating evaluations, themselves. While I appreciate  
22 Jim's laundry list of contracts where those locals have  
23 agreed to waive that right, that's their decision. It  
24 doesn't -- it doesn't or shouldn't impact this chapter's  
25 decision to take back or prevent the waiver.



1           SPECIAL MAGISTRATE: Tom, make sure I'm correct  
2 here. The parties are in agreement with everything in  
3 Article 21 with the exception of that last section?

4           MR. WAZLAVEK: Right.

5           SPECIAL MAGISTRATE: That's the only issue, number  
6 ten?

7           MR. WAZLAVEK: Right, their -- that's it.

8           SPECIAL MAGISTRATE: Yours has no number ten in  
9 it?

10          MR. WAZLAVEK: That's correct. Well, it has a  
11 number ten, but it just reads slightly differently.

12          SPECIAL MAGISTRATE: Oh, okay.

13          MR. WAZLAVEK: It just says, member may file a  
14 grievance challenging the evaluation, period, which is  
15 what the statute allows.

16          SPECIAL MAGISTRATE: Okay.

17          MR. WAZLAVEK: And again, we decline to negotiate  
18 a waiver of our right to grieve.

19          SPECIAL MAGISTRATE: So your language is the  
20 faculty member may file a grievance --

21          MR. WAZLAVEK: Period.

22          SPECIAL MAGISTRATE: Period. I didn't see a  
23 period there. Okay, got it. Okay.

24          MR. WAZLAVEK: And of course the rating, itself,  
25 can be challenged, because, you know, sometimes managers

1 act arbitrarily and capriciously. Sometimes they let  
2 their own biases get in the way and, you know, an  
3 evaluation is a subjective rating to begin with.

4 SPECIAL MAGISTRATE: Got it.

5 MS. HEEKIN: Also as part of College 7 we provided  
6 copies out of a number of other collective bargaining  
7 agreements that have somewhat similar limitations on  
8 appealing evaluations. I think Miami-Dade just says you  
9 can't appeal it. The rest of them have some sort of  
10 process that places a limitation.

11 For instance, they'll say you can grieve the  
12 factual content, or the process, which I think is very  
13 close to the language that we've proposed in terms of  
14 grieving a false statement or the process.

15 And just for ease of reference, I'll run through  
16 them and just give you the page numbers and --

17 SPECIAL MAGISTRATE: Sure, I'd like you to do that  
18 so I can highlight them.

19 MS. HEEKIN: Would you like a clip or something?

20 SPECIAL MAGISTRATE: Yeah, make it easier for me.

21 MS. HEEKIN: Okay. Miami-Dade, it would be page  
22 44, there's a section about appeal of performance  
23 review.

24 SPECIAL MAGISTRATE: Got it. Okay.

25 MS. HEEKIN: And the next one is Broward College,

1 and it's at page 59. And there they don't allow the  
2 grievance procedure to be used but there's an internal  
3 policy that they have that's referenced there.

4 SPECIAL MAGISTRATE: And that is at the 7.6, or  
5 it's at the top there?

6 MS. HEEKIN: It's right above -- the paragraph  
7 just before 7.6.

8 SPECIAL MAGISTRATE: Okay, I see it. Thank you.

9 MS. HEEKIN: Hillsborough is the next one, and  
10 that's at page 63, towards the top of the page. There's  
11 a Subsection B that says appeal of an evaluation, and  
12 that's where you see this, you know, you can grieve a  
13 factual content or the process.

14 And I believe all of the rest have very similar,  
15 so Florida Southwestern is the next, and that's at page  
16 29. And that's in the middle of the page, 9.3.9. The  
17 next one is Eastern Florida State College and United  
18 Faculty of Florida, and that's on page 78.

19 SPECIAL MAGISTRATE: Evaluation?

20 MS. HEEKIN: That's up at the top there. And the  
21 last one is Seminole State College and UFF, page 65,  
22 it's Section K, it talks about the appeal of the  
23 evaluation.

24 SPECIAL MAGISTRATE: Thank you.

25 MR. CROSLAND: Unless Tom has something else, this

1 is when I suggested as a time --

2 MR. WAZLAVEK: Well, just one final comment.

3 SPECIAL MAGISTRATE: Sure. Sure.

4 MR. WAZLAVEK: You know, it's clear that the  
5 parties can agree to waive the right -- they can agree  
6 to waive the right to grieve, that's something the law  
7 allows.

8 SPECIAL MAGISTRATE: Sure.

9 MR. WAZLAVEK: But the law is also very clear that  
10 once a union says stop, we no longer want to negotiate  
11 this waiver, the employer has to stop. And they have  
12 clearly not stopped in this instance. We've continued  
13 to object. The other locals are free to waive parts of  
14 the law if they want to do that. There's a process for  
15 that. But, again, we choose not to do that. And the  
16 college has no legal authority to continue to insist on  
17 bargaining this issue at impasse.

18 SPECIAL MAGISTRATE: I understand that.

19 MS. HEEKIN: Well, and our position is, we believe  
20 we do have legal authority but that's not -- it's not up  
21 to you to decide whether it's a waiver or not. You're  
22 here to make a recommendation and look at what other  
23 places do and look at the parties' proposals.

24 SPECIAL MAGISTRATE: That's a good point. You're  
25 going to hear from me that I'm not the final authority

1 on this.

2 MR. WAZLAVEK: Oh, I understand.

3 SPECIAL MAGISTRATE: I'm going to put it in  
4 writing. I will give -- but I will give you my  
5 recommendation, because what I'm trying to do is reach  
6 an agreement.

7 MR. WAZLAVEK: Well, the same here.

8 SPECIAL MAGISTRATE: It may be yes or no, but  
9 there may be something in between. So it's just about  
10 lunch time and some people in here by now are probably  
11 pretty bored. Not us, but other people. So we're going  
12 to take a break now for lunch, right?

13 MR. CROSLAND: What time do you want to reconvene?

14 SPECIAL MAGISTRATE: I'm amenable to your  
15 schedule. Take whatever you think you need and whatever  
16 you guys want to do, I'm working for you on that.

17 MR. WAZLAVEK: An hour.

18 MR. CROSLAND: Yes, it's five after -- no, I'm  
19 sorry, it's three until. How about 1:15?

20 SPECIAL MAGISTRATE: We're going to reconvene at  
21 1:15.

22 (Lunch recess)

23 SPECIAL MAGISTRATE: Okay, we're back on the  
24 record, and case in chief with -- not the company, the  
25 college.

1 MR. CROSLAND: The next --

2 MR. WAZLAVEK: Before we move on, I'd like to  
3 submit a couple of extra documents. I have more  
4 documents related to --

5 SPECIAL MAGISTRATE: Okay.

6 MR. WAZLAVEK: And what I'm giving you are  
7 excerpts out of three collective bargaining agreements.  
8 That's Chipola, which is a college, West Florida, which  
9 is a regional university, and FAMU, FAMU, K-12.

10 MR. CROSLAND: On what issue?

11 MR. WAZLAVEK: Well, you'll be surprised, there's  
12 no waiver of a right to file a grievance in those  
13 articles.

14 MR. CROSLAND: I'm shocked.

15 MR. WAZLAVEK: Shocked, shocked. Just like  
16 there's no waiver -- there's no -- there's nothing that  
17 limits the authority of the union to file a grievance  
18 over a tenure or promotion decision.

19 MR. CROSLAND: How long did it take you to print  
20 up these falsified documents?

21 MR. WAZLAVEK: Anyway, I just wanted those entered  
22 for the record.

23 SPECIAL MAGISTRATE: Tom?

24 MR. WAZLAVEK: Yes, sir?

25 SPECIAL MAGISTRATE: While we're on here, real

1           quick, help me out. A week, two weeks, two months,  
2           whatever, I may say, gee, I wish I'd asked this  
3           question. I see here like on the first one, which is  
4           West Florida --

5           MR. WAZLAVEK: Right.

6           SPECIAL MAGISTRATE: -- Article 11.

7           MR. WAZLAVEK: Correct.

8           SPECIAL MAGISTRATE: That's what you were looking  
9           at?

10          MR. WAZLAVEK: Yes, Article 11 is the evaluation  
11          article.

12          SPECIAL MAGISTRATE: Is there a certain section  
13          you have in mind, or --

14          MR. WAZLAVEK: Looking at evaluation, I would say  
15          that you want to look at -- okay --

16          MR. CROSLAND: Which one are you on, Tom?

17          MR. WAZLAVEK: Well, we're on performance --  
18          faculty performance evaluations, Article 11, which is  
19          the West Florida contract. I'm just trying to line  
20          up -- anyway, there's nothing -- I guess, look at the  
21          whole article, because there's nothing there. That's  
22          the point.

23          SPECIAL MAGISTRATE: Okay. Yeah, I just thought  
24          of that. I was saying, you know, I'm trying to ask him  
25          to point out something that's not there.

1 MR. BALINSKY: Right. And Chipola is the same,  
2 actually.

3 SPECIAL MAGISTRATE: I got it. That makes sense.

4 MR. WAZLAVEK: And, again, at West Florida I put  
5 in tenure and faculty evaluation. And Chipola we also  
6 did the same, and you'll notice the lack of any waivers.

7 SPECIAL MAGISTRATE: Okay, got it.

8 MR. WAZLAVEK: All right, thank you, sir. I  
9 appreciate that.

10 SPECIAL MAGISTRATE: Okay, I'm going to title this  
11 Union 3.

12 MS. HEEKIN: All three of them?

13 SPECIAL MAGISTRATE: I'm just going to do  
14 composite.

15 MS. HEEKIN: Composite? Perfect.

16 (Whereupon, UFF Composite Exhibit No. 3 was marked for  
17 identification.)

18 SPECIAL MAGISTRATE: Okay, anything else, Tom?  
19 Any others?

20 MR. WAZLAVEK: No.

21 SPECIAL MAGISTRATE: Not at this point?

22 MR. WAZLAVEK: Not at this point.

23 SPECIAL MAGISTRATE: Go ahead, Jim.

24 MR. CROSLAND: Now we're going to address one of  
25 the if not the most central issue here, the work



1 responsibilities, slash, workload issues. It  
2 encompasses a number of issues that I mentioned in my  
3 opening: Reassignments, extra teaching assignments.

4 The union calls them overloads, and that is a term  
5 that some places use. Summer assignments. And running  
6 throughout all this are issues pertaining to seniority.

7 So I'm getting ready to give you a number of  
8 articles, and when we're finished and Tom is finished,  
9 we may have eaten up a big slice of this hearing on  
10 this, you know. But I think they're all interrelated,  
11 so I think it's easier to address them at one time than  
12 going 13 and then 9 and then 6, and then -- you know.

13 SPECIAL MAGISTRATE: I appreciate that, that  
14 methodology.

15 MS. HEEKIN: I've handed out the copies.

16 MR. CROSLAND: Oh, I'm sorry.

17 SPECIAL MAGISTRATE: I have 13 and 9 and 6, and 15  
18 and 16.

19 MR. CROSLAND: Right.

20 MR. WAZLAVEK: We're going to number these?

21 SPECIAL MAGISTRATE: I don't know how you want  
22 to -- do you want to make this a composite, Jim, because  
23 it's all related to certain issues? The reassignment,  
24 the extra teaching --

25 MS. HEEKIN: I think it would be easier to do each

1 article with a different number --

2 MR. CROSLAND: For this it may be easier.

3 MS. HEEKIN: -- because there's so many of them.

4 SPECIAL MAGISTRATE: Okay.

5 MS. HEEKIN: Some of them have different issues in  
6 them, other than the workload issue, so --

7 SPECIAL MAGISTRATE: So 8 would be Number 13.

8 (Whereupon, TCC Exhibit No. 8 was marked for  
9 identification.)

10 MR. CROSLAND: And that's the college's proposal.

11 SPECIAL MAGISTRATE: Uh-huh. Yeah.

12 MR. CROSLAND: Is their 13 the next one?

13 MS. HEEKIN: Yes.

14 MR. CROSLAND: Okay, the next one you have is also  
15 an Article 13 in smaller print. I think that's it.  
16 We'll call that College 14.

17 MS. HEEKIN: It's College 9.

18 MR. CROSLAND: Oh, College 9.

19 SPECIAL MAGISTRATE: So I've got 13 as C-8, and  
20 I've got another Article 13; this is the union's  
21 proposal?

22 MS. HEEKIN: Correct. That's the union's changes  
23 to the college's proposal.

24 SPECIAL MAGISTRATE: Okay. Have you got that?

25 MR. WAZLAVEK: Yeah, I see that.

1           SPECIAL MAGISTRATE: Do you want to look at it, or  
2 is it complete?

3           MS. HEEKIN: You have it, Tom.

4           MR. WAZLAVEK: Yeah, I've got it. It appears to  
5 be.

6           SPECIAL MAGISTRATE: It's your proposal?

7           MR. CROSLAND: Article 6 --

8           SPECIAL MAGISTRATE: One second.

9           MR. WAZLAVEK: Yeah, this appears fine. Go ahead.

10          SPECIAL MAGISTRATE: Okay, then we'll call this --  
11 we'll call this Article 13 -- you want this separate, a  
12 separate number, or do you want to put it with C-8?

13          MR. CROSLAND: Separate.

14          SPECIAL MAGISTRATE: Okay, we're going to call  
15 this C-9, Article 13, union proposals.

16          MS. HEEKIN: Correct.

17          (Whereupon, TCC Exhibit No. 9 was marked for  
18 identification.)

19          MR. CROSLAND: The next document is entitled  
20 Article 9, faculty working conditions and workloads.  
21 That's a union proposal, and we'll call that C-10.

22          SPECIAL MAGISTRATE: Okay.

23          (Whereupon, TCC Exhibit No. 10 was marked for  
24 identification.)

25          MR. CROSLAND: The next article is Article 6,

1 faculty rights, union proposal, and we'll call that  
2 C-11.

3 (Whereupon, TCC Exhibit No. 11 was marked for  
4 identification.)

5 MR. CROSLAND: Then we have Article --

6 SPECIAL MAGISTRATE: One second, please.

7 MR. CROSLAND: I'm sorry.

8 SPECIAL MAGISTRATE: Okay, 15?

9 MR. CROSLAND: Article 15 is the union document,  
10 additional professional obligations, C-12.

11 And the next document is Article 16, distance  
12 education, is a union document we'll call C-13.

13 (Whereupon, TCC Exhibit Nos. 12 and 13 were marked for  
14 identification.)

15 MR. CROSLAND: So what we're going to do next is  
16 have Dr. Moore-Davis present a PowerPoint presentation.  
17 And you'll see that, when you look at her presentation,  
18 look at our Article 13, and the various union articles  
19 we've just admitted, that there's interplay, and that's  
20 why we're doing this.

21 MS. HEEKIN: So here's a hard copy of the  
22 PowerPoint presentation, and I guess this would be the  
23 College 14? College 14.

24 SPECIAL MAGISTRATE: Yes.

25 (Whereupon, TCC Exhibit No. 14 was marked for

1 identification.)

2 SPECIAL MAGISTRATE: Faculty workload.

3 MR. CROSLAND: Ready? Doctor, would you --

4 SPECIAL MAGISTRATE: Swear the witness in, please.

5 MR. CROSLAND: Sorry.

6 Thereupon,

7 FELECCIA MOORE-DAVIS

8 was called as a witness, having been first duly sworn, was  
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. CROSLAND:

12 Q What's your name?

13 A Feleccia Moore-Davis.

14 Q And what is your current position at Tallahassee  
15 Community College?

16 A I'm the Provost and Vice-President for Academic  
17 Affairs.

18 Q Okay. And could you succinctly explain for the  
19 Magistrate what entails those duties?

20 A Generally, in a broad stroke, I am responsible for  
21 all academic programming, A.S. programs, which includes  
22 workforce, career, and technical programs, as well as general  
23 education and Associates of Arts Degree programs and all that  
24 goes into that.

25 Q For the record, what do you mean by workforce?

1           A       Workforce would be our A.S. programs, or Associate  
2 of Science programs, whereby a student enters those programs  
3 so within two years there is an employment at the end. They  
4 generally, in A.S. programs, are not seeking to transfer.

5           Q       Okay. Now would you review for the Magistrate  
6 your academic career prior to coming to TCC?

7           A       Well, I started my career as a faculty member.  
8 I have my Master's degree in psychology, started in North  
9 Carolina, in actuality. From there I spent the next ten  
10 years in Texas where I served as faculty, Program Chair, and  
11 I moved through the ranks with progressive -- progressively  
12 more leadership responsibility, from Program Chair to Dean to  
13 Vice-President and now to Provost.

14          Q       And then when you were in Texas, what institution  
15 was that?

16          A       I worked at Houston Community College system as  
17 well as Lone Star College.

18          Q       Okay, where is Lone Star located?

19          A       It is in Suburban Houston, it's in north Houston,  
20 whereas Houston Community College is the inner city.

21          Q       And you came here from there?

22          A       I did.

23          Q       How long have you been at TCC?

24          A       Not quite three years, two-point-something, if I  
25 do the math.

1           Q       Okay.  And when you came here, among your other  
2 duties did you review the -- I'm not sure what word to use --  
3 the scheme or the philosophy of work responsibilities,  
4 workload, and other academic issues?

5           A       Yes.  That is one of my primary responsibilities  
6 for all of the faculty.  And when you come into a new  
7 position you seek to understand how things work, how faculty  
8 are given their workloads to make sure that they are fair and  
9 equal to all.

10          Q       Okay.  And with respect to what we're here today  
11 for -- and everyone knows why we're here -- and I'm going to  
12 have you go through your presentation in a moment.  What  
13 would your -- strike that.  Did you come to a conclusion as  
14 to whether the current system should remain or whether it  
15 should be changed or modified in any respect?

16          A       Well, personally, and from my professional  
17 standpoint, I believe that the system requires some  
18 modification because I did notice that within certain  
19 disciplines the current formula did not work for certain  
20 disciplines, where it worked better for others.

21                   At that particular point we actually moved to have  
22 the discussion, campus-wide.  The Deans moved to have that  
23 conversation within their divisions.  We were not going to  
24 implement the workload but we wanted to get -- because it  
25 has a differential impact on different disciplines, so we

1 sought -- I was seeking to get more information regarding how  
2 it really was impacting faculty across the -- across the  
3 campus.

4 Q Okay. And did you come to a conclusion as to what  
5 should be done?

6 A Yes, I believe that the workload required some  
7 modification. And I was seeking further input; however,  
8 prior to getting that input, things went awry. The strategy  
9 I had to gather faculty information, literally, it failed,  
10 and subsequently we decided to start over.

11 We initiated a work group in 2016 to review the --  
12 to review the workload and pretty much come up with another  
13 recommendation. However, the faculty chose to enter into a  
14 union agreement at that time, and that work was ceased.

15 Q The faculty organized and --

16 A Yes, so the work ceased, yes.

17 Q -- eventually we started bargaining, is that  
18 correct?

19 A Correct.

20 MR. CROSLAND: Mr. Milinski, I would like  
21 Dr. Moore-Davis to begin her presentation and then we'll  
22 explore that as we go along.

23 SPECIAL MAGISTRATE: Okay, go ahead.

24 THE WITNESS: So today I'm going to walk through  
25 both proposals to give you a basic idea, when we talk



1 about faculty workload -- and not assuming that you  
2 understand how these things are calculated --

3 SPECIAL MAGISTRATE: I have no idea.

4 THE WITNESS: -- so I wanted to give you a basic  
5 idea between the two proposals. According to Florida  
6 Statutes, each full-time faculty member of the teaching  
7 faculty at any Florida college system institution shall  
8 teach a minimum of 15 classroom contact hours per week.  
9 However, the required classroom contact hours per week  
10 may be reduced upon approval of the President.

11 In the Florida college system, according to the  
12 Florida Department of Education, every college in the  
13 Florida college system, state and community college, has  
14 a minimum of a 15 contact hour workweek.

15 BY MR. CROSLAND:

16 Q Let me stop you there.

17 A Yes.

18 Q And I'm going to do this, perhaps, more than once.  
19 Explain What you mean by the 15 contact hour minimum.

20 A That faculty have a minimum of -- as far as  
21 student contact hours, or contact hours within a classroom,  
22 that they are in the classroom for 15 hours a week as a  
23 minimum.

24 Q Okay.

25 SPECIAL MAGISTRATE: May I ask a question? I'm

1 going to ask a lot of questions, too. I know less than  
2 you, a lot less than you about this, and it's all new to  
3 me. How could you be in a classroom and not have  
4 contact with a student? Are you -- is there -- do I  
5 need to know that?

6 THE WITNESS: Oh, no, no.

7 SPECIAL MAGISTRATE: Okay. Well, you said student  
8 contact or in a classroom.

9 THE WITNESS: Classroom contact hours is how --

10 SPECIAL MAGISTRATE: Okay.

11 THE WITNESS: -- the Florida Department of  
12 Education refers to it, classroom contact hours. Now,  
13 that classroom could be an on line classroom, as well.

14 SPECIAL MAGISTRATE: Oh, okay. Got it. Thank  
15 you.

16 THE WITNESS: Now, across the college system, to  
17 get to that minimum that many colleges have adopted  
18 various methods to get to that, depending upon what they  
19 have agreed to do, some have a point system, so for  
20 every credit hour it is allocated ten points. But in  
21 the end it is a 15 contact hour week.

22 Sometimes there is a discipline specific approach  
23 to the contact hours, and TCC represents the only  
24 college in Florida that uses this particular  
25 formula-based workload.

1           SPECIAL MAGISTRATE: This meaning what I'm going  
2 to see --

3           THE WITNESS: What you're going to see in a few  
4 minutes.

5           SPECIAL MAGISTRATE: Not a point system?

6           THE WITNESS: No, we have a formula.

7           SPECIAL MAGISTRATE: In other words, a point  
8 system may give weights to different types of classes?

9           THE WITNESS: Yes.

10          SPECIAL MAGISTRATE: And with a discipline  
11 specific approach it's more by department?

12          THE WITNESS: It could be by department,  
13 generally, and you might group all the humanities  
14 together and they may have a certain workload as opposed  
15 to an Associate of Science degree may have a different  
16 way that -- a different class size.

17          SPECIAL MAGISTRATE: Uh-huh. It's more  
18 independent?

19          THE WITNESS: Yes.

20          SPECIAL MAGISTRATE: And then at the same time,  
21 then, am I hearing you saying that you used neither one  
22 of those?

23          THE WITNESS: No.

24          SPECIAL MAGISTRATE: Not you, but the colleges.

25          THE WITNESS: Exactly, what I'm about to show you.

1           SPECIAL MAGISTRATE:   Okay, go.

2           MS. HEEKIN:   So that's the current one and that's  
3 what the union's proposal is. We have a proposal to  
4 change this formula-based system to something else,  
5 which Dr. Moore-Davis will go through.

6           MR. CROSLAND:   Which is contained in our Article  
7 13, C-8.

8           SPECIAL MAGISTRATE:   Okay, I'm going to ask one  
9 more question. If I get lost here, then --

10          THE WITNESS:   I'm sure you will, but we can slow  
11 down.

12          SPECIAL MAGISTRATE:   I'm going to say yeah. The  
13 current system is based on the point or discipline, or  
14 TCC has its own type of system?

15          THE WITNESS:   It has its own.

16          SPECIAL MAGISTRATE:   It's all unique?

17          THE WITNESS:   Yes. And I'm going to show it to  
18 you.

19          SPECIAL MAGISTRATE:   That helps. Okay, good.

20          THE WITNESS:   So the UFF proposal, which is  
21 currently what TCC uses, is what we're about to talk  
22 about. So a full-time teaching load at TCC is based on  
23 class size, number of preparations, and total student  
24 contact hours. So there are three factors.

25                 So the teaching load is determined by contact

1 hours for each course taught times the number of  
2 students enrolled in it, scaled to account for the  
3 number of different preparations. So I'm going to give  
4 you an example, because I'm sure all that is a bit  
5 foreign.

6 SPECIAL MAGISTRATE: Okay.

7 MR. CROSLAND: And I would request that you really  
8 go slowly through this.

9 THE WITNESS: Slow down. Okay. So this is a math  
10 faculty --

11 SPECIAL MAGISTRATE: This is how we do it now?

12 THE WITNESS: Okay, yes, and this is what is being  
13 proposed to continue to do.

14 SPECIAL MAGISTRATE: Okay.

15 THE WITNESS: So currently a preparation is a  
16 class that is unique. So if you look at the slide, you  
17 have a faculty member that's teaching Math1033 and a  
18 math class called MAC1105. So these are two different  
19 courses. And a preparation is simply each different  
20 course a faculty member teach. Now, this is regardless  
21 of whether they taught it last semester or for the last  
22 20 years. It is a preparation.

23 SPECIAL MAGISTRATE: So a different -- a different  
24 course means literally a different class, a different  
25 course.

1 THE WITNESS: Exactly.

2 SPECIAL MAGISTRATE: 101, 102, whatever.

3 THE WITNESS: Exactly.

4 SPECIAL MAGISTRATE: And if I taught 101 15 years  
5 ago --

6 THE WITNESS: And you're still teaching --

7 SPECIAL MAGISTRATE: -- I'm always going to carry  
8 that as a preparation level, even though I didn't -- I  
9 don't teach it now?

10 THE WITNESS: No. No, if I'm teaching it now, it  
11 is one preparation.

12 SPECIAL MAGISTRATE: Okay.

13 THE WITNESS: So I might be teaching all 1033, so  
14 I have one preparation.

15 SPECIAL MAGISTRATE: Okay, I've got it.

16 THE WITNESS: This faculty member is teaching --

17 SPECIAL MAGISTRATE: Two.

18 THE WITNESS: -- 1033 and 1105, and they have two  
19 preparations.

20 SPECIAL MAGISTRATE: Got it.

21 THE WITNESS: So that preparation is simply a  
22 unique course, so even if I taught it --

23 SPECIAL MAGISTRATE: That individual has to  
24 prepare for and to learn how to teach that class or --

25 THE WITNESS: No, they shouldn't have to learn how

1 to teach it, it just gives them -- the formula gives  
2 them credit for a unique course, because they could have  
3 taught the same course last year, they could have taught  
4 it last semester, but the formula doesn't change from  
5 semester to semester.

6 SPECIAL MAGISTRATE: Oh, okay. Thank you.

7 THE WITNESS: Okay, so the student contact hours  
8 are determined this way. So for each course, each  
9 course has a number of contact hours that they are  
10 allocated. So for Math1033, on the first line, that  
11 person has an enrollment of 35 students. Thirty-five  
12 times three gives you 105, so we give that faculty  
13 member credit for 105 student contact hours. That make  
14 sense?

15 SPECIAL MAGISTRATE: Uh-huh.

16 THE WITNESS: Okay. So totally, when you go  
17 through that particular faculty member's schedule, they  
18 have 426 student contact hours, which means, according  
19 to the formula, which is to the right next to the preps,  
20 that they are within load for two preparations, they are  
21 within load because they are within a range of 375 to  
22 450 student contact hours.

23 SPECIAL MAGISTRATE: So you get the score and you  
24 take it up to the chart above to decide which  
25 preparation level they're in?

1 THE WITNESS: Exactly.

2 SPECIAL MAGISTRATE: Based upon contact hours and  
3 the number of students.

4 THE WITNESS: Exactly.

5 SPECIAL MAGISTRATE: So it makes a differentiation  
6 between a larger class and a smaller class and more  
7 hours or less hours.

8 THE WITNESS: I'm not sure I --

9 SPECIAL MAGISTRATE: Okay, contact hours is the  
10 time -- the classroom time.

11 THE WITNESS: Exactly. But student contact hours  
12 is contact hours times the enrollment.

13 SPECIAL MAGISTRATE: Got it.

14 THE WITNESS: Now, please note that this faculty  
15 member is only teaching 12 contact hours, less than the  
16 15. Okay, now, what generally happens, because they are  
17 within load, so what the formula --

18 MS. HEEKIN: Go back to the other slide for one  
19 minute.

20 SPECIAL MAGISTRATE: Go ahead.

21 MS. HEEKIN: I want to make sure that based upon  
22 something that you said -- the number of preps is not  
23 driven by this enrollment number, it's not driven by the  
24 426. The number of preps is driven by the unique  
25 classes that are taught.



1           SPECIAL MAGISTRATE: The course column, the number  
2 of those.

3           MS. HEEKIN: Correct. So -- correct. So the 426  
4 is within the load for the two preps, the 375 to 450.  
5 So explain what that maximum load is, the 450. What  
6 happens if you go over it? What happens if you go under  
7 it?

8           THE WITNESS: Now, generally, the way that it is  
9 now, for a faculty member to receive an overload or an  
10 extra assignment, they must be at the top of that load  
11 which means they must have 450 contact hours. Once a  
12 faculty member goes over the enrollment -- let's say  
13 that he has or she has 140 students at this particular  
14 point, and they are in load. Well, actually, before we  
15 start to pay that faculty member, they need to -- we  
16 need to increase their enrollment such that they get to  
17 the top of the 450.

18           SPECIAL MAGISTRATE: Uh-huh, uh-huh.

19           MR. CROSLAND: I think you ought to -- are you  
20 with that so far? Because I know where she's going,  
21 but I --

22           SPECIAL MAGISTRATE: I'm going to ask one  
23 question. You talk about here the over and under 450.

24           THE WITNESS: Uh-huh.

25           SPECIAL MAGISTRATE: Okay, if it's over 450 it's

1           one prep?

2           THE WITNESS:  If it's over 450, no, we pay the  
3           faculty member.

4           SPECIAL MAGISTRATE:  Oh, okay, it's a pay  
5           situation?

6           THE WITNESS:  It is.

7           SPECIAL MAGISTRATE:  So if I had one prep and I  
8           had over 550, there would be a pay issue there?

9           THE WITNESS:  Yes.

10          SPECIAL MAGISTRATE:  Okay.  So I look at the last  
11          number, not the number of preps.  I look at the last --  
12          this all comes up with the score, and that's down here.

13          THE WITNESS:  It does.

14          SPECIAL MAGISTRATE:  The preps are down here in  
15          the course title.

16          THE WITNESS:  Exactly.

17          SPECIAL MAGISTRATE:  So I look at the last number  
18          and if it goes over that number --

19          THE WITNESS:  We're in a pay situation.

20          SPECIAL MAGISTRATE:  -- you're in an overpay  
21          situation, based on their prep column.

22          THE WITNESS:  Exactly.  Based on the contact hour  
23          column.

24          SPECIAL MAGISTRATE:  Contact hour column, yeah.

25          THE WITNESS:  Yes.  Yes.

1 BY MR. CROSLAND:

2 Q So I think where we were, in using the example in  
3 the blue box, if you're over 450 in the current system, what  
4 happens, pay-wise?

5 A We pay 15 percent of the current overload rate,  
6 is what the faculty member would be entitled to. That is  
7 whether they're over by one student or by six. The policy  
8 states that it is at six, but the pay kicks in even if they  
9 are at one student over.

10 Q And what happens if they're over six?

11 A Then there's another 15 percent that kicks in at  
12 number seven.

13 Q So seven through -- is there a limit on that?

14 A Not the way it's programmed but we attempt to  
15 limit that because we are trying to limit the number of  
16 students that a faculty member may have to just ensure  
17 student success.

18 Q Well, let me make sure I've got it straight. If  
19 it's more than six -- but is there a cap on the second  
20 grouping?

21 A No, because once it hits seven, there's another 15  
22 percent that will kick in.

23 SPECIAL MAGISTRATE: It could go beyond that to  
24 another 15 percent?

25 THE WITNESS: It could, but --

1           SPECIAL MAGISTRATE: This is what we really want  
2 to think about.

3           THE WITNESS: -- we generally, administratively,  
4 we stop that because at so many students --

5           SPECIAL MAGISTRATE: Sure.

6           THE WITNESS: -- it's going to negatively impact  
7 the students.

8           SPECIAL MAGISTRATE: Got it.

9           THE WITNESS: So we stop that. But the system is  
10 designed such that if we continue to do it, it would  
11 continue to pay.

12          SPECIAL MAGISTRATE: Question: 15 percent of  
13 what?

14          THE WITNESS: Their overload rate.

15          SPECIAL MAGISTRATE: What's an overload rate?

16          THE WITNESS: The overload rate is if the faculty  
17 member is teaching beyond -- I'm going to go to the next  
18 slide for a minute.

19          SPECIAL MAGISTRATE: Okay.

20          MR. CROSLAND: Well, let me -- let me make sure  
21 we've all got this all right here. As I think I said  
22 earlier, the term overload is synonymous with extra  
23 teaching assignment.

24          SPECIAL MAGISTRATE: Uh-huh.

25 BY MR. CROSLAND:

1 Q So whatever you're comfortable with, Feleccia, so  
2 we're all on the same page.

3 A Okay, extra teaching, well, I would say, you know,  
4 if we're doing an extra course, if they go into an extra  
5 course. But just because a faculty member is over by one  
6 student doesn't put them necessarily in overload; it puts  
7 them into extra pay, because they're not taking on an extra  
8 course, they're just taking on extra students.

9 SPECIAL MAGISTRATE: So in this scenario here  
10 where, let's say, this one here goes to 450 --

11 THE WITNESS: Uh-huh.

12 SPECIAL MAGISTRATE: -- if I added one more  
13 student, this wouldn't apply to what you're talking  
14 about now?

15 THE WITNESS: If I added one more student and he  
16 was at --

17 SPECIAL MAGISTRATE: 451.

18 THE WITNESS: -- he was at 450, I would pay that  
19 person.

20 SPECIAL MAGISTRATE: The 15 percent overload?

21 THE WITNESS: Yes.

22 SPECIAL MAGISTRATE: So what is the 15 percent  
23 based on, their base pay or something?

24 THE WITNESS: It is based -- it is based on --  
25 there is an extra course pay rate that we have and they

1 would get 15 percent of that for those six students or  
2 for that one student, in this case.

3 MR. CROSLAND: And that's going to be explored  
4 later, because that's one of the issues, the rate -- the  
5 extra teaching assignment, slash, overload rate will be  
6 discussed later.

7 SPECIAL MAGISTRATE: Am I correct in saying  
8 that -- could we use extra teaching assignment as  
9 meaning the same thing as overload?

10 THE WITNESS: Yes, it is. Currently that's  
11 faculty --

12 SPECIAL MAGISTRATE: I mean, I'm going to hear  
13 this term in the contract --

14 THE WITNESS: Yes.

15 SPECIAL MAGISTRATE: -- and then I'm going to  
16 maybe grab overload as the same thing.

17 THE WITNESS: Well, and we wanted to be clear.  
18 Currently the way that the faculty and I talk about it  
19 is literally an overload, but we wanted to be clear that  
20 an overload is actually an extra teaching assignment.  
21 So they're taking on an additional course.

22 MS. HEEKIN: And that's what it's called in our  
23 proposal, extra teaching assignment.

24 THE WITNESS: Yes.

25 SPECIAL MAGISTRATE: Yeah, that means overloads,

1 when she uses the term.

2 THE WITNESS: Yes.

3 SPECIAL MAGISTRATE: We're all in different areas  
4 speaking similar, but different -- somewhat similar  
5 language.

6 MR. WAZLAVEK: Bridged by a common language.

7 SPECIAL MAGISTRATE: Yeah.

8 THE WITNESS: That's true. Okay, so what the  
9 formula results in is that you'll have two different  
10 types of faculty here at the college. You have those  
11 in which the current formula does not apply to, so they  
12 will teach 15 contact hours, they will do their office  
13 hours, and they will have other responsibilities.

14 Faculty member B will teach the 12 hours per our  
15 last slide. They will now be -- it causes the college  
16 to give them a reassignment to reach the 15 contact  
17 hours per statute, and then that faculty member may be  
18 given an overload.

19 SPECIAL MAGISTRATE: In other words, they're over  
20 by one, the factor of one, as I see it.

21 THE WITNESS: No, no, no, this person is taking on  
22 a different class.

23 SPECIAL MAGISTRATE: Okay, but it's -- okay, okay.

24 THE WITNESS: Yes, so they're at the top of their  
25 load so now --

1           SPECIAL MAGISTRATE: So you just don't add these  
2 numbers up because -- okay. You're over 15.

3           THE WITNESS: So now this one is not so much about  
4 numbers as it is about the inequity that this workload  
5 facilitates, because now I have two faculty members  
6 teaching 15 contact hours, but in faculty B I'm paying  
7 them to teach 15 contact hours because they now have a  
8 reassignment.

9           Faculty member A teaches 15 contact hours. I am  
10 not paying them to do so. They have their office hours  
11 the same as faculty member B, and they have other  
12 responsibilities the same as faculty member B.

13           The major disadvantage, when you look at faculty A  
14 and B is that the formula forces the college to move  
15 into a reassignment for faculty member B, because they  
16 have met their load with student contact hours.

17 BY MR. CROSLAND:

18           Q       They've gone over the 450 in that example?

19           A       Yes.

20           MS. HEEKIN: So if you would, just go back to the  
21 prior slide and show how these 12 hours caused this  
22 reassigned time in using the formula there.

23           SPECIAL MAGISTRATE: Yeah, that's the problem I'm  
24 having --

25           MS. HEEKIN: Yeah.



1           SPECIAL MAGISTRATE:  -- because I'm looking at  
2           here there's one, two, three, four three-hour classes,  
3           which equals 12 rather than 15.  And there's another  
4           three-hour class, so we're still --

5           THE WITNESS:  So the way the formula works -- and  
6           I'm just going to stand up for a minute.  So this  
7           faculty member is in load.

8           SPECIAL MAGISTRATE:  Yeah.

9           THE WITNESS:  This faculty member has 12 contact  
10          hours, and because they are teaching relatively large  
11          classes, as you can see here, the faculty member is now  
12          within load.  They're in load but they are below 15  
13          contact hours.

14          MS. HEEKIN:  They're in load because they're  
15          between the 375 and 450.

16          SPECIAL MAGISTRATE:  Okay, got you.

17          THE WITNESS:  Exactly.

18          MS. HEEKIN:  So they're in load.

19          SPECIAL MAGISTRATE:  They're like on this one, the  
20          second column, but they're in load?

21          THE WITNESS:  Yes.  So this is the person that has  
22          the 12 contact hours, okay?  And they have four courses.

23          SPECIAL MAGISTRATE:  Now, use the second person  
24          here up there.  So this person has had -- has -- we're  
25          not even -- this doesn't measure -- what do you call

1           them --

2           MR. WAZLAVEK: Well, under that scenario --

3           SPECIAL MAGISTRATE: -- this doesn't come up with  
4 a preparation or --

5           THE WITNESS: No, this is not based on  
6 preparation. This is the result of the formula.

7           SPECIAL MAGISTRATE: The result. Okay.

8           THE WITNESS: This is the result, typical result.  
9 There are variations for faculty B, because I do have  
10 some faculty teaching nine hours. However, what I'm  
11 showing here is basically the end result. So I have  
12 faculty members generally teaching 15 contact hours,  
13 office hours that they -- as part of their workload, and  
14 they have other responsibilities.

15          SPECIAL MAGISTRATE: That's A.

16          THE WITNESS: Whereas faculty member B --

17          SPECIAL MAGISTRATE: But doesn't B also have 15  
18 contact hours?

19          THE WITNESS: Not in the classroom.

20          SPECIAL MAGISTRATE: Oh, this is not -- the red  
21 one, three hours, is non-classroom?

22          THE WITNESS: Not there. That reassignment may  
23 be -- is generally non-classroom.

24          MS. HEEKIN: Okay, so explain a reassignment now.  
25 I don't think that's been clearly explained.

1 BY MR. CROSLAND:

2 Q Let's go -- let's make sure we understand the  
3 difference between a reassignment and an overload.

4 A Now, I want you to -- because -- and it is  
5 confusing. However, faculty member B, remember from the  
6 previous slide, they are within load. So per statute, the  
7 college now has to -- in order to align with statute, we need  
8 to give that faculty member another three contact hours, and  
9 that's what we call reassignment because they are now  
10 released of having to do --

11 SPECIAL MAGISTRATE: This red is reassignment?

12 THE WITNESS: -- that third --

13 MR. CROSLAND: No, the yellow.

14 MS. HEEKIN: The orange is reassignment.

15 SPECIAL MAGISTRATE: Oh, the orange is  
16 reassignment.

17 THE WITNESS: Yeah. And a reassignment is a  
18 release from your -- the freeing of a faculty member  
19 from their classroom responsibility or from their  
20 teaching duty. However, you are correct that this  
21 person is teaching 15 contact hours. However, for  
22 faculty B, I am paying them to teach 15 contact hours,  
23 because this faculty member has chosen to do an  
24 overload.

25 SPECIAL MAGISTRATE: Give me an example of what

1           that three-hour class overload that's non-class -- like  
2           an Internet?

3           THE WITNESS: We have several faculty that serve,  
4           for example, as adjunct mentors. So we may reassign  
5           where that is concerned. However, one of the things  
6           I'm going to highlight is that there is very little  
7           accountability in the reassignments that we give  
8           faculty.

9           MS. HEEKIN: So that's their reassigned time.  
10          Overload is just another class -- it could be anything.  
11          It's another class. Reassigned time is I'm now released  
12          from teaching in the classroom to go do something else.

13          SPECIAL MAGISTRATE: Okay, so let me undo that. I  
14          look at B -- I wouldn't want your job. I'm going to try  
15          to explain it. And you stop me when I'm incorrect.

16          THE WITNESS: Okay.

17          SPECIAL MAGISTRATE: This is a person who used to  
18          be performing A.

19          THE WITNESS: No, these are two different people.

20          SPECIAL MAGISTRATE: Okay, but probably at some  
21          point they did something like A.

22          THE WITNESS: No, not necessarily.

23          SPECIAL MAGISTRATE: No? Okay. This person who  
24          teaches three classroom -- I mean, four three-hour  
25          classroom classes, you need to get to 15.

1 THE WITNESS: Yes.

2 SPECIAL MAGISTRATE: Okay, so this orange  
3 reassignment, that's not an assignment, is it,  
4 particularly; that is a line or that means I want you to  
5 be a mentor?

6 THE WITNESS: Yes, and there are other duties that  
7 they may have.

8 SPECIAL MAGISTRATE: Okay, yeah, something other  
9 than that?

10 THE WITNESS: Yes. Yes.

11 SPECIAL MAGISTRATE: Non-teaching --

12 THE WITNESS: Exactly.

13 SPECIAL MAGISTRATE: -- classroom teaching duties.  
14 Then three-hour class overload is when they're asked to  
15 teach another class?

16 THE WITNESS: We don't ask them. They generally  
17 volunteer, yes.

18 SPECIAL MAGISTRATE: But when -- so this is  
19 non-teaching, so to speak, the reassignment, whatever it  
20 is, something that -- different than when you're sitting  
21 in a classroom. And at the same time then they're  
22 assigned another class to teach?

23 THE WITNESS: Yes.

24 SPECIAL MAGISTRATE: And that's an overload  
25 situation?

1 THE WITNESS: Exactly.

2 SPECIAL MAGISTRATE: So if I took this  
3 reassignment -- does it fit into -- it doesn't fit into  
4 other responsibilities or office hours, correct?  
5 Because I see that up here separate.

6 THE WITNESS: It could, but no, it does not.

7 SPECIAL MAGISTRATE: It generally doesn't. So  
8 this reassignment is different from the additional  
9 three-hour class.

10 THE WITNESS: It is.

11 SPECIAL MAGISTRATE: And this could just be  
12 another class.

13 THE WITNESS: Yes.

14 SPECIAL MAGISTRATE: Okay. You've got 12 hours,  
15 classroom, you've got this reassignment, it's a  
16 non-teaching position. And that wouldn't put you over,  
17 would it? Would this put you over? Do you get any  
18 points for that?

19 THE WITNESS: No, it would put you within the  
20 statute, yes.

21 SPECIAL MAGISTRATE: Yeah, the statute. Okay. So  
22 is that worth like three when you count these here?

23 THE WITNESS: It's supposed to be.

24 SPECIAL MAGISTRATE: Yeah, that can be a three.

25 THE WITNESS: Yes.

1           SPECIAL MAGISTRATE: Okay, so take out the red.

2           If I just did the reassignment and 12 hours, I'm at 15.

3           THE WITNESS: Fifteen.

4           SPECIAL MAGISTRATE: I'm right where I want to be.

5           I've got someone who does -- asks to be reassigned, and

6           then I want you to teach another class; that is an

7           overload situation?

8           THE WITNESS: Yes.

9           SPECIAL MAGISTRATE: Okay, does that make sense?

10          THE WITNESS: It does.

11          SPECIAL MAGISTRATE: Am I making --

12          THE WITNESS: It does.

13          SPECIAL MAGISTRATE: You can ask all the -- you

14          can cross examine or redirect, however you want to do

15          it. I think I understand that.

16          MS. HEEKIN: No, it's difficult, yeah.

17          THE WITNESS: Okay, so --

18          SPECIAL MAGISTRATE: Okay.

19          THE WITNESS: Okay. So these are the issues, the

20          problems with the current formula, because, one, the

21          formula forces the institution to grant reassignments

22          because the faculty member -- faculty member B is in

23          load, so now in order to align with state statute, I

24          have to find something, three hours of something, for

25          that faculty member to do.

1           SPECIAL MAGISTRATE: Because they get no credit  
2 for the reassignment.

3           THE WITNESS: No classroom credit.

4           SPECIAL MAGISTRATE: No -- it just doesn't count.  
5 So you don't get an additional three points for that  
6 reassignment.

7           THE WITNESS: Right.

8           SPECIAL MAGISTRATE: But you get additional pay?

9           THE WITNESS: Uh-huh. Well, if you do the  
10 additional course, yes.

11          SPECIAL MAGISTRATE: Yes.

12          THE WITNESS: Now, many of these reassignments  
13 lack accountability and institutional need. Most of the  
14 faculty are doing reassignments. Eighty-one percent of  
15 the faculty right now do reassignments. This has not  
16 proven to be cost effective for the college. It creates  
17 inequity between and among faculty. It does not apply  
18 equitably to all disciplines, not even within the same  
19 area.

20                 And it drives class sizes upwards, because in  
21 order to meet load, you have to have a larger class  
22 size. It favors larger disciplines. It is not student  
23 centric. The enrollment capacity is based upon faculty  
24 teaching load. It causes class size variation, which  
25 I'll show you in a few minutes, and we cannot adequately



1 plan to meet student needs because the first thing I  
2 have to take into account as I'm determining capacity  
3 for classes is faculty workload. And it creates a  
4 manual process.

5 The college's Enterprise system will not calculate  
6 this workload. So for 185 faculty we'll have to  
7 calculate it manually. Most faculty are doing --

8 MS. HEEKIN: Go back a minute. What's the  
9 Enterprise system?

10 THE WITNESS: I'm sorry.

11 MS. HEEKIN: That's okay.

12 THE WITNESS: The Enterprise system is going to --  
13 it is a --

14 SPECIAL MAGISTRATE: You're a high school student;  
15 I'm a fourth grader, okay? It's kind of like --

16 THE WITNESS: Currently the college -- an  
17 Enterprise system for a college is basically a system of  
18 technology that runs all the major college areas, from  
19 administrative services, from finances, from HR to  
20 faculty workload to faculty pay. It handles all of our  
21 base technological operations.

22 SPECIAL MAGISTRATE: It's a software system like  
23 companies have?

24 THE WITNESS: Yes, yes.

25 SPECIAL MAGISTRATE: This is my software system --

1 THE WITNESS: Yes, but it runs the entire campus.

2 SPECIAL MAGISTRATE: What I hear you saying, in  
3 terms of when you've got these reassignments, they have  
4 to be calculated manually, because it's not in your  
5 software system?

6 THE WITNESS: Well, the formula cannot be  
7 programmed into the system exactly.

8 SPECIAL MAGISTRATE: Okay, yeah.

9 THE WITNESS: Exactly.

10 SPECIAL MAGISTRATE: So you got through the whole  
11 system, the computer system, and then you've got to  
12 manually add these reassignments?

13 THE WITNESS: Yes.

14 SPECIAL MAGISTRATE: And it means 81 percent of  
15 the faculty, you've got to sit down and you've got to  
16 figure 81 percent of the faculty.

17 THE WITNESS: Yes, and it would take us days to do  
18 this.

19 SPECIAL MAGISTRATE: You do that every quarter, or  
20 every term?

21 THE WITNESS: Correct.

22 SPECIAL MAGISTRATE: Got it.

23 THE WITNESS: To do it right is quite a task,  
24 because you don't want to -- you don't want to make a  
25 mistake where the faculty finances are concerned. So

1           you have to manually go through to ensure that they are  
2           loaded correctly.

3                   Most faculty, again, do reassignments. Only 19  
4           percent of the faculty do not have reassignments.

5 BY MR. CROSLAND:

6           Q       Before you go to the next slide, can you go back  
7           one? Previous to that. Yeah. I want to make sure the  
8           record is adequate here. You say, in number three, creates  
9           inequity between and among the faculty. Can you demonstrate  
10          that by the slide previous to that? Is that --

11          A       Yes, that is a part of it. If I -- let me see.  
12          Okay, where is the little needle? There we go. It just  
13          doesn't want to move. Okay, let's see. All right, yes, this  
14          is just one part of the inequity because I do have faculty  
15          that are teaching 15 contact hours and I have others that are  
16          teaching 12, and I have some that are teaching nine.

17          Q       I wanted you to explain the inequity that this  
18          shows, and then I want you to move on to -- you mentioned  
19          that's just one form of inequity. Explain what the other  
20          forms would be.

21          A       Okay. And most exist -- most exist in the  
22          reassignments. For example, some reassignments, because the  
23          college now is giving 81 percent of its faculty over 150  
24          faculty reassignments, some of these are without need. And  
25          these are just some examples of -- because we have to

1 document all of this for auditing purposes in the state of  
2 Florida. So these are things taken from the reassignments  
3 that are being done.

4 We do have some common things that are happening  
5 in course coordination. And not to say those things aren't  
6 valuable, but some of these things, they are inequity. For  
7 example, I have an adjunct mentor where there is one mentor  
8 in the department. I have a course coordinator where they  
9 have no adjuncts. I have people that are -- as far as their  
10 committee membership, which is college service, that it has  
11 been listed as a reassignment.

12 So all of these things are actually happening  
13 because the college does not have -- the formula forces us to  
14 give faculty reassignments, whether we need them to do the  
15 reassignments or not.

16 Q Let me ask you -- ladies first.

17 MS. HEEKIN: Is there a reason to have  
18 reassignments?

19 THE WITNESS: Yes, and I would like to continue  
20 with reassignments, but we must have reassignments with  
21 accountability. And it must be based on student or  
22 institutional, or even your department -- there must be  
23 a need that is shown.

24 MS. HEEKIN: And, in fact, the college's proposal  
25 has work reassignments in there?

1 THE WITNESS: Yes, it does.

2 MS. HEEKIN: That's at Article 13, Section 2?

3 THE WITNESS: Yes. So I don't want to do away  
4 with it, I actually just want to bring it under control.

5 SPECIAL MAGISTRATE: Let me ask a question while  
6 we're on that subject. In the perfect world, if you got  
7 everything you want with this, would there be an equal  
8 number of reassignments, or would you see a reduction in  
9 reassignments?

10 THE WITNESS: There would be a reduction.

11 SPECIAL MAGISTRATE: That's what I was hearing to  
12 start with. You think that -- what I'm hearing from you  
13 is that we use reassignments to balance everything out  
14 equitably.

15 THE WITNESS: Uh-huh.

16 SPECIAL MAGISTRATE: And if we had a different  
17 system we would not need to have as many reassignments?

18 THE WITNESS: Correct.

19 SPECIAL MAGISTRATE: There'd be still  
20 reassignments --

21 THE WITNESS: Yes.

22 SPECIAL MAGISTRATE: -- but now 81 percent of the  
23 people are getting them --

24 THE WITNESS: Exactly.

25 SPECIAL MAGISTRATE: -- and if we use what you're

1 offering, if that was adopted, there would be -- the  
2 reassignments would be less than 81 percent?

3 THE WITNESS: Yes. Now, and I wanted to just show  
4 some of the disciplines whereby this does not apply, the  
5 formula does not apply to. Now, within the current  
6 proposal, as within our current status quo, if you do  
7 not meet the 15 credit -- if you do not meet the  
8 workload formula, that you can teach 15 contact hours.

9 However, you'll find that even -- we'll see speech  
10 faculty, they're teaching five contact hours. It  
11 doesn't apply equitably to journalism, even English  
12 faculty, because their class sizes are small, which we  
13 want to continue. But at the same time, in order to  
14 have this meet the formula, we would actually -- they  
15 would have to increase the number of students they  
16 serve, which we do not want to do.

17 AS faculty, the current -- the current workload  
18 proposal does not even address Associate of Science  
19 faculty. It did address health care faculty, and I'll  
20 get to that in a few minutes. But these are generally  
21 areas where they have smaller class sizes, so the  
22 formula does not apply. It does not work for this  
23 faculty. And a workload that does not work for all of  
24 its faculty should not be one that a campus adopts.

25 The other issue, as I mentioned, is variation in

1 class sizes. This is the same course that is being  
2 offered on the campus. But as you can see, there is  
3 variation in the class sizes. I've got class sizes to  
4 55, I've got 35, I've got 40, and I've got 41. This  
5 actually inhibits the college from adequately planning  
6 for student enrollment, because first I have to consider  
7 faculty workload before I can consider the maximum I  
8 need to have in each of the classes.

9 MS. HEEKIN: Explain that a little more. Explain  
10 how you actually look at the faculty workload, which  
11 ends of driving the size of the class.

12 THE WITNESS: The formula -- first we have to get  
13 faculty within load. And the faculty choose their  
14 classes, and once they choose their classes, then I can  
15 work around their workload to determine the number of  
16 classes I need to add or the number of students I need  
17 to add thereafter to reach the capacity or my projected  
18 capacity for that particular discipline.

19 MS. HEEKIN: So that's going back to this chart --

20 THE WITNESS: It does.

21 MS. HEEKIN: -- the number of student contact  
22 hours?

23 THE WITNESS: It does. It does.

24 MS. HEEKIN: So here, this person had 426, which  
25 is within the 375 to 450. There's actually, what, 24

1 more students --

2 THE WITNESS: Yes.

3 MS. HEEKIN: -- that could be put in some of these  
4 classes to still keep the person within load, correct?

5 THE WITNESS: Exactly. Exactly. But again, the  
6 negative of that is that I'm going to drive those class  
7 sizes up. I don't want to drive class sizes up in math,  
8 I want to decrease them, not increase them. And the  
9 current proposal did address health care professions  
10 faculty explicitly, and it dropped health care faculty  
11 workload to 180 contact hours, which is less than the  
12 225 contact hours. And it is less than the 15 classroom  
13 contact hours required by statute.

14 Subsequently, I highly suggest that we are -- this  
15 is something that they are requiring or suggesting that  
16 to violate statute because you cannot have a faculty  
17 member teaching less than 15 contact hours.

18 Now, one of their other issues with the health  
19 care professions is that, one, it does not acknowledge  
20 the complex -- I'm sorry, the complexity, nor the  
21 programmatic requirements of this program or these  
22 programs. It does not address our student base nor the  
23 institutional cost.

24 Decreasing the workload of health care professions  
25 as far as their in-class workload will slow the student



1 program completion. So I will need to either -- I need  
2 to increase the loads of faculty or I would have to  
3 extend the program so that students can exit.

4 If a program currently is running -- and it is a  
5 one-year program -- I would need to extend that for at  
6 least another semester in order to meet the student  
7 faculty ratio that must be adhered to in our programs,  
8 because it impacts their accreditation. We cannot go  
9 beyond the recommended student-faculty ratio.

10 The other cost to us is that it would -- we would  
11 have to actually increase the number of faculty to  
12 actually cover the classes if I decreased the faculty  
13 members -- their workload to that extent.

14 MR. CROSLAND: Hold on one second, please.

15 THE WITNESS: Sure.

16 (Brief pause)

17 BY MR. CROSLAND:

18 Q Doctor, could you look at city (sic) Exhibit 10,  
19 which is union Article 9? Okay, have you got it? And I can  
20 go through each one of these, or I can ask you specific ones.  
21 Let me direct your attention to 9.01.C, which is entitled  
22 workloads. And underneath that is number one, standard load,  
23 right?

24 A Yes.

25 Q Now, I'm correct in stating this is the union

1 proposal to maintain the current workload formula that you've  
2 described, is that right?

3 A Correct.

4 Q Okay. Just one second, please. And you  
5 mentioned -- you were talking about the health care  
6 operation. That's in 9.02 on page 21?

7 A Yes.

8 Q And then the rest of it is to do with library  
9 faculty and counseling faculty, which we can talk about  
10 later. Okay, go ahead back to where you were stopped.

11 A Okay.

12 SPECIAL MAGISTRATE: Can I ask a question while  
13 we're at 9.02, before we pull away from it?

14 MR. CROSLAND: Sure.

15 SPECIAL MAGISTRATE: It may be -- workload B, a  
16 standard workload for health care faculty shall be 180  
17 contact hours per semester. I remember -- how many  
18 hours is it now?

19 THE WITNESS: Well, it's actually 15 classroom  
20 contact hours per week, so that would equate to them  
21 doing 12. In those terms it would be 12 contact hours  
22 per week.

23 MS. HEEKIN: With 180?

24 THE WITNESS: It would decrease it by -- yes, it  
25 would decrease it by pretty much a class.

1 MS. HEEKIN: So 180 contact hours really equals 12  
2 contact hours per week?

3 THE WITNESS: Yes.

4 MS. HEEKIN: And the 15 per week equals to 225?

5 THE WITNESS: Yes.

6 MS. HEEKIN: Okay, and that's what occurred here.

7 THE WITNESS: Because many of our -- and I didn't  
8 want to convolute it further, but many of our health  
9 care professions are clock hour programs, so I didn't  
10 want to confuse you any further.

11 MR. CROSLAND: Stop right there and explain.

12 SPECIAL MAGISTRATE: So what I'm hearing is, A,  
13 the standard workload for health care faculty -- and  
14 this may not -- I don't know how important this is, I'm  
15 just trying to follow along and keep up with you, at  
16 least halfway here. Standard workload for health care  
17 faculty shall be 180 contact hours. That's the  
18 equivalent of 12 contact hours per week. The statute  
19 requires 15, and that's what your practice is as your  
20 base.

21 THE WITNESS: Exactly. Exactly. It must be, in  
22 the state of Florida.

23 SPECIAL MAGISTRATE: So what's the 15 total hours?  
24 What was that number?

25 THE WITNESS: The 15 or --

1 SPECIAL MAGISTRATE: Instead of 180 --

2 THE WITNESS: 225.

3 SPECIAL MAGISTRATE: 225.

4 MR. WAZLAVEK: Keep in mind that there's  
5 flexibility built into the Board policy.

6 SPECIAL MAGISTRATE: Sure, I'm just trying to  
7 understand -- yeah.

8 MR. WAZLAVEK: And that's how they arrived at 12  
9 hours, because that time gets reassigned because in the  
10 nursing faculty, the health care faculty, in addition to  
11 doing lectures, they do clinicals, they do site visits,  
12 they do -- they go to hospitals at 4:00 in the morning.  
13 They put in a lot of long hours that frankly don't get  
14 accounted for by the current formula, frankly.

15 SPECIAL MAGISTRATE: Okay. I'll give an  
16 opportunity -- I'm sure you'll get an opportunity on  
17 cross.

18 MR. WAZLAVEK: I'm sure I will.

19 SPECIAL MAGISTRATE: Thank you.

20 THE WITNESS: Okay. All right. So the TCC  
21 proposal --

22 SPECIAL MAGISTRATE: Shall I put C-10 back?

23 MS. HEEKIN: For now, yeah.

24 SPECIAL MAGISTRATE: Okay.

25 THE WITNESS: The TCC proposal basically has three

1 fundamental premises that we were working from. One,  
2 faculty accountability, student success, and fiscal  
3 responsibility. There are four components of the  
4 workload that we are proposing: Instruction and office  
5 hours, professional development, college service, as  
6 well as faculty-student advising.

7 MS. HEEKIN: And just before you go on, this is  
8 just to put it in perspective. If you look at Article  
9 13, the college's proposal -- okay, we'll just walk you  
10 through it. It goes through standard teaching load is  
11 Section 1.

12 SPECIAL MAGISTRATE: In 13?

13 MS. HEEKIN: Correct. And the standard teaching  
14 load that the college is proposing is the minimum of 15  
15 to 18 contact hours per week per semester. And, Doctor,  
16 just explain, why is the 18 minimum contact hours in  
17 there? What's the purpose of that?

18 THE WITNESS: Well, it's actually based on  
19 discipline. There are -- and it's in a minority, but  
20 some of our disciplines are 16 contact hours.  
21 Developmental, for example, they do four contact hour  
22 classes. So they would do four classes at 16 contact  
23 hours.

24 MS. HEEKIN: And that's their normal level.

25 THE WITNESS: Whereas we have others that have six

1 contact hour bases, so they would do three, which would  
2 put them at 18, but they would do three classes, but  
3 they would still meet their workload.

4 SPECIAL MAGISTRATE: What I'm hearing you say is  
5 it's easy when everyone does three hour classes --

6 THE WITNESS: Yes.

7 SPECIAL MAGISTRATE: -- to get exactly 15.

8 THE WITNESS: Yes, but that's not the nature.  
9 Right.

10 SPECIAL MAGISTRATE: There's some disciplines  
11 where there's four hour classes, or other hours. So it  
12 isn't quite. So on those it could go up to 18.

13 THE WITNESS: Exactly.

14 SPECIAL MAGISTRATE: Which means they're also  
15 teaching -- they're in the classroom three more hours a  
16 week.

17 THE WITNESS: Uh-huh.

18 SPECIAL MAGISTRATE: Up to three more hours a  
19 week, to still be the standard -- what was the term we  
20 used for that? Before they go overload.

21 THE WITNESS: Right. Yes.

22 SPECIAL MAGISTRATE: After 18, they go overload.

23 THE WITNESS: Exactly.

24 SPECIAL MAGISTRATE: Others at 15.

25 THE WITNESS: Exactly.

1           SPECIAL MAGISTRATE: But in a perfect world  
2 everybody would be doing three hour classes, and that's  
3 not happening.

4           THE WITNESS: No, and higher ed is not perfect, so  
5 you won't find that in any institution.

6           SPECIAL MAGISTRATE: Like labor relations.

7           MS. HEEKIN: So those classes with the four hours  
8 or six hours are different; are those in particular  
9 disciplines?

10          THE WITNESS: Yes, they are.

11          MS. HEEKIN: Okay, what disciplines are they?

12          THE WITNESS: For the most part I'm thinking -- of  
13 course there is art, specially, and developmental  
14 education that has four. There are just a couple of  
15 computer science classes that have four contact hours.

16          MS. HEEKIN: Okay, and then moving on in our  
17 proposal, Section 2 there is the work reassignment, so  
18 we still have them?

19          THE WITNESS: Yes.

20          MS. HEEKIN: And we're still proposing to keep  
21 them?

22          THE WITNESS: Yes.

23          SPECIAL MAGISTRATE: Hold on a second here. Work  
24 reassignment -- say that again, or summarize what you've  
25 got.

1 MS. HEEKIN: Summarize just that we still have  
2 them, and we're proposing to keep them.

3 SPECIAL MAGISTRATE: Oh, keeping them, yes. There  
4 may be a reduction in them.

5 MS. HEEKIN: Correct. Now, one of the differences  
6 in the union's proposal, if you look at that, to our  
7 Section 2 they added a whole list of, I guess, different  
8 types of work reassignment, correct?

9 THE WITNESS: Uh-huh.

10 MS. HEEKIN: Do we need to add a list like that?

11 THE WITNESS: For reassignments? I don't think  
12 so. I think there will be some that we will see that  
13 will be routine that we will continually do. However,  
14 there will be others that may be based upon an  
15 accreditation standard, it may be based upon a  
16 curriculum change, it may be based upon other things  
17 that the institution and/or the department needs.

18 MS. HEEKIN: Okay, so the bottom line is that  
19 we've rejected putting a list in, like the union has?

20 THE WITNESS: Yes.

21 MS. HEEKIN: Okay, then Section 3 in our Article  
22 13 talks about the fact work hours and responsibilities,  
23 and this is what you were about to go into.

24 THE WITNESS: Yes.

25 MS. HEEKIN: Section A is instructional and office



1 hours. Section B is the professional development.  
2 Section C is the college service. Section D is the  
3 faculty advising.

4 And if you look at the union's proposal to our  
5 Article 13 you'll see that much of that is agreed to.  
6 They haven't made a lot of changes to these sections.  
7 So why don't you go on and just go through those. I  
8 just wanted to kind of make sure everybody had the --

9 THE WITNESS: Okay. So instruction and office  
10 hours, again, their 15 to 18 contact hours will be the  
11 base, where some disciplines have a four to six-hour  
12 contact hour base. Ten office hours, this is per  
13 statute, as well. Two hours --

14 SPECIAL MAGISTRATE: Four to six-hour contact  
15 base, is that --

16 THE WITNESS: Yes. So, for example, developmental  
17 education, all of their classes, for example, in math  
18 it's four contact hours.

19 SPECIAL MAGISTRATE: Okay, that's -- okay --

20 THE WITNESS: It's a class. I'm sorry, yes.

21 SPECIAL MAGISTRATE: Got it.

22 THE WITNESS: Ten office hours, that doesn't  
23 change. For those teaching on line it allows  
24 flexibility for some of those hours to be completed  
25 virtually, and it also allows for our nursing faculty in

1 many cases to meet students where they are as well as  
2 our own faculty, that they can do these office hours  
3 at -- to reach for student accessibility. So nurses  
4 can, or our health care faculty can do these hours in a  
5 clinical environment.

6 Because the research tells us very clearly that  
7 our students generally don't come to a faculty member's  
8 office hours. However, we wanted to give faculty the  
9 flexibility to do their office hours where student are,  
10 to meet them where they are.

11 Assigning faculty to teaching loads, there were  
12 several conversations -- and you'll see it in the union  
13 proposal -- to consider seniority. However, we would  
14 like to move to the best qualified person based upon  
15 several factors. And not to say that seniority is not  
16 important, but we also have -- we also want to consider  
17 what is best for our students, so we'll look at  
18 credentials, academic experience, work experience,  
19 student success, retention, and completion, as far as  
20 assigning faculty to teaching loads.

21 SPECIAL MAGISTRATE: Question.

22 MR. CROSLAND: Yes, sir, go ahead.

23 SPECIAL MAGISTRATE: Describe how you do it now.  
24 You, meaning everyone, how you assign teaching loads.

25 THE WITNESS: You know, it does vary. In some

1 divisions seniority is very strong and in those areas  
2 faculty are assigned based upon the number of years they  
3 have been here, and they will get first preference at  
4 courses.

5 And we would like to be able to consider other  
6 quantifiable factors such as their student success,  
7 retention and completion. One of the things with TCC,  
8 when a faculty member comes on board, we only give them  
9 credit for five years of experience. However, that  
10 faculty member that we are hiring may have ten years of  
11 experience at another institution that they're not  
12 getting credit for.

13 SPECIAL MAGISTRATE: They get up to five?

14 THE WITNESS: Yes, so they get up to five. But  
15 that faculty member with that ten years of experience is  
16 at a disadvantage, but that faculty member could be an  
17 excellent faculty member.

18 Sometimes we are hiring new faculty that are  
19 excellent, as well, and I think we should be able to  
20 level the playing field so that all faculty can have  
21 access to the same loads if they choose.

22 SPECIAL MAGISTRATE: Let me ask you another  
23 question. I don't want you to feel like this is cross  
24 examination. I'm trying to understand --

25 THE WITNESS: I get it.

1           SPECIAL MAGISTRATE: -- the issues here. Some  
2 units use seniority, you said, some departments -- and  
3 you're going to have redirect and everything. What I'm  
4 hearing is seniority is not the only thing.

5           THE WITNESS: It is not the only factor.

6           SPECIAL MAGISTRATE: Currently. Out of how you do  
7 it now, how much weight is given to seniority, when you  
8 look at the picture as a whole? When you say seniority  
9 is not given, is it most of it, hardly any of it, half  
10 of it? It may not be a fair question, but I'm trying to  
11 get a feel for the extent that seniority is involved in  
12 it. You can just reply that way.

13          THE WITNESS: It is involved, but it is one of my  
14 challenges, because it varies by division. In some  
15 divisions seniority is very strong. In others it is not  
16 as strong.

17          SPECIAL MAGISTRATE: Why is that so?

18          THE WITNESS: It's the way it has evolved over the  
19 years. So we're trying to bring some stability to that  
20 so that all faculty will be treated equitably across the  
21 campus. So if you got your preference in Division A,  
22 you should also be able to get your preference in  
23 Division B in the same manner.

24          SPECIAL MAGISTRATE: So it's up to the division  
25 heads, at this point, how they would have done it?

1 THE WITNESS: Well, when we moved into status quo  
2 it actually stopped my movement to move us away from  
3 that.

4 SPECIAL MAGISTRATE: Is it up to the divisions?

5 THE WITNESS: Generally.

6 SPECIAL MAGISTRATE: It's kind of a divisional  
7 thing?

8 THE WITNESS: It has turned out to be, yes.

9 SPECIAL MAGISTRATE: Okay. Over the years it's  
10 become that?

11 THE WITNESS: Yes.

12 SPECIAL MAGISTRATE: What do people use if they  
13 don't use seniority?

14 THE WITNESS: I think they are using other  
15 factors. Sometimes it's just that if you have -- for  
16 example, if you have ten faculty and you have 20 classes  
17 so you might just divide that equally across -- divide  
18 them equally and give them the same number across the 20  
19 classes in some cases.

20 SPECIAL MAGISTRATE: When you say by seniority  
21 we're talking about really the ability to select the  
22 class you would like to teach?

23 THE WITNESS: Exactly, that you would have first  
24 preference, yes.

25 SPECIAL MAGISTRATE: Okay. But in your scenario

1 where it's split evenly, would that division most likely  
2 use seniority, that the most senior person could pick  
3 first?

4 THE WITNESS: Yes, that happens.

5 SPECIAL MAGISTRATE: Okay. But I also hear that  
6 when someone comes on -- this is the practice, it's not  
7 in an agreement and it's not in a written policy.

8 THE WITNESS: Right.

9 SPECIAL MAGISTRATE: The practice is that someone  
10 comes on board and they're hired as faculty, instructor  
11 here, whatever the term is, and they're going to teach  
12 some classes in a certain field, and they came from a  
13 community college the other end of -- down in Fort  
14 Lauderdale, where I'm from, they come up here. They've  
15 got ten years in, but it comes in as -- they come in,  
16 they get five years seniority to start with?

17 THE WITNESS: Uh-huh, five years credit.

18 SPECIAL MAGISTRATE: If I only had two years in  
19 Fort Lauderdale, come up here, you'd give me two?

20 THE WITNESS: Uh-huh.

21 SPECIAL MAGISTRATE: Okay. So seniority is  
22 carried from where you go up to five years?

23 THE WITNESS: Now, generally the way it's defined  
24 here --

25 SPECIAL MAGISTRATE: I'm trying to understand.

1 THE WITNESS: The way it's defined here is  
2 seniority begins when you start here. So you don't  
3 bring in your seniority with you from another  
4 institution.

5 SPECIAL MAGISTRATE: Okay.

6 THE WITNESS: It is your years at TCC that  
7 determines your seniority.

8 SPECIAL MAGISTRATE: It says up to five years  
9 experience.

10 THE WITNESS: Yes.

11 SPECIAL MAGISTRATE: What did you mean by that?  
12 That's not seniority for purposes --

13 THE WITNESS: We give credit for five years when  
14 we are determining their salary.

15 SPECIAL MAGISTRATE: Oh, for salary.

16 THE WITNESS: Yes.

17 SPECIAL MAGISTRATE: It's not for purposes of  
18 selecting classes?

19 THE WITNESS: No. No.

20 SPECIAL MAGISTRATE: So I come from Fort  
21 Lauderdale, I've got ten years in an area that uses  
22 seniority only, I'm at the bottom?

23 THE WITNESS: Yes, when you come to TCC.

24 SPECIAL MAGISTRATE: Okay, this is five years  
25 for -- that's why I'd say five years for salary, not

1 seniority. I was interested in how you did that. Okay.  
2 You had something?

3 MR. CROSLAND: Yes. I would like to point out --  
4 and you can look at it if you have it there, Article 6,  
5 the union, that's C-11. As opposed to what we've been  
6 discussing the last 30, 45 minutes about workload, and  
7 your questioning, Mr. Milinski, about in effect what mix  
8 currently is used between seniority and other factors,  
9 I would like to point out that in the union's proposal,  
10 6.02, it's purely seniority, to draw that distinction.  
11 Sorry about the mumbling.

12 SPECIAL MAGISTRATE: I remember that earlier,  
13 yeah.

14 MR. CROSLAND: It is pure seniority.

15 SPECIAL MAGISTRATE: Yeah.

16 MR. CROSLAND: It's not what we're proposing and  
17 it's not even what's in place now. Okay. I just wanted  
18 to make that point. Now, let me --

19 SPECIAL MAGISTRATE: I got tripped up a little bit  
20 when she said up to five years experience.

21 BY MR. CROSLAND:

22 Q Yeah, right. Doctor, looking at the current  
23 screen, you have student success, retention, and completion.  
24 Would you explain more what those terms mean, and, secondly,  
25 how do you measure student success or retention or



1 completion?

2 A Student success, if we look at it from the course  
3 level, is going to be students who get or earn an A, B, or C  
4 in a class. And that's how we determine student success.  
5 Retention are going to be the number of withdrawals in a  
6 particular class. So if you have a high withdrawal rate, we  
7 say your retention is low. Completion are those that  
8 completed the class with an A, B, or C.

9 Q And that's not -- I'm assuming that's not just  
10 subjective --

11 A No.

12 Q -- it's based on the factors you've --

13 A We run data consistently to figure -- to get those  
14 numbers. We're not figuring it out. Our Associate  
15 Vice-President for Institutional Effectiveness gives us that.  
16 Faculty have access to that data, as well.

17 Q Okay, so it's all data driven?

18 A It is.

19 Q Okay, move on, please.

20 SPECIAL MAGISTRATE: Do you have a language in all  
21 this already, or this is still conceptual?

22 THE WITNESS: We have language.

23 SPECIAL MAGISTRATE: You have language? Okay.

24 MR. CROSLAND: Our 13 describes how all this  
25 works.

1           SPECIAL MAGISTRATE: Oh, okay, it's all in there?  
2           Okay, okay, got it, got it. Thank you.

3           THE WITNESS: And professional development, it is  
4           important especially in higher ed that faculty members  
5           remain current in their fields. It's important to the  
6           future of the college, it's important to our students.  
7           It also enhances our students' employability that  
8           faculty participate in ongoing professional development.  
9           Quite frankly, if we do not commit to professional  
10          development, the college simply stagnates, and we want  
11          to continually move forward.

12          College service: Very broad, but college service  
13          is that faculty participate in departmental and  
14          college-wide activities, they attend commencement and/or  
15          pinning ceremonies. Faculty perform other duties to  
16          fulfill their instructional, contractual, and/or  
17          programmatic obligations, and that they just commit to  
18          continuous improvement of teaching and student  
19          marketing.

20         BY MR. CROSLAND:

21           Q         And those issues are in our proposal and are not  
22           at issue.

23           A         The faculty advising: This is very interesting.  
24           When I came on board to Tallahassee Community College,  
25           faculty were actually engaged in faculty advising. It has

1 been something that has been historically a cornerstone for  
2 Tallahassee Community College. However, it is -- the way it  
3 was being done was not in the best interests of all faculty  
4 because all faculty were required to go to registration.

5 In 2016, prior to the union, I pulled together a  
6 task force primarily made up of faculty to revamp faculty  
7 advising. So the proposal we have is based upon the  
8 recommendations that were given at that time to give faculty  
9 more flexibility and meet student needs.

10 One of the interesting facts about Tallahassee  
11 Community College is that we are 37 percent African-American  
12 and they have a 19 percent graduation rate. And we are the  
13 only college in Florida that has that particular demographic,  
14 so we actually need our faculty to actually be more connected  
15 to our students in this way. So this is one of the reasons  
16 why faculty-student advising is and will remain to be --  
17 remain a cornerstone for Tallahassee Community College,  
18 because it is imperative to the students we serve and their  
19 success.

20 Q Let me -- well, go ahead. I want to ask you a  
21 couple of questions about Article 13 when you -- have you  
22 finished that part? Okay, look at our Article 13, paragraph  
23 four.

24 SPECIAL MAGISTRATE: That's C -- oh, C-8.

25 MR. CROSLAND: I withdraw that. Sorry.

1 MS. HEEKIN: It's a little later. Oh, wait, we're  
2 here.

3 SPECIAL MAGISTRATE: I have a question for you,  
4 not at Article 13 yet. Faculty-student advising,  
5 faculty expected to advise students for four hours per  
6 week on average.

7 THE WITNESS: Uh-huh.

8 SPECIAL MAGISTRATE: Is that the current practice?

9 THE WITNESS: No, faculty currently -- and it's  
10 interesting, because the policy states that they should  
11 be doing 30 hours per semester, but now it ended up  
12 being ten through some historical changes that occurred  
13 over time. So now it's almost ten per year.

14 SPECIAL MAGISTRATE: Ten hours per year?

15 THE WITNESS: Yeah. But currently what we did was  
16 we looked at best practices across the country, and  
17 nationally faculty do between one and four hours of  
18 faculty advising per semester.

19 MR. WAZLAVEK: For the record, that language is  
20 not in dispute.

21 SPECIAL MAGISTRATE: Oh, this is okay?

22 MS. HEEKIN: Yeah.

23 MR. WAZLAVEK: Yeah, we're not -- I don't know why  
24 the college is putting a show on about it, but --

25 SPECIAL MAGISTRATE: Thanks, Tom.

1 MS. HEEKIN: Just to put it all in perspective.  
2 I already said that.

3 THE WITNESS: Okay, so assigning faculty to extra  
4 teaching assignments, the language is pretty much the  
5 same. We were looking to put the best qualified person  
6 in the classroom.

7 MR. WAZLAVEK: That one is at issue.

8 SPECIAL MAGISTRATE: Yeah, your proposal is  
9 straight seniority?

10 MR. WAZLAVEK: Right.

11 MS. HEEKIN: Correct, yeah. The college's  
12 proposal is Article 13, Section 4 --

13 MR. CROSLAND: Which -- well, go ahead.

14 MS. HEEKIN: -- on summer teaching. And Article  
15 13, Section 8, on the extra teaching assignments. And  
16 both of those we propose the best qualified candidate,  
17 exactly what this slide says. And --

18 SPECIAL MAGISTRATE: Articles -- number four and  
19 what was the other one?

20 MS. HEEKIN: And eight.

21 SPECIAL MAGISTRATE: Four, summer teaching  
22 assignments.

23 MR. CROSLAND: Right, and eight, extra teaching  
24 assignments.

25 SPECIAL MAGISTRATE: Okay.

1 MR. CROSLAND: I think it's important to note,  
2 though -- and you can verify it with Dr. Moore-Davis --  
3 that in our proposal we talk about the best qualified  
4 candidate, but included in that is work experience. So  
5 your experience is not totally discounted. I mean, it's  
6 a factor, but it's not the factor, which is what the  
7 union wants.

8 SPECIAL MAGISTRATE: Can you point to me in 13  
9 where you talk about that, that provision?

10 MR. CROSLAND: 13, four.

11 SPECIAL MAGISTRATE: 13, four?

12 MR. CROSLAND: Yeah, page 29, summer teaching, the  
13 last sentence. Summer teaching assignments shall be  
14 awarded to the best qualified candidate based on several  
15 factors, including academic experience, work experience,  
16 and, as she's already discussed, student success,  
17 retention, and completion rates.

18 SPECIAL MAGISTRATE: That's summer teaching. What  
19 about non-summer teaching?

20 MR. CROSLAND: Well, that's where we go to number  
21 eight.

22 SPECIAL MAGISTRATE: Extra teaching assignments.  
23 Okay.

24 MR. CROSLAND: And in the second paragraph, the  
25 same language.

1           SPECIAL MAGISTRATE: Okay, there it is. I see it.  
2 I looked at extra teaching assignment, and I didn't look  
3 for -- I was looking for non-summer, so to speak.

4           MR. CROSLAND: While we're on that, let me give  
5 you our position in a related area. There may have been  
6 some misconception or claims in the past. We're not  
7 trying to get rid of extra teaching assignments or  
8 overloads. It's just that, as Dr. Moore-Davis has  
9 explained with one of the previous slides, with some of  
10 these -- my term -- nonsensical assignments such as  
11 developing German and French courses, which we don't  
12 teach German or French here, but they got paid for who  
13 knows what. And there are several other examples there.

14           All we're trying to do is get a better management  
15 control, if that's not too strong a word, of how these  
16 assignments are given out, or approved, whatever word  
17 you want to use, and not just go back to the old system  
18 which is pretty much, as you saw from that slide,  
19 loosey-goosey. People just would get something, and  
20 they got it. And it had no productivity attached to it,  
21 necessarily, as she's already said. That's not the  
22 exact words --

23           SPECIAL MAGISTRATE: I see two issues here. And  
24 Tom, pay attention to this, please, and then I'll let --  
25 you can -- while we're having kind of an open discussion

1 on this, one is there's the issue of overloads, of just  
2 probably if we had the system that's proposed by the  
3 city -- the city -- the college -- though the union may  
4 even disagree with them, their intention is that would  
5 reduce extra assignments to some degree. Some were just  
6 used to fill in the spots.

7 And now you're raising an issue of the ability to  
8 better control the type of extra assignment, i.e. --

9 MR. CROSLAND: Make it more in line with student  
10 success.

11 SPECIAL MAGISTRATE: Yeah, in line with the  
12 program. In other words, a German class, for example,  
13 are bargaining unit people making those assignments,  
14 the faculty? I don't know your bargaining unit yet.  
15 Am I --

16 THE WITNESS: No, the faculty don't make those  
17 assignments.

18 SPECIAL MAGISTRATE: Well, who is making the  
19 German assignment, the German --

20 MR. WAZLAVEK: Thank you.

21 MR. CROSLAND: It's not that they haven't been --

22 SPECIAL MAGISTRATE: That probably was not a good  
23 example. I don't mean to be funny about that. The  
24 other issue is, there's these extra assignments; who  
25 establishes them?



1           MR. CROSLAND: Well, I'll let her speak to this,  
2 but I'll give you my version first, which I think is one  
3 of the problems you're dealing with, when you look at  
4 that list of assignments that were given out in the  
5 past, without regard to accountability or student  
6 success.

7           All we're trying to do is to make them more in  
8 line with the mission of the college, which is to  
9 deliver the best academic product, and use them  
10 economically, maybe, is the word.

11          SPECIAL MAGISTRATE: More effectively?

12          MR. CROSLAND: More effectively. Not eliminate  
13 them. And our own language doesn't eliminate them, and  
14 does take into account work experience and academic  
15 experience. Those are kind of words like seniority, you  
16 know.

17          MR. WAZLAVEK: Kind of in one hand and spit in the  
18 other.

19          SPECIAL MAGISTRATE: It is. It's an old question.  
20 Thank you. Sorry.

21          THE WITNESS: It's okay. Last but not least is  
22 class size. I know there's been several discussions  
23 about class size. The college took the position that it  
24 is not a subject of bargaining, so for my position as  
25 Provost I see it as an opportunity, an opportunity for

1 us to actually assess our current class sizes, to assess  
2 it based upon national and regional research, and to  
3 come up with best practices for student success.

4 We -- my goal, and I have to say the President's  
5 goal, as well, is to strategically decrease our class  
6 sizes without impacting student enrollment capacity.  
7 This aligns very closely with the community college  
8 mission and it aligns with on line, whether you're  
9 teaching on line or face-to-face.

10 We know that class size is important to  
11 instructional delivery, quality, and faculty innovation,  
12 all of these things that we actually support for our  
13 faculty. And we recognize that this is very important.  
14 It's important to our students, it's important to our  
15 faculty, but it's also important to the future of this  
16 institution.

17 MR. CROSLAND: Well, and it's on the slide, but  
18 let it be clear that our legal position is class size is  
19 not a mandatory subject of bargaining in Florida. We  
20 don't even have to talk about this, really.

21 MR. WAZLAVEK: Well, wait a minute, if you're  
22 going to take that stance, then we want the same equal  
23 treatment of waiver of grievances. You don't have a  
24 right to bring up this -- you're saying this is a  
25 permissive subject --

1 MR. CROSLAND: What do you mean, equal treatment?  
2 I don't know what you mean.

3 MR. WAZLAVEK: What do you mean, equal treatment?

4 MR. WAZLAVEK: Yeah, that's what I figured. Okay.

5 MR. CROSLAND: Are you equating that to a waiver  
6 on --

7 MR. WAZLAVEK: Well, what I'm saying is if you're  
8 saying it's permissive on your part to bargain that  
9 issue -- and it is, that's correct -- it's permissive on  
10 our part to bargain a waiver of a grievance.

11 MR. CROSLAND: That's your legal theory. That's  
12 not our theory.

13 MR. WAZLAVEK: That's not a theory. Hell, that's  
14 the case law.

15 MR. CROSLAND: Well, we'll discuss it in our  
16 brief.

17 MR. WAZLAVEK: Well, I guess you'll be discussing  
18 it in front of PERC.

19 MR. CROSLAND: Then we'll find out about two years  
20 from now who's right.

21 SPECIAL MAGISTRATE: For those in the room that  
22 are new, that was the riveting part.

23 MS. HEEKIN: Right.

24 MR. CROSLAND: It's all down hill from here.

25 MS. HEEKIN: That's funny.

1           SPECIAL MAGISTRATE: Exciting, here we go: 30  
2 years of doing this. Okay.

3           MS. HEEKIN: That's as exciting as it gets.

4           THE WITNESS: Okay, all right, just librarians and  
5 counselors, of course the college does not have  
6 counselors. The primary job of librarians is to work  
7 with students. We would like for librarians to continue  
8 their work with faculty. However, librarians have  
9 12-month contractual duties that align more with  
10 professional staff.

11           They certainly can have extra teaching  
12 assignments. However, there's only one course within  
13 the library division, and it averages about 35 students  
14 per semester. And that one course cannot be taught by  
15 nine people, so it is rotated. So their primary duty is  
16 not teaching, their primary duty is to serve students.  
17 It is an elective course. It is not within a program of  
18 study, and generally a low enrollment course.

19           So to equate them with teaching faculty, we  
20 believe that it does not align with teaching faculty and  
21 they are not the instructor of record. They do not  
22 assess student learning. They are not in the classroom  
23 except to collaborate with teaching faculty.

24           MS. HEEKIN: Hold on one minute. Could you go  
25 back one?

1           SPECIAL MAGISTRATE: Very quickly, you talked  
2           about this 12-month contractual agreement. That goes  
3           for both; I thought you said maybe just librarian but  
4           you were talking about earlier --

5           THE WITNESS: Yes, the college really doesn't have  
6           any counselors.

7           SPECIAL MAGISTRATE: Oh, okay. There's no  
8           counselors in the bargaining unit?

9           THE WITNESS: Well, they are, I think, a part of  
10          the bargaining unit -- correct me if I'm wrong --

11          SPECIAL MAGISTRATE: But no positions filled?

12          THE WITNESS: -- but we do not have any on staff.

13          SPECIAL MAGISTRATE: Okay.

14 BY MR. CROSLAND:

15          Q        I want to make sure one thing is clear, Doctor.  
16          I think you said that there are currently nine librarians, is  
17          that right?

18          A        No, we have the capacity to hire up to nine but we  
19          lost three in the last two years, so currently we have six, I  
20          believe.

21          Q        And so they only participate in this course you  
22          described once --

23          A        Sometimes it's once every two years.

24          Q        Once every two years?

25          A        Yes. Sometimes three, depending on how many

1 librarians we have on staff. And it is an on line course.

2 Q The union's position -- College 6 is Article 11,  
3 Mr. Milinski, and they are asking for continuing contracts,  
4 and I think we've explained why we don't want to do that.  
5 College 8 is our Article 13 on that issue.

6 To be honest with you, I don't remember whether we  
7 covered it, but for the librarians, the union asked that they  
8 be eligible for the extra teaching assignment, or overloads,  
9 if you wish. And our position is they should be paid at the  
10 adjunct rate as opposed to the faculty rate, because, as I  
11 and as Dr. Moore-Davis has just explained, we don't consider  
12 them teaching -- they are not teaching faculty.

13 SPECIAL MAGISTRATE: So are all overloads teaching  
14 assignments?

15 THE WITNESS: Yes.

16 SPECIAL MAGISTRATE: Okay. Go ahead.

17 THE WITNESS: Okay. Last but not least, we wanted  
18 to -- the college reserves the right to observe any  
19 class or enter any class at any time, regardless of  
20 modality. And the reason we state that is that  
21 sometimes there are issues that arise that we may need  
22 to enter a class immediately.

23 I have had students that went into a class -- for  
24 example, an on line class -- and they would come to my  
25 office -- I had five students come to my office and say

1 a faculty member hasn't -- there's nothing in the on  
2 line o- in our on line system for them, and they were  
3 concerned.

4 So I didn't know whether they had entered wrong,  
5 whether something had occurred on the college side, so I  
6 needed to enter that class to make sure that the faculty  
7 had set up the class, they had published the class, and  
8 that they were being responsive. Because an on line  
9 class is just a different modality. They still should  
10 be engaging students.

11 So there are times as a college we need to observe  
12 a class. We still want to respect the right of faculty  
13 when we are evaluating them, that they will be given  
14 notice that we will enter their classroom and/or observe  
15 them on line.

16 SPECIAL MAGISTRATE: Is this an issue, Tom?

17 MR. WAZLAVEK: Yeah, it is with faculty.

18 SPECIAL MAGISTRATE: This proposal?

19 MR. WAZLAVEK: Yes, yes, absolutely.

20 SPECIAL MAGISTRATE: Okay.

21 MR. CROSLAND: Okay, you have College 12?

22 MS. HEEKIN: Is it 15? Oh, College 12, I'm sorry.

23 You're correct.

24 BY MR. CROSLAND:

25 Q It's Article 15, College 12. Do you have that?

1           A       15?  Yes.

2           Q       The issue here, Mr. Milinski, is the very last  
3 paragraph, number six, under -- yeah, six.  And this is an  
4 issue of whether before an observation is performed for  
5 purposes of evaluating or assessing the faculty member's  
6 performance the union wants a week's notice before management  
7 can walk in the classroom.  You can see our proposal, which  
8 is crossed out.  It says the college reserves a right to  
9 observe any class at any time.

10                   I'm going to let Dr. Moore tell you why she thinks  
11 she should be able to go in the class at any time.

12           A       Well, based upon what I just mentioned, if there  
13 are student concerns, if there are student concerns sometimes  
14 it is a -- it could be a student that has issues with faculty  
15 or their delivery or they may be making some significant  
16 accusations against the faculty member, and then I would just  
17 observe the classroom unobtrusively, not to -- not for an  
18 evaluative purpose, but to just assess whether what was being  
19 stated has merit or not.  The faculty member would know and I  
20 would communicate to the faculty member why I was in that  
21 classroom if they needed to.

22                   We have had significant -- when I say significant,  
23 serious student complaints, in which we needed to enter a  
24 classroom or enter an on line class.

25           Q       Speaking of on line classes, look at College 13.



1 I will not ask her to testify about this, but I'll point you  
2 to number three, which is to show that the union has struck  
3 out our language, which is determination of class size for on  
4 line classes is at the discretion of the college. It's  
5 entirely consistent with state law. But to the issue at  
6 hand, I'll direct you, Mr. Milinski, to 4, C, Roman Numeral  
7 four, on page 52.

8 And would you explain, Dr. Moore-Davis, what a  
9 course shell is, and why it --

10 A Well, I don't have a page 52, but I can tell you  
11 what a course shell is.

12 MS. HEEKIN: Oh, it's Article 16. It's the  
13 union's proposal.

14 THE WITNESS: Okay.

15 SPECIAL MAGISTRATE: Second to the last page?

16 MS. HEEKIN: Correct.

17 THE WITNESS: Okay. When we approve an on line  
18 course, when we approve any course on the campus, there  
19 is a mirror of that course built on line. Not  
20 necessarily a mirror of it, but there is an on line  
21 shell built for Humanities 2020, for that particular  
22 section that the faculty member is using.

23 The faculty member can use it for communication,  
24 they can use it for discussion, and they can literally  
25 start to built their course, if they wanted to move on

1 line at some point in the future.

2 So the shell doesn't have significant content  
3 except just the basics, that this is course whatever,  
4 and the faculty member would have to go in and set it  
5 up.

6 BY MR. CROSLAND:

7 Q And why is it important that you be able to  
8 observe that at any time?

9 A Well, it's not so much the shell, but the course,  
10 that we want faculty -- that we want to be -- because it is a  
11 classroom, an on line class is -- I think of them as the same  
12 as a face-to-face class. We have standards of excellence for  
13 face-to-face classes and we have standards of excellence for  
14 on line classes.

15 Q Let me direct your attention to city -- county  
16 exhibit --

17 MS. HEEKIN: College?

18 BY MR. CROSLAND:

19 Q -- College Exhibit 13. You did it first. College  
20 13, Article 16, paragraph five, evaluation of on line  
21 faculty. This is another notice issue, correct, 5.A?

22 A Yes.

23 Q And the union wants a provision that the Dean must  
24 notify the faculty member at least 48 hours prior to entering  
25 an on line course. Do you object to that, and if so, why?

1           A       Okay, so it is their proposal that the -- that  
2 they'll be notified 48 hours in advance.

3           Q       You see the crossed out part. We say the Dean may  
4 enter the on line course --

5           A       At any time.

6           Q       -- as needed at any time, or at any time. They  
7 say 48 hours notice. What's your position on that?

8           A       I believe that it would be the same, again, for --  
9 the same as for the face-to-face class, that we should have  
10 the ability to enter at any time. But please note that we  
11 don't sit in our offices just waiting to enter a class. We  
12 are not doing that at all.

13                   However, if there are concerns that arise, we have  
14 to have the ability to go in and handle that issue without  
15 interrupting instruction.

16           Q       To kind of end the discussion, at least from our  
17 side -- you no doubt will see this in our brief -- this whole  
18 issue of notice or giving advance notice, I frankly find hard  
19 to comprehend. They are professional employees. They're  
20 highly educated people. That's a given. We know that and we  
21 appreciate it. But they are employees and there is  
22 management.

23                   The concept that management can't check on  
24 employees without giving notice is just a foreign concept, as  
25 far as I'm concerned. And that's going to be the college's

1 position. And one other point on College 13 is you'll see  
2 under workload, the same last page, it's above the one we  
3 were just talking about.

4 SPECIAL MAGISTRATE: Got it.

5 MR. CROSLAND: The union proposal says final  
6 approval of additional courses shall be assigned in the  
7 same manner as face-to-face classes as described in  
8 Article 6.07, faculty rights. And the only point there  
9 is just to remind you that 6.07 is the pure seniority.  
10 Just give us a second, please.

11 SPECIAL MAGISTRATE: Sure. Question: Would it be  
12 okay to take a break right now because we're going to do  
13 cross with her?

14 MS. HEEKIN: Absolutely.

15 SPECIAL MAGISTRATE: Let's do that.

16 MS. HEEKIN: We'll probably have a little left.

17 SPECIAL MAGISTRATE: Okay, let's take about a  
18 ten-minute break.

19 (Brief recess)

20 (CONTINUED IN VOLUME 2)

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