

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

TALLAHASSEE COMMUNITY COLLEGE
BOARD OF TRUSTEES,

VOLUME 3

and

Pages 257 through 338

UNITED FACULTY OF FLORIDA,
_____ /

PROCEEDINGS: IMPASSE HEARING

BEFORE: M. SCOTT MILINSKI
SPECIAL MAGISTRATE

DATE: Thursday, March 1, 2018

TIME: Commenced at 10:05 a.m.
Adjourned at 6:15 p.m.

LOCATION: Tallahassee Community College
Hinson Administration Building
Tallahassee, Florida

REPORTED BY: MICHELLE SUBIA, RPR, CCR
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13 and

14 MARTIN BALINSKY, TCC FACULTY REPRESENTATIVE
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24
25

I N D E X

WITNESS	PAGE
MARTIN BALINSKY	260
Direct Examination by Mr. Wazlavek	261
Cross Examination by Mr. Crosland	273
Further Direct Examination by Mr. Wazlavek	289

* * *

E X H I B I T S

UFF Exhibit No. 2 for identification	271
UFF Exhibit No. 7 for identification	328
UFF Exhibit No. 8 for identification	328
UFF Exhibit No. 9 for identification	329

PROCEEDINGS

(CONTINUED FROM VOLUME 2)

SPECIAL MAGISTRATE: Today is March 1st and the second day of our hearing, and the union is still proceeding, correct?

MR. WAZLAVEK: Correct. We're ready to pick up. What we're going to do is back up to Article 6, which is kind of where we left off, and run through -- I think we'll get to Article 13 and then we should pick back up where the administration was.

SPECIAL MAGISTRATE: Okay.

MR. WAZLAVEK: At this point, I would like to put Mr. Martin Balinsky on the witness stand.

SPECIAL MAGISTRATE: Okay. Just to remind you, you've already been sworn in, like some other witnesses today that have already been sworn in.

MR. BALINSKY: And we've got a 228.18. Should I start a list for today?

SPECIAL MAGISTRATE: Yeah, you can just draw a line.

MR. BALINSKY: Okay.

* * *

Thereupon,

MARTIN BALINSKY

1 was called as a witness, having been previously duly
2 sworn, was examined and testified as follows:

3 * * *

4 DIRECT EXAMINATION

5 BY MR. WAZLAVEK:

6 **Q Mr. Balinsky, would you please explain our**
7 **position on continuation of rights?**

8 A Continuation of rights, this is essentially
9 continuing any rights that previously existed with
10 faculty that are not specifically identified in the
11 CBA, simple items such as, for example, we currently
12 can go to the gym for free, and that will continue.

13 **Q So it's maintenance of standards clause?**

14 A Maintenance of standards clause, right.

15 **Q Okay. And would you talk about selection of**
16 **schedules by faculty, 6.02?**

17 A Yes. This was a major topic yesterday. And
18 we are very much committed to two items, not only
19 seniority, which I'll talk about in a minute, but also
20 first rights of refusal. That is current practice and
21 we believe very firmly in it.

22 The full-time faculty of the college have
23 received extensive interview and vetting, specifically
24 by the Deans and, therefore, are the members of the
25 bargaining unit that are most experienced in the

1 college, therefore, first right of refusal, we feel, is
2 best for students to have the first choice as long as
3 you meet the deadlines set by the Dean for extra
4 assignments and also for summer classes.

5 And I can go on and talk about seniority.

6 **Q Yeah, go ahead, let's talk about seniority.**

7 A Seniority is objective, seniority is clear,
8 there are clearly set rules. You do not have rewards
9 based upon individual preferences by the Dean. And it
10 also -- as we previously stated, it does protect those
11 that have been with the college longer and therefore it
12 protects against items such as age discrimination,
13 racial discrimination, and things such of that nature.

14 In addition, I noticed that in one of the
15 criteria on the college proposal, they indicated that
16 class assignments are partly based upon student
17 success. And when they were asked about that on how to
18 define student success, it was percentages of A's, B's
19 and C's. I feel that that represents a potential
20 danger of grade inflation if individuals realize that
21 they will be more likely to receive assignments based
22 upon more A's, B's and C's, then they may be more
23 inclined to grade inflate.

24 **Q All right. And the next section would be**
25 **right to privacy, 6.03. Would you please explain our**

1 **position on that?**

2 A Yes. Faculty have their own private lives
3 and we feel that we deserve to -- that should be
4 protected in our own individual lives to have our
5 privacy, our private lives, our individual separate
6 lives from the college need to be protected from
7 unreasonable levels of viewing of our private lives, I
8 would say.

9 **Q All right. And then surveillance equipment,**
10 **6.04?**

11 A Well, we certainly feel that we do not need
12 to be subject to surveilling, that our activities,
13 unless there is reasonable cause for investigation,
14 that there is no reason that we should be subjected to
15 surveilling within our offices and within our email
16 systems and communications and on our telephones. We
17 don't feel that that is appropriate.

18 And once again, if there's just cause that is
19 established, that's a different matter. But in the
20 regular course of matter, it would have a chilling
21 effect on our faculty if we were being surveilled for
22 everything that we are doing.

23 **Q And when you say "a chilling effect," you**
24 **mean chilling effect on a faculty member's willingness**
25 **to engage in concerted activity?**

1 A That is correct, I do mean that, yes.
2 Protected activity, it would have a chilling effect on
3 that. Individually in the classroom, if there was a
4 camera set up in every classroom, for example, we would
5 feel that that would be an unfair intrusion into our
6 teaching.

7 **Q And that would also -- our concern is also**
8 **about surreptitious surveilling through using cameras**
9 **in the -- or the audio equipment that's already in the**
10 **classroom?**

11 A Correct.

12 **Q All right. And then the next two, would you**
13 **talk about our proposal on legal assistance.**

14 A Yes. We feel that faculty, in the case where
15 there is a case being brought against them as a part of
16 their regular work duties, are entitled to legal
17 assistance by the college and to have attorney
18 representation and to be held harmless when a case is
19 made against the faculty member that is not accurate.
20 So just as they would for any other employee, a staff
21 member, an administrator, that they would protect us
22 just as well.

23 **Q And this is when faculty are engaged in their**
24 **official duties, right?**

25 A Yes, when engaged in official duties. We

1 understand when it's in the protected activities, that
2 that's handled in a different manner.

3 **Q All right. And then the big one, seniority.**
4 **Talk about the rationale for why we believe seniority**
5 **is so important in things like scheduling classes and**
6 **right of first refusals and layoffs.**

7 A Absolutely. Seniority is a clear and
8 objective it is a fair standard. It is not subject to
9 discretion by management. It does not subject itself
10 to lobbying and favoritism.

11 And in terms of seniority, as it's applied
12 broadly, even something such as layoffs, that we'll
13 talk about later, once again, as I stated, it protects
14 against age discrimination. And we'll get into this
15 with layoffs. But it's certainly cheaper to lay off
16 more senior faculty before more junior faculty, so that
17 protects against something of that nature. If you have
18 a seniority system, then you would not have age
19 discrimination and you would also not have higher
20 salary discrimination.

21 And it's clear it also rewards those who have
22 -- it protects those, actually, who have invested the
23 most into the college. It protects those who have
24 invested the most into the college. If they have
25 invested ten, 15 or 20 years of their own lives into

1 the college, then that should carry more weight than an
2 individual who has invested less time into the college
3 in regards to assigning of classes and in regards to
4 assigning of summer and overload classes, layoffs, and
5 other matters.

6 And as far as you mentioned, right of first
7 refusal, that is a current practice at the college that
8 members of the bargaining unit are afforded first
9 choice for classes before they are offered to members
10 outside of the bargaining unit. So we are only seeking
11 to continue that current practice. And once again, I
12 continue to reference Dr. Balog's presentation about
13 the excellence of TCC. The system appears to be
14 working very well for our students.

15 SPECIAL MAGISTRATE: Can I ask a
16 clarification question, Martin?

17 THE WITNESS: Yes.

18 SPECIAL MAGISTRATE: Just so I understand
19 seniority, seniority based upon date of employment
20 with this college?

21 THE WITNESS: I believe so.

22 SPECIAL MAGISTRATE: And when you say
23 "seniority," I know you've got different ranks,
24 but that's what you're talking about?

25 THE WITNESS: That is what I mean.

1 SPECIAL MAGISTRATE: Your date of hire?

2 THE WITNESS: That is absolutely what I mean.

3 SPECIAL MAGISTRATE: As a regular employee?

4 THE WITNESS: Yeah.

5 SPECIAL MAGISTRATE: Your date of hire as
6 your regular employee?

7 THE WITNESS: Yes.

8 SPECIAL MAGISTRATE: Okay.

9 THE WITNESS: And I heard arguments yesterday
10 made that --

11 SPECIAL MAGISTRATE: You might want to define
12 seniority. I don't know if everybody knows what
13 it is, or maybe it's as simple as that.

14 THE WITNESS: Date of hire at the college.

15 MR. WAZLAVEK: Right. And if you look
16 closely at 6.06, we talk about the following order
17 of rank, years in the rank and date of hire.

18 SPECIAL MAGISTRATE: Okay.

19 MR. WAZLAVEK: So you would have a full
20 professor, for instance, who would be more senior
21 to an associate professor. And you would also
22 then look within the full professor ranks who has
23 the -- for instance, who has the longest hire
24 date.

25 SPECIAL MAGISTRATE: Uh-huh.

1 MR. WAZLAVEK: So there are sort of levels
2 and sublevels to this.

3 SPECIAL MAGISTRATE: So it would be, for
4 example, if you're crossing different ranks, it's
5 by rank and date of hire?

6 MR. WAZLAVEK: Correct.

7 SPECIAL MAGISTRATE: So, for example, just so
8 I understand -- you already all know this -- I
9 have four professors, and this would be by
10 department, which we call it obviously, I've got
11 to be qualified to teach the history class versus
12 the -- I've got four professors, the most senior
13 there in that rank of professor would have the
14 most senior rights?

15 MR. WAZLAVEK: Correct.

16 SPECIAL MAGISTRATE: If I had those four
17 professors but there's an associate professor, is
18 it possible that that associate professor could
19 have more seniority?

20 MR. WAZLAVEK: He could have more seniority
21 in date of hire.

22 SPECIAL MAGISTRATE: Date of hire. That's
23 what I mean, in date of hire.

24 MR. WAZLAVEK: But less seniority in terms of
25 rank.

1 SPECIAL MAGISTRATE: Rank comes first, then
2 date of hire?

3 MR. WAZLAVEK: Years in rank, date of hire.

4 SPECIAL MAGISTRATE: Got it.

5 THE WITNESS: Yeah, it's generally tied
6 together because it goes by years of service. So
7 if you are an assistant professor, you would have
8 so many years of service and then associates, so
9 it tends to not be muddy in any way.

10 SPECIAL MAGISTRATE: Okay, I got it. It's
11 not just by date of hire, it's also by rank?

12 MR. WAZLAVEK: Correct.

13 THE WITNESS: Yes.

14 MR. WAZLAVEK: And years within that rank.

15 SPECIAL MAGISTRATE: Yeah.

16 MR. WAZLAVEK: So you could have somebody
17 who -- out of those four professors, you could
18 have somebody who --

19 SPECIAL MAGISTRATE: Within rank, yes.

20 MR. WAZLAVEK: Longest, and they would be
21 most senior.

22 SPECIAL MAGISTRATE: Uh-huh.

23 MR. WAZLAVEK: And they might even -- well,
24 like Mr. Balinsky said, it would be difficult to
25 have that out of order because you have to have so

1 many years in each rank to advance to the next
2 rank.

3 SPECIAL MAGISTRATE: Okay. Yeah.

4 MR. WAZLAVEK: So that sort of sets the time
5 frames up.

6 SPECIAL MAGISTRATE: Okay. I figured that's
7 how it was.

8 MR. WAZLAVEK: Yeah.

9 SPECIAL MAGISTRATE: You all know that. I
10 wanted to make sure.

11 THE WITNESS: Sure. Of course.

12 BY MR. WAZLAVEK:

13 **Q All right. Mr. Balinsky, if you'll talk a**
14 **little bit about use of summer assignments to build**
15 **extra summer assignments. Some of this, of course, is**
16 **tied to the bigger issue of workload and reassignment.**

17 A Sure. So first right of refusal, which does
18 mean that, once again, that the class is offered to a
19 member of the bargaining unit before it's offered to
20 those outside the bargaining unit, provided that the
21 faculty meets the deadline established by the Dean for
22 submitting their request for the extra or the summer
23 assignment. And that is the current practice at the
24 college.

25 **Q All right. And then I guess we'll go ahead**

1 **and enter these as an exhibit.**

2 SPECIAL MAGISTRATE: Details processed for
3 applying for extra summer assignments is the
4 current practice? What you said, that's also a
5 current practice?

6 THE WITNESS: Yes.

7 MR. WAZLAVEK: Okay. And what I had listed
8 there as Exhibit 2, we had to change that, that
9 was yesterday's Exhibit 5, Union's Exhibit 5.

10 SPECIAL MAGISTRATE: Thank you.

11 (UFF Exhibit No. 2 was marked for
12 identification.)

13 BY MR. WAZLAVEK:

14 **Q And last but not least then is Article 6.**

15 A Administrative procedure outlines that.

16 **Q Right. That's why we got that in there?**

17 A Yes.

18 **Q And last but not least, in this particular**
19 **article we have personnel files. Would you please**
20 **explain the rationale for our proposal there?**

21 A Yes. Faculty need to have free and open
22 access to their own personnel file. It is their
23 business. They deserve to know exactly what is in
24 their personnel file. They need to know the contents
25 of the file. They need to know if any information

1 about them related to evaluations is present in the
2 file, if there's any complaints, emails, or letters
3 from students that are in the file.

4 And they also need to have the right to not
5 have any anonymous material in the file. Anonymous
6 material, as described in our article, is not
7 permissible in the file according to our proposal. And
8 that is also current practice, because there's no way
9 to authenticate the originator of the material.

10 **Q All right.**

11 MR. WAZLAVEK: That's all we have for
12 Article 6.

13 SPECIAL MAGISTRATE: One question real quick.

14 MR. WAZLAVEK: Yes, sir.

15 SPECIAL MAGISTRATE: Everything here in 6.08
16 is current practice that you're proposing?

17 MR. WAZLAVEK: As far as I understand it,
18 yes.

19 THE WITNESS: Yes. If I walked down to HR, I
20 would be able to have access to my personnel file
21 currently without cost.

22 SPECIAL MAGISTRATE: Okay. Thank you.

23 MR. WAZLAVEK: We rest on six.

24 MR. CROSLAND: Do you want us to cross?

25 SPECIAL MAGISTRATE: I think that's probably

1 a good way to do this.

2 MR. CROSLAND: We can do it right now.

3 MR. WAZLAVEK: Yeah, let's go ahead and do
4 that.

5 MR. CROSLAND: Just very little cross. I'll
6 state our position and ask Martin a few questions
7 maybe.

8 EXAMINATION

9 BY MR. CROSLAND:

10 Q On 6.01, the maintenance or benefits of past
11 practice clause.

12 A I'm sorry, can we go back to 6.01?

13 Q Yes.

14 A But I know what you're talking about, so you
15 can start.

16 Q It's no question that this type of clause
17 does appear in some contracts?

18 A Uh-huh.

19 Q A lot of them. It also doesn't appear in --
20 does not appear in a lot of them, especially the ones I
21 negotiated -- assisted with.

22 MR. CROSLAND: But, seriously, this is a
23 first contract. Our position is the faculty
24 desired to unionize, that's absolutely their
25 right. We have to bargain in good faith. I think

1 both sides have. But we don't see a necessity to
2 put such a clause in the agreement.

3 Our position is whatever they want within the
4 four corners of this eventual contract, that they
5 should ask for it and negotiate for it, some
6 they'll get, some maybe they won't get through
7 this whole process. But we just are not inclined
8 to say whatever else you had in the past you've
9 got.

10 The other problem with these types of clauses
11 is we don't know what we're agreeing to. I've had
12 instances in the past where these clauses have
13 been invoked by unions and they'll say -- and I'm
14 probably going to come up with something silly
15 here -- but, well, we have this clause in the
16 contract and then in years past you had pink
17 toilet paper in the bathrooms instead of green
18 toilet paper. I'm trying to be funny with that
19 one. But we don't even know what the union will
20 allege to be a prior benefit and we're just
21 reluctant to put that in there. If they want
22 something, ask for it. You may get it, you may
23 not.

24 MR. WAZLAVEK: We don't care about the color
25 of the toilet paper, we just care that it's soft.

1 MR. CROSLAND: Stipulated.

2 MS. HEEKIN: And just, for instance, the gym
3 example, it's in our Article 24, access to
4 facility.

5 THE WITNESS: Well, it's wellness, access to
6 facility.

7 MS. HEEKIN: Yeah, access to the gym.

8 MR. CROSLAND: No, not wellness.

9 MS. HEEKIN: Access to the gym.

10 MR. CROSLAND: He said wellness.

11 THE WITNESS: But wellness is also in our
12 proposal.

13 MR. CROSLAND: I thought it was dropped.

14 MR. WAZLAVEK: No, I think it's still in our
15 proposal, but we'll get to it.

16 MS. HEEKIN: I think the 90 minutes is
17 dropped.

18 MR. WAZLAVEK: Yeah, the 90 minutes is
19 dropped, right.

20 MS. HEEKIN: And certainly the college
21 offers, I guess, wellness programs, but it's not
22 necessarily the same type every time. So what do
23 you mean by that? What wellness program is it
24 that you guys want? I mean, you have access to
25 whatever everybody else in the college has access

1 to with respect to that, but they might change.

2 MR. WAZLAVEK: The issue at hand is
3 maintenance of standards. And certainly we
4 understand the administration's point about, you
5 know, frivolous benefits and claims of benefits
6 and privileges. That's really not what that
7 language was intended to address. It's intended
8 to address those rights and privileges that
9 faculty have enjoyed up to now.

10 And, you know, just because we didn't cover
11 it in the contract doesn't mean it needs to go
12 away. And that language would prevent individual
13 managers from saying, oh, we're not doing that
14 anymore because you don't have that in your
15 contract.

16 MR. CROSLAND: Well, individual managers are
17 not going to set policy for this. It depends on
18 the level of them. VP's, yes. Not necessarily
19 other people. Anyway, that's our position on
20 that.

21 6.02, if you want to put it up.

22 MR. WAZLAVEK: Yeah, I am.

23 MR. CROSLAND: Okay. There's two issues
24 here. As I said at the start of the hearing, it
25 is the college's clear position that we do not

1 want to consider seniority for any purpose in this
2 agreement. As far as course schedules are
3 concerned, that's already addressed in one of our
4 proposals about selection of courses. We have a
5 counter on that, you'll have to look at that.
6 First choice on schedule assignments, same thing,
7 we have a counter on that, and we're simply not
8 breaking those.

9 Now, I understand they feel strongly about
10 this, but, again, I emphasize it's a first
11 agreement. We're not going all the way the first
12 shot out of the box.

13 Now, Martin mentioned grade inflation. He
14 may well have a heartfelt opinion on that, but
15 whether that results in grade inflation or not, it
16 seems to me this is an issue that's a management
17 decision as to whether the grading system -- what
18 impact it would have.

19 Now, the faculty may have thoughts on that
20 and may even offer their opinions. That seems to
21 me something that would be more likely to be
22 discussed in an academic setting like in the
23 faculty center or something.

24 THE WITNESS: Well, it's in your proposal and
25 you defined as success rates as A's, B's and C's

1 that's the basis for selection of extra
2 assignments.

3 MR. CROSLAND: You're right, it is. I'm
4 simply saying that I believe that's in the purview
5 of management to make that call, whether that's a
6 proper way to measure student success.

7 Right to privacy. We feel this is an
8 unnecessary infusion of a variety of legal issues
9 into a collective bargaining agreement. The
10 issues that Martin has related to us are covered
11 by Title 7, the Florida Civil Rights Act, there's
12 a county law on this, the Leon County Human
13 Resources or Human Rights Ordinance. These are
14 First Amendment issues, potentially. And I
15 believe there's also a college policy 03-01 that
16 covers this.

17 They don't need to be protected in these
18 areas by a labor agreement. There is a plethora
19 of federal, state, and local ordinances and laws
20 that cover this. If a faculty member feels that
21 they've been discriminated against based on race
22 or age or religion or any of the other protected
23 categories, there's the courts for that, charges
24 of the courts. We don't think it needs to be in
25 the agreement.

1 I believe the next one was the surveillance
2 equipment.

3 MR. WAZLAVEK: Just one quick question about
4 right to privacy. You're not taking a position
5 that it's not a term and condition of employment
6 to be negotiated, you're just saying you don't
7 want to negotiate it, you want it in the contract?

8 MR. CROSLAND: Well, I'll give you an honest
9 answer. I don't know whether the term "right to
10 privacy" is a mandatory subject of bargaining or
11 not. I'm not saying it's not. It might be. I've
12 never researched it. But to answer your question,
13 even if it is, we don't want to put it in the
14 agreement.

15 MR. WAZLAVEK: That's kind of what I was
16 trying to get you to say, Jim.

17 MR. CROSLAND: If someone truly felt they
18 were being discriminated against on the basis of
19 one of the protected categories, why would they
20 want to file a grievance over it where the
21 remedies are limited to backpay and benefits and
22 reinstatement as opposed to court where you can
23 get zillions of dollars, maybe, or all sorts of
24 remedies.

25 MR. WAZLAVEK: Or maybe not.

1 MR. CROSLAND: Or maybe not, because you win
2 them and you lose them. But we just don't need
3 that in a labor agreement.

4 On the surveillance issue, there are no such
5 surveillance systems in place now as far as I
6 know.

7 THE WITNESS: Can I mention something related
8 to that?

9 MR. CROSLAND: Yes, of course.

10 MR. WAZLAVEK: Just wait a minute.

11 MR. CROSLAND: I don't care.

12 MR. WAZLAVEK: Go ahead. Do you have some
13 information to share about surveillance?

14 THE WITNESS: I do. On the previous
15 published materials for attorney invoices for
16 Tallahassee Community College, there was a memo
17 dated June 2nd, 2016 in which the college explored
18 the legality of wiretapping. I believe it was
19 with Crabtree Knox & Andrews. It was one of the
20 law firms.

21 MR. CROSLAND: That's the college's general
22 counsel.

23 THE WITNESS: College's general counsel.

24 MR. CROSLAND: Not us.

25 THE WITNESS: Right, not your law firm. The

1 college explored that. There is a memo relating
2 to exploration of surveillance, whether it is
3 legal to wiretap employees at the college. That's
4 the rationale why faculty has some concerns about
5 that.

6 MR. CROSLAND: If nothing else, it shows that
7 the college is smart enough to figure out what
8 they can and they can't do, rather than just going
9 ahead and doing it.

10 THE WITNESS: Right.

11 MR. WAZLAVEK: And when did the union begin
12 its organizing effort on campus?

13 THE WITNESS: Okay. So the timing of the
14 memo is June the 2nd, 2016. The union turned in
15 the cards to PERC on May 6th of 2016. So the
16 organizing efforts, we were in the middle of
17 organizing efforts at that time. The election was
18 announced the last two or three days of June of
19 2016. So June 2nd would have fallen right in the
20 middle of the time when UFF was organized to
21 attempt to bring a collective bargaining chapter
22 on campus.

23 MR. WAZLAVEK: The college has already
24 decided it would like to look into whether or not
25 it can wiretap and monitor people's phones.

1 MR. CROSLAND: Okay. Well, that's not true
2 and we're going to tell you what that memo was
3 about.

4 Do you know?

5 MS. HEEKIN: Yeah, it was about the -- you've
6 read the memo, right?

7 THE WITNESS: Yes.

8 MS. HEEKIN: It was about the help desk for
9 student calls and whether they could be taped for
10 quality control purposes, correct?

11 THE WITNESS: Okay.

12 MS. HEEKIN: So it has nothing to do with
13 taping phone calls between faculty members,
14 correct?

15 THE WITNESS: Well, you explored --

16 MS. HEEKIN: Just a shrug?

17 THE WITNESS: You were exploring the legality
18 of wiretapping, and that is exploring the legality
19 of wiretapping.

20 MS. HEEKIN: Okay.

21 MR. CROSLAND: But we're telling you what it
22 was about.

23 MS. HEEKIN: Which you agreed to.

24 THE WITNESS: Which I agreed that that's what
25 it was about?

1 MS. HEEKIN: Yeah, about the help desk.

2 THE WITNESS: I didn't necessarily agree that
3 that's what it was about.

4 MS. HEEKIN: Okay. You said, yes, that you
5 had read the memo. Have you read the memo?

6 THE WITNESS: Yeah, I read the memo that it
7 had to do with exploratory wiretapping of
8 individuals.

9 MS. HEEKIN: And that's all you remember
10 about it? You don't remember the context of it,
11 any different type of context in which wiretapping
12 could be used or not used, all you remember is
13 that's what it was about, correct?

14 THE WITNESS: If you explore wiretapping, you
15 explore wiretapping, correct?

16 MS. HEEKIN: Okay. Great. That's all.

17 MR. CROSLAND: Maybe you should go work with
18 Robert Mueller or something.

19 THE WITNESS: Right. Okay.

20 MR. CROSLAND: He can tell you all about it.

21 THE WITNESS: But faculty did have a concern
22 when they saw that on the attorney invoice, that
23 that was looked into.

24 MR. CROSLAND: Okay. We're welcome to let
25 you read it again if you want to.

1 The next one is 6.05, legal assistance.
2 There's a Florida Statute on this. There's
3 general liability laws, but there's also a
4 specific Florida Statute 1012.85 on this. And we
5 can provide it for you, Mr. Balinsky, if you want.

6 Also, the issue of whether in a given lawsuit
7 that the college will defend itself and a faculty
8 member, for example, jointly, or whether it will
9 advise there's a need for conflict counsel, or
10 whether in some circumstances it's not going to
11 defend the faculty member, depending on what's
12 alleged to have been done and what the facts are
13 available to the college at the time is a purely
14 legal and factual situation. This is a blanket
15 guarantee we're going to defend faculty at all
16 circumstances. That's not the obligation of the
17 college.

18 And in any event -- and this is my final
19 point on this -- the legal advice to the college
20 in a given case will come from the college's
21 general counsel's firm, not us. General counsel
22 is going to have to advise the college in each
23 individual case what to do.

24 MR. WAZLAVEK: And we'll note that if you
25 read the actual proposal, that it covers those

1 issues.

2 MR. CROSLAND: With all due respect, Tom, it
3 can't cover all the issues that arise in these
4 types of lawsuits.

5 MR. WAZLAVEK: Well, I think the language is
6 broad enough where it certainly puts the faculty
7 member on notice that there may be conflicts of
8 interest with the college's interests and, you
9 know -- it's understood and agreed that any
10 attorney employed by the college will be obliged
11 to represent the college's interests and that a
12 conflict of interest may exist or arise between
13 codefendants in any legal proceedings. I mean, I
14 think that's --

15 MR. CROSLAND: Okay. I didn't think of it,
16 but Denise pointed out that this also involves
17 rules of the Bar, of the Florida Bar.

18 MR. WAZLAVEK: Well, that's for you guys to
19 worry about.

20 MR. CROSLAND: Yeah, but it's also for the
21 college's attorney to worry about at the time.
22 All I'm pointing out -- it's not any kind of
23 signal being sent that we won't defend any college
24 employee in the right circumstances. But the fact
25 is in all public employment sometimes employees

1 are not defended by the employer.

2 MR. WAZLAVEK: And our language, I think,
3 addresses that possibility.

4 MR. CROSLAND: Okay. We have an agreement,
5 so you can drop your proposal.

6 MR. WAZLAVEK: Nice try, Jim.

7 MR. CROSLAND: 6.06, I don't want to spend
8 anymore time on this.

9 MR. WAZLAVEK: Oh, come on.

10 MR. CROSLAND: You know our position on that.

11 6.07, the same thing. Assignment to extra
12 paid teaching assignments and assignment to -- the
13 summer assignments are covered in our
14 counterproposals.

15 Personnel file, 6.08. There was a Florida
16 Statute on this 1012.81 and a State Board of
17 Education Rule 6A-14 -- I can't read my own
18 writing -- 08. It's either one or seven. They're
19 not too far apart. Denise will provide them for
20 you. I believe under --

21 MS. HEEKIN: It's Florida Administrative Code
22 6A-14.047.

23 MR. CROSLAND: Oh, .047?

24 MS. HEEKIN: Yes.

25 MR. CROSLAND: Okay. Once again, if an issue

1 arose, the college's attorney would be consulted.
2 But we know there are certain things in college
3 personnel files that are excluded from view by the
4 public. And we think the statute -- there's a
5 specific statute and rule on this and we think
6 they adequately addressed the issues. And things
7 like medical records we'll keep separate. We
8 comply with the statute.

9 Was that the last one on six?

10 MR. WAZLAVEK: That is.

11 MS. HEEKIN: That is.

12 MR. CROSLAND: So that's our input on six.

13 MR. WAZLAVEK: All right. Our next
14 article --

15 MR. CROSLAND: Wait, I have one other
16 question.

17 MR. WAZLAVEK: Sure.

18 BY MR. CROSLAND:

19 **Q Martin, you talked about 6.04, the**
20 **surveillance issue?**

21 A Yeah. Can you go back to that?

22 **Q And Tom asked you -- you've spoken in general**
23 **about it and then Tom asked you your concern to be not**
24 **under surveillance. Would that include protected**
25 **activity?**

1 A Certainly.

2 MR. WAZLAVEK: Absolutely.

3 BY MR. CROSLAND:

4 Q Okay. Are you telling me that faculty would
5 be engaged in union or concerted protected activity in
6 the classroom with students? Are you talking union
7 business or soliciting for a union or in any way
8 talking about matters covered by Chapter 447?

9 A No.

10 Q Well, why are you concerned about being
11 protected from surveillance on that if you're not going
12 to do it in the classroom?

13 MR. WAZLAVEK: Because there's a campus
14 around the classroom.

15 MR. CROSLAND: That wasn't the question,
16 though. It was in the classroom. It's a minor
17 point.

18 MR. WAZLAVEK: Okay.

19 MR. CROSLAND: Thank you.

20 THE WITNESS: Thank you.

21 MR. WAZLAVEK: Jim, are you all done on six?

22 MR. CROSLAND: On six, yeah.

23 MR. WAZLAVEK: This is just 30 seconds.

24 That's the same issue that we've been raising all
25 along about the waiver of our right to grieve.

1 Again, we assert that the PCP proposal is a waiver
2 of our right to grieve any and all terms and
3 conditions of the limit. We insist on retaining
4 our right. It's the same stuff.

5 And I think we covered this yesterday, I
6 believe, but it's the same issue. We believe that
7 the way that the college -- the college proposal
8 essentially would negate and make null and void --
9 how the heck did that happen?

10 (Telephone interruption.)

11 MR. WAZLAVEK: Sorry folks.

12 MR. CROSLAND: Are you through with that?

13 MR. WAZLAVEK: Yeah, I'm through with it. Do
14 you want to address any of it?

15 MR. CROSLAND: No, we've addressed it. We
16 don't need to hash this one over.

17 MR. WAZLAVEK: All right. We're at Article 9
18 then.

19 MS. HEEKIN: I think we went through a lot of
20 this yesterday.

21 FURTHER DIRECT EXAMINATION

22 BY MR. WAZLAVEK:

23 Q Mr. Balinsky, would you explain our proposal
24 and faculty working conditions and workloads in
25 Article 9 and particularly the definitions in 9.01?

1 A Yeah. 9.01 essentially defines the -- as it
2 states, exactly what the contact hour is, what the
3 evening assignment entails and what a duty day is.

4 **Q Okay. And the definition of an evening**
5 **assignment?**

6 A An evening assignment, I believe, is 4:30 or
7 later on. The contact hour is -- it was 50 minutes
8 within the classroom. And then the duty day, we had
9 some conversations yesterday that defines what the duty
10 day is as well.

11 **Q All right.**

12 SPECIAL MAGISTRATE: Do the duty day thing
13 for me real quick again.

14 THE WITNESS: Okay. Duty day, there are --
15 according to both proposals, I believe 169 duty
16 days. So every teaching day is not necessarily a
17 -- or, I'm sorry, every duty day is not
18 necessarily a teaching day. There are some
19 teacher preparation days and so on. So there are
20 some days where you're not teaching that's outside
21 of your assignment.

22 SPECIAL MAGISTRATE: Okay. That's current
23 practice?

24 THE WITNESS: Yeah, it is. Yeah, we have
25 teacher preparation --

1 SPECIAL MAGISTRATE: I guess what I'm trying
2 to say is the definitions you are proposing are
3 current definitions in practice?

4 THE WITNESS: Yes.

5 SPECIAL MAGISTRATE: At least in your view?

6 THE WITNESS: Yeah. The total number of
7 contact days, they proposed a higher amount than
8 we currently have, and we have accepted that. But
9 it is current practice.

10 And, for example -- I'll give you an
11 example -- a duty day that's not a teaching day
12 would be the Wednesday before Thanksgiving at
13 present. So if you miss that day, you have to
14 sign out, for example, even though there's no
15 classes held on the Wednesday before Thanksgiving.

16 SPECIAL MAGISTRATE: I was wondering why the
17 issue comes up, why it's important. It's
18 considered a workday?

19 THE WITNESS: Yeah.

20 SPECIAL MAGISTRATE: Even though you're not
21 in the classroom?

22 THE WITNESS: Correct.

23 SPECIAL MAGISTRATE: So if it's a teacher
24 prep day and no classrooms and you don't show up,
25 you didn't show up for a workday?

1 THE WITNESS: Right.

2 SPECIAL MAGISTRATE: So you could get
3 approved leave of some time, whatever?

4 THE WITNESS: Correct.

5 BY MR. WAZLAVEK:

6 Q Okay. Explain our proposal on compensation
7 for overload hours.

8 A So compensation for overload hours, that
9 simply notes that if you do go over the 40 hours, that
10 you are correctly compensated.

11 Q Okay.

12 A I believe there was some discussion on this
13 yesterday as well.

14 Q Right. The overload rate is defined in
15 Article 23, correct?

16 A Correct. Yes. That is correct.

17 Q All right. And then the college's favorite
18 subject, standard workload.

19 SPECIAL MAGISTRATE: Can I ask one more
20 question?

21 MR. WAZLAVEK: Yes, sir.

22 SPECIAL MAGISTRATE: Is what you're proposing
23 on the overload hours, 40 hours, different from
24 what you do now? Not you, the parties do with
25 respect to --

1 THE WITNESS: Right.

2 SPECIAL MAGISTRATE: Is it current practice?

3 THE WITNESS: If you went over 40 hours
4 currently?

5 SPECIAL MAGISTRATE: Yes.

6 THE WITNESS: I don't really know of any
7 examples to cite from current practice.

8 SPECIAL MAGISTRATE: Okay.

9 THE WITNESS: You know, it seems logical if
10 you go over 40 hours. It's hard to answer your
11 question because I don't know of any instances.

12 SPECIAL MAGISTRATE: That even makes it more
13 difficult for me to understand it.

14 THE WITNESS: Well, I think the basic logic
15 is if you go over in terms of hours, if you're
16 asked to perform four extra hours of whatever,
17 service or professional development, then you
18 should be compensated for that.

19 SPECIAL MAGISTRATE: So it's -- how do I say
20 this? I'm trying to put it in -- the 40 hours is
21 in a week?

22 THE WITNESS: Yes.

23 SPECIAL MAGISTRATE: So I have my normal
24 class schedule. And how does that equate with the
25 40 hours?

1 THE WITNESS: Okay. So that I -- it may be
2 upcoming, but we have reached somewhat close on --
3 with the other side relating to the workweek. I
4 think we're fairly much in agreement on that. So
5 I'll define it for you.

6 It's a 25 required hours on campus, which is
7 class plus office -- or class schedule plus office
8 time. There's some variations related to distance
9 education, but that's the basic concept. And then
10 15 hours are divided into service, devising,
11 professional, development.

12 MS. HEEKIN: And just for reference, if you
13 want to look at the document, it's Article 13,
14 Section 3.

15 SPECIAL MAGISTRATE: What would be a good
16 exhibit to look at?

17 MS. HEEKIN: I'm sorry, Article 13 would be
18 College 8, which has our proposal and the union's
19 proposal, so you can see whether there's any
20 differences.

21 SPECIAL MAGISTRATE: Okay.

22 MS. HEEKIN: I'll wait until you get there,
23 that way you can read it.

24 SPECIAL MAGISTRATE: I guess, real quickly, I
25 don't know what the differences are. And I just

1 heard you state -- and I'm not going to hold you
2 to it if it's otherwise -- we're pretty much in
3 agreement on that.

4 MS. HEEKIN: Yeah.

5 SPECIAL MAGISTRATE: Is this an issue we're
6 not agreeing on, the 40 hours?

7 MS. HEEKIN: Exactly.

8 THE WITNESS: You mean the overload part?

9 SPECIAL MAGISTRATE: Yes.

10 THE WITNESS: The overload pay?

11 SPECIAL MAGISTRATE: Yeah.

12 THE WITNESS: Yeah, that is in dispute.

13 MR. CROSLAND: I have to jump in here. He's
14 right, overload -- the right to be paid for
15 so-called overloads is in dispute.

16 SPECIAL MAGISTRATE: Sure. The rate and this
17 definition of -- this threshold here of 40 hours.

18 MR. CROSLAND: But in our view, overload
19 rates and whether you get an overload or not has
20 got nothing to do with working more than 40 hours
21 a week. These people are not truck drivers,
22 they're not teamsters, for example, they don't
23 clock in and out. They're exempt under the Fair
24 Labor Standards Act. They don't get extra money
25 for working 40 hours and one minute.

1 SPECIAL MAGISTRATE: So this is something
2 where the parties are not in agreement on? And I
3 think I have a better understanding of it now.

4 THE WITNESS: Yeah.

5 SPECIAL MAGISTRATE: Okay. That helped me.

6 THE WITNESS: Good.

7 SPECIAL MAGISTRATE: Got it.

8 BY MR. WAZLAVEK:

9 **Q All right. Workloads. This is the standard?**

10 A Yeah, we did that.

11 **Q Is there anything you want to add to that?**

12 A No, we spent a lot of hours on that
13 yesterday, I think.

14 MR. CROSLAND: We can agree on that.

15 THE WITNESS: I think we can agree on that.

16 I mean, that we spent lots of hours on it.

17 BY MR. WAZLAVEK:

18 **Q Okay. I think we've already discussed this**
19 **one, too. We didn't really talk about that. Explain**
20 **our proposal on faculty members serving as program**
21 **chairs or lead faculty.**

22 A Okay. Faculty members serving as program
23 chairs or lead faculty. What this is is it designates
24 the duties of those individuals, it discusses exactly
25 what those duties are to be. It sets the conditions as

1 it states.

2 And what this does is this clearly defines,
3 for the sake of objectivity and fairness, exactly what
4 your duties are as program chair. And this is taken
5 from current practice.

6 **Q All right. And then substitute teaching?**

7 A Substitute teaching, establishes conditions
8 for faculty to substitute teach. If you are
9 substituting for another individual who is out, they
10 have to take leave; therefore, it is only reasonable
11 that you are compensated for covering that class.

12 There is a difference in opinion regarding
13 our proposal and the college's proposal in that their
14 proposal states that you have to be teaching -- you
15 have to be covering as a substitute two consecutive
16 classes in order to be compensated at all, that
17 essentially --

18 SPECIAL MAGISTRATE: Who is saying that?

19 THE WITNESS: The college proposal is stating
20 that. So essentially what that means is you're
21 doing the first one for free, even though that
22 individual who is not there has got to take some
23 form of leave. So we don't feel that that's
24 equitable.

25 MR. CROSLAND: Well, when you say he's got to

1 take leave, you don't mean the college is making
2 him take leave, you mean the professor wants the
3 leave?

4 THE WITNESS: Right, the professor takes
5 leave. So the individual that is covering that
6 professor that's taking leave for whatever reason
7 is not compensated. Essentially they are being
8 asked to do the substitution for free.

9 SPECIAL MAGISTRATE: Can I paraphrase it and
10 either one of you can correct me?

11 THE WITNESS: Yes.

12 SPECIAL MAGISTRATE: My nonuniversity
13 language, substitute teaching is when a teacher is
14 absent in a class and another teacher comes in and
15 covers during that class?

16 THE WITNESS: That is correct.

17 SPECIAL MAGISTRATE: Okay. The teacher can
18 be absent for a lot of reasons. The issue is
19 they're absent and someone else performs that
20 teacher's duties?

21 THE WITNESS: Correct.

22 SPECIAL MAGISTRATE: The college is saying
23 that you get paid on the second class?

24 THE WITNESS: Correct.

25 SPECIAL MAGISTRATE: You're saying you should

1 be paid for all subs?

2 THE WITNESS: Correct.

3 SPECIAL MAGISTRATE: Got it.

4 THE WITNESS: We are in agreement in -- both
5 proposals are in agreement on a different point,
6 which is that you may substitute one for the other
7 without compensation, that, for example, if I
8 cover -- Bob teaches oceanography and earth
9 science and I teach the same. If I cover for Bob
10 and then Bob covers for me a week later, then
11 everything is fine. And we are both in agreement
12 on that.

13 SPECIAL MAGISTRATE: Tradeoffs are okay?

14 THE WITNESS: Tradeoffs are okay.

15 SPECIAL MAGISTRATE: That's not the right
16 language, I'm sure.

17 MR. CROSLAND: Shift swapping.

18 THE WITNESS: There you go, shift swapping.

19 MR. WAZLAVEK: It doesn't cost the employer
20 anything.

21 MR. CROSLAND: Do you have your paramedic
22 license?

23 THE WITNESS: No, I sure don't. You do not
24 want me to treat people who are hurt. That would
25 be bad.

1 MR. WAZLAVEK: Jim, do you have anything you
2 want to cross on that?

3 MR. CROSLAND: No.

4 SPECIAL MAGISTRATE: Okay. One other
5 question, just so I know, is there an issue that
6 the pay is compensated the overload rate between
7 the parties? I see that there.

8 MS. HEEKIN: I'm sorry, what?

9 SPECIAL MAGISTRATE: Is there an issue with
10 the college on the compensation for the sub --

11 MS. HEEKIN: Yes.

12 SPECIAL MAGISTRATE: That's not an issue?

13 MS. HEEKIN: No, it is not currently the
14 overload rate.

15 SPECIAL MAGISTRATE: So that's an issue also?

16 MS. HEEKIN: It is an issue, yes. There is a
17 rate for substitute teaching in our proposal which
18 I believe they had agreed to. But when we get to
19 wages, we'll look at it.

20 MR. WAZLAVEK: Okay.

21 MS. HEEKIN: Yeah, there's a separate chart
22 in there for substitute.

23 MR. WAZLAVEK: Yeah, I think I know what --
24 when we get there, we'll --

25 MS. HEEKIN: Yeah.

1 SPECIAL MAGISTRATE: Okay. Spaghetti.

2 Go ahead.

3 THE WITNESS: That was all for that.

4 SPECIAL MAGISTRATE: I can't ask that
5 question in another week.

6 BY MR. WAZLAVEK:

7 **Q All right. So talk about health care**
8 **division instructional faculty.**

9 A Okay. Yes. So our proposal -- and this was
10 discussed a little bit yesterday as regarding the 180
11 contact hours per semester. Just to take that at a
12 slow pace, what that means is we are proposing that
13 they, as a normal load, would teach four classes. The
14 point was made yesterday that the statute states five
15 classes with the allowable exception for other duties
16 as approved by the President.

17 So our statement is that health care faculty
18 do clinicals, they do externships, they do internships.
19 Sometimes they're there late at night during the
20 weekday, sometimes they work on weekends. They work
21 with students on simulation models. There's a lot of
22 individual attention that goes into their instruction;
23 therefore, we feel that it's appropriate for them to
24 fit into, if we're discussing the loading formula, the
25 same type of reassign time that non-health care

1 division faculty are entitled to.

2 SPECIAL MAGISTRATE: Health care division
3 faculty is what type of class?

4 THE WITNESS: What type of class?

5 SPECIAL MAGISTRATE: Yes.

6 THE WITNESS: Nursing, radiologic technology,
7 paramedic, surgical technology studies. I think
8 that's it. Oh, dental hygiene, dental assisting.
9 That covers most of them.

10 SPECIAL MAGISTRATE: So what your proposal
11 here is just dealing with, at least at 9.02, is
12 health care only?

13 THE WITNESS: That is correct.

14 SPECIAL MAGISTRATE: Dealing with --

15 THE WITNESS: 9.02 is --

16 SPECIAL MAGISTRATE: -- and their schedule?

17 THE WITNESS: Yes. The way that we have our
18 article organized is we have it by different
19 sections. That's why there were some discussions
20 yesterday about repetition of duty days. That was
21 where they came from in those different sections,
22 so that was why he had it that way.

23 But, anyway, that's a different point. But,
24 yes, we do have -- health care division faculty is
25 a separate section, as is the library faculty, as

1 is the counselor faculty, separate from the other
2 teaching faculty.

3 SPECIAL MAGISTRATE: So help me out here.
4 Article 23 is an article just on health care?

5 THE WITNESS: No.

6 MR. CROSLAND: No.

7 THE WITNESS: Article 23 is wages.

8 SPECIAL MAGISTRATE: Okay. Good.

9 THE WITNESS: Yeah.

10 SPECIAL MAGISTRATE: Got it.

11 THE WITNESS: Okay. Good.

12 SPECIAL MAGISTRATE: I see. I was trying to
13 -- I didn't have a title on Article 23, and you
14 said to treat them separately so I just wanted to
15 make sure.

16 THE WITNESS: That helps to put the spaghetti
17 back together a little bit.

18 SPECIAL MAGISTRATE: Yes.

19 THE WITNESS: So the overload rate is the
20 overload rate for everyone. We believe that it
21 doesn't matter if you're a full-time teaching
22 faculty that is not in health care, if you are a
23 health care faculty, if you are a library faculty,
24 the same work is the same work, so why would you
25 not pay that faculty member the same overload

1 rate?

2 SPECIAL MAGISTRATE: So the crux of this is
3 that regardless of the field, I guess you would
4 say, the department, overload rates are the same
5 for everybody?

6 THE WITNESS: Yes. And the overload rate is
7 only in dispute on the library faculty, to be
8 clear.

9 SPECIAL MAGISTRATE: Okay.

10 THE WITNESS: Their proposal is for --

11 SPECIAL MAGISTRATE: So what's the issue here
12 then, health care?

13 THE WITNESS: Well, I mean, the actual
14 overload rate, I should say, is in dispute, to be
15 totally accurate.

16 SPECIAL MAGISTRATE: Okay.

17 THE WITNESS: But the concept of who gets
18 overload rates, we believe that library faculty
19 should be given the same rate as everyone else.

20 SPECIAL MAGISTRATE: This is health care.

21 THE WITNESS: And they believe that -- I
22 know. I'm just saying that overload rate is the
23 same for the health care faculty as the regular
24 teaching faculty.

25 SPECIAL MAGISTRATE: Is that how it is now?

1 THE WITNESS: Yes.

2 SPECIAL MAGISTRATE: Okay. It's current
3 practice. They have something different?

4 THE WITNESS: What's that?

5 SPECIAL MAGISTRATE: They have a different
6 proposal or you just want what is in the contract,
7 180?

8 THE WITNESS: Oh, yes, they have a different
9 proposal. That is correct.

10 SPECIAL MAGISTRATE: Okay. That helps,
11 because they have got something different?

12 THE WITNESS: Yes.

13 SPECIAL MAGISTRATE: So you want current
14 practice?

15 THE WITNESS: Yes.

16 MR. WAZLAVEK: And would you take a minute --

17 THE WITNESS: Their overload rates are tied
18 to clock hours, too, as well, but that's
19 delineated.

20 I'm sorry, Tom.

21 BY MR. WAZLAVEK:

22 Q Well, I was just going to ask you to explain
23 a little bit about why we believe that 180 contact
24 hours is the appropriate number for health care
25 faculty.

1 A Because of their internships, externships,
2 because they have to be at the hospital at odd hours of
3 the night. It's very intensive if you are -- for
4 example, over here we have the dental hygiene clinic.
5 What they have over there is they have actually
6 students come in and they give them -- it's for free,
7 it takes about three or four hours -- but they give
8 them free health care for their teeth, dental assisting
9 and dental hygiene.

10 Well, the reason it takes a long time is that
11 the students are actually learning as they are working
12 on the individuals' mouths. Well, there's a lot of
13 supervision involved. You've got to have a number of
14 different safety parameters in place. There's a lot of
15 work. It's very, very intensive.

16 And they have got to be trained for office
17 emergencies, if something goes wrong. They've got to
18 be trained for nitrous oxide. And then they've got to
19 be carefully watching exactly what goes on. So those
20 are the types of things. They may have fewer students
21 than other areas of the college, but they've got very
22 intensive and critical safety-related work.

23 SPECIAL MAGISTRATE: Okay. Thank you. That
24 helped me.

25 BY MR. WAZLAVEK:

1 **Q All right. Let's talk about the library**
2 **faculty normal duties.**

3 A Right. So library faculty, our article lays
4 out the library faculty's current duties and describes
5 what their duties are and describes what -- essentially
6 what their duties are to be and sets the workweek at 40
7 hours. We're in agreement there. One and a half hours
8 per week for a wellness program is permissible.

9 And because of their different hours than the
10 rest of the college, we describe that they have the
11 possibility for different schedules than a regular 8:00
12 to 5:00. And we also believe the time spent taking
13 college required coursework is and should be counted as
14 part of their work time. If the college is making them
15 do the coursework for whatever reason, to help them in
16 their job, then it should be part of their 40 hours.

17 **Q Okay.**

18 SPECIAL MAGISTRATE: I'm going to ask one
19 question.

20 THE WITNESS: Let me write this down.

21 SPECIAL MAGISTRATE: Coursework. In other
22 words, this coursework is what?

23 THE WITNESS: The coursework that they might
24 take?

25 SPECIAL MAGISTRATE: Yes.

1 THE WITNESS: Anything that the college may
2 require them to take. It's sort of open-ended.
3 If they needed to take something --

4 SPECIAL MAGISTRATE: Is he going someplace
5 else to take a class?

6 THE WITNESS: Not necessarily. They could be
7 taking it here.

8 SPECIAL MAGISTRATE: I mean, give me an
9 example of what a librarian could take as a
10 course.

11 THE WITNESS: If they needed to update their
12 knowledge on, perhaps, library science.

13 SPECIAL MAGISTRATE: Okay. So its coursework
14 is training?

15 THE WITNESS: Yes.

16 SPECIAL MAGISTRATE: Is this mandatory? I
17 mean, the college says you will go do this
18 coursework?

19 THE WITNESS: Yes, it's mandatory.

20 SPECIAL MAGISTRATE: It's mandatory?

21 THE WITNESS: Yes.

22 SPECIAL MAGISTRATE: Okay. I'm good.

23 THE WITNESS: Yeah, required is mandatory.

24 BY MR. WAZLAVEK:

25 Q You covered it?

1 A Yeah, I think we got it. And we're going to
2 talk about the continuing contract issue for library
3 separately, correct?

4 **Q Yeah.**

5 A Okay. Then I won't go there yet.

6 **Q And then explain our position here.**

7 A Yeah. So we do have a difference in opinion
8 as stated.

9 **Q Sorry.**

10 A That's fine. The concept of -- even if our
11 overload rates may be different, that's a matter for
12 the wage Article 23.

13 Conceptually our point is that library
14 faculty, if they are teaching a class, they should be
15 paid at the overload rate, just as if they were
16 nonlibrary faculty.

17 **Q Because I think --**

18 A I mean, it's just fairly logical.

19 **Q And I believe that the administration's**
20 **proposal is to pay at the adjunct rate?**

21 A Yes. And I guess my question would be why
22 would that work be worth less than if I was teaching
23 the same class?

24 **Q Okay.**

25 MR. CROSLAND: It's because we don't consider

1 them teaching faculty.

2 THE WITNESS: Well, we're going to get into
3 that, but they do actually teach.

4 MS. HEEKIN: Yeah, we talked about that
5 yesterday.

6 MR. CROSLAND: We've already covered this.

7 THE WITNESS: Well, we have our side on that,
8 too, though. We'll talk about it.

9 SPECIAL MAGISTRATE: Well, I'm going to talk
10 about it a little bit here.

11 THE WITNESS: Go ahead.

12 SPECIAL MAGISTRATE: What's teaching a class
13 mean?

14 THE WITNESS: Well, essentially it could be
15 teaching a --

16 SPECIAL MAGISTRATE: Is it at the library or
17 is it going someplace else?

18 THE WITNESS: It's going someplace else,
19 yeah.

20 SPECIAL MAGISTRATE: Okay.

21 THE WITNESS: It is teaching -- they teach
22 LIS 2004, which is introduction to information
23 literacy. They teach approximately two to three
24 total classes, not per faculty member, but per the
25 library folks' total.

1 UNIDENTIFIED VOICE: No, they don't.

2 THE WITNESS: They do teach two to three per
3 semester. I've gotten this information directly
4 from the library.

5 SPECIAL MAGISTRATE: Is that per librarian?

6 THE WITNESS: I'm sorry?

7 SPECIAL MAGISTRATE: Is that each librarian?

8 THE WITNESS: No, not each librarian, but as
9 a unit.

10 SPECIAL MAGISTRATE: So every semester
11 there's one or two or three classes that these
12 librarians teach?

13 THE WITNESS: Yes.

14 SPECIAL MAGISTRATE: How do you work out how
15 they assign the time? You think when they do
16 that, that should be considered paid at the
17 overload rate?

18 THE WITNESS: Yes.

19 SPECIAL MAGISTRATE: And the university is
20 saying that's really not teaching on the overload,
21 it's not an overload scenario, it's an adjunct
22 professor scenario and that's the rate of pay?

23 THE WITNESS: Yes. And we got that
24 information directly from the library faculty as
25 far as how many they teach.

1 SPECIAL MAGISTRATE: Okay. How many is a
2 factor, but the question is what's the rate of
3 pay?

4 THE WITNESS: Right. The rate of pay is --
5 in the current practice, actually they are not
6 currently paid. It is considered part of their
7 regular duties, so we are essentially proposing a
8 change to current practice in that regard. And we
9 feel that it's fair because they're doing that
10 work.

11 SPECIAL MAGISTRATE: That leads me to a
12 clarification here. If they're not currently
13 paid, then you're offering pay?

14 THE WITNESS: Yes, we are offering pay.

15 SPECIAL MAGISTRATE: You decided to offer pay
16 for it?

17 MS. HEEKIN: Yeah.

18 SPECIAL MAGISTRATE: But they didn't get
19 paid. The dispute is over the amount?

20 THE WITNESS: Yes. And we appreciate that
21 they are offering pay, we're just offering the
22 overload rate.

23 SPECIAL MAGISTRATE: Got it.

24 THE WITNESS: They also -- just in terms of
25 establishing them as teaching faculty, they are

1 qualified to teach student life skills, LSL. That
2 is a course that does not require -- I think it
3 requires a Bachelor's. I believe that is the
4 qualification. So I believe that any of our
5 faculty can actually teach that course, are
6 qualified to it, or almost all.

7 So the library faculty would be qualified to
8 teach that. So if they're asked to teach that
9 course, we do not really understand why that would
10 be at the adjunct rate.

11 SLS 1510, which is college success skills.

12 SPECIAL MAGISTRATE: So it's for any teaching
13 assignment?

14 THE WITNESS: For any teaching assignment,
15 yes.

16 SPECIAL MAGISTRATE: We've got what they do,
17 but any others that come along?

18 THE WITNESS: Yes.

19 SPECIAL MAGISTRATE: Okay.

20 THE WITNESS: And this is more related to
21 them as being legitimate as library teaching
22 faculty. They also go to individual classes as
23 they teach information literacy in portions of
24 their classes sometimes.

25 SPECIAL MAGISTRATE: That happens now?

1 THE WITNESS: Yes.

2 SPECIAL MAGISTRATE: So if I'm a librarian --
3 and I don't know much about librarians, other than
4 they kicked me out of the library a few times
5 many, many years ago for good reason -- I'm a
6 librarian, I'm at the library, and today I go over
7 to a class and teach something about whatever,
8 related to what I do. Right now that's not
9 additional compensation?

10 THE WITNESS: Right, it is not at the moment.

11 SPECIAL MAGISTRATE: It's not. You want to
12 make that additional compensation or --

13 THE WITNESS: Yes.

14 SPECIAL MAGISTRATE: So they would come over
15 and leave the library facility and go to a
16 classroom setting --

17 THE WITNESS: Correct.

18 SPECIAL MAGISTRATE: -- on their normal work
19 schedule to teach a class?

20 THE WITNESS: Correct.

21 SPECIAL MAGISTRATE: You're asking that they
22 be paid in addition to -- how would they be paid?

23 THE WITNESS: They would be paid at the
24 overload rate.

25 SPECIAL MAGISTRATE: The overload rate. And

1 that's in addition to their other duties?

2 THE WITNESS: Yes.

3 SPECIAL MAGISTRATE: So it's kind of like an
4 assignment is an overload for them?

5 THE WITNESS: Yes.

6 SPECIAL MAGISTRATE: Okay.

7 THE WITNESS: Correct.

8 SPECIAL MAGISTRATE: Got it. Sorry. I don't
9 even know how important that is, but this is my
10 chance to ask.

11 MR. CROSLAND: Not very, I don't think.

12 MR. WAZLAVEK: No, it's an important point.

13 SPECIAL MAGISTRATE: Librarian is important.

14 BY MR. WAZLAVEK:

15 **Q All right. Counseling faculty.**

16 **A** Okay. This describes the responsibilities of
17 counseling faculty. And similarly to the library
18 faculty, it establishes a 40-hour workweek.
19 Flexibility of scheduling, because there are times when
20 students are registering and things are very, very busy
21 and they need to be able to have flexibility to work
22 longer hours and then compensate for lesser hours. So
23 this allows for such flexibility for them to work in
24 order to meet the needs of our students.

25 SPECIAL MAGISTRATE: Can I ask a question, go

1 back?

2 MR. WAZLAVEK: Yes.

3 SPECIAL MAGISTRATE: Sorry.

4 MR. WAZLAVEK: It's all right.

5 SPECIAL MAGISTRATE: I know this isn't
6 riveting for everyone, so to speak. It
7 establishes a 40-hour workweek. That's what they
8 have now. Don't they have something like a
9 40-hour workweek?

10 MS. HEEKIN: We don't even have them.

11 THE WITNESS: Right, at the present time.

12 MS. HEEKIN: We have no counselors.

13 THE WITNESS: However, they're in the unit.

14 SPECIAL MAGISTRATE: Oh, that's counseling?

15 MS. HEEKIN: Yes.

16 SPECIAL MAGISTRATE: That's right. Not
17 librarian, counselor.

18 MS. HEEKIN: They're in the unit. We have no
19 current counselors.

20 THE WITNESS: That is correct.

21 MS. HEEKIN: We haven't had them for several
22 years, I believe.

23 DR. MOORE-DAVIS: Right.

24 THE WITNESS: About two.

25 SPECIAL MAGISTRATE: But it's a

1 classification in the bargaining unit?

2 MS. HEEKIN: It is.

3 THE WITNESS: Yes.

4 SPECIAL MAGISTRATE: Okay. So if you had a
5 counselor today, they would have a 40-hour week?

6 MS. HEEKIN: Yes.

7 THE WITNESS: Yes.

8 SPECIAL MAGISTRATE: That's no change?

9 THE WITNESS: That's no change.

10 SPECIAL MAGISTRATE: Okay. Flexibility in
11 scheduling of the work, is that a change or what
12 does that mean?

13 THE WITNESS: That's not changed to current
14 practice. What that means is if there's times
15 when you have registration, there's windows. I
16 believe the college's window will be opening March
17 the 26th for the fall registration. So that would
18 be a time when they would be a lot busier. That's
19 when students have got to get their classes and
20 get in.

21 SPECIAL MAGISTRATE: So that would then say
22 I'm going to work in the evening then, for
23 example?

24 THE WITNESS: Right. Yes.

25 SPECIAL MAGISTRATE: Okay. It allows them to

1 go from the day hours, to maybe move into the
2 evening hours for that day, for that week?

3 THE WITNESS: That is correct.

4 MR. WAZLAVEK: Or come in on a Saturday.

5 SPECIAL MAGISTRATE: Okay. You mean they
6 couldn't do that the other way?

7 THE WITNESS: It just describes the model.
8 It makes it clear.

9 SPECIAL MAGISTRATE: Okay. Got it.

10 THE WITNESS: Okay. Counseling faculty.
11 Once again overload rates should they teach a
12 class. Some of our counselors would -- in the
13 past, because we haven't had one for a couple of
14 years -- but they were qualified. I can name one,
15 for example, to teach classes. And once again,
16 our logic dictates overload rates make sense for
17 them.

18 SPECIAL MAGISTRATE: When's the last time you
19 guys had a counselor?

20 THE WITNESS: We had one retire about two
21 years ago.

22 SPECIAL MAGISTRATE: Two years ago?

23 DR. MOORE-DAVIS: She wasn't actually a
24 counselor because her role actually changed to
25 international services, so we haven't had a

1 counselor for about five years.

2 SPECIAL MAGISTRATE: Okay.

3 THE WITNESS: But she was considered a
4 faculty counselor, that was her title.

5 DR. MOORE-DAVIS: Yes, she was considered,
6 because we didn't change the title. But her role
7 changed over the last five years to international
8 services director.

9 MS. HEEKIN: She retired two years ago.

10 SPECIAL MAGISTRATE: Okay. So if you brought
11 a counselor back -- and I understand the union is
12 concerned, we've got a bargaining unit position,
13 there's no one there, but we still need to -- they
14 want to know how they're going to be treated, the
15 same or differently or whatever.

16 MS. HEEKIN: Correct me if I'm wrong, but we
17 would treat them the same as librarians. It would
18 be a similar -- they would have a 12-month
19 contract. It would be similar work, 40 hours a
20 week. If they taught a class, it would be at the
21 adjunct rate.

22 SPECIAL MAGISTRATE: That helps me
23 understand. Thanks.

24 MS. HEEKIN: Right?

25 DR. MOORE-DAVIS: Yes.

1 SPECIAL MAGISTRATE: Thank you.

2 THE WITNESS: Extended summer assignment. So
3 counseling faculty would be able to work 210 clock
4 hours. And that simply delineates that, that they
5 would have the opportunity for extended summer
6 assignment given that students are also
7 registering for classes during various summer
8 terms at various junctures in the summer, such as
9 at the beginning of the summer, such as the
10 beginning of another six-week term, so on and so
11 forth.

12 SPECIAL MAGISTRATE: So this basically says
13 -- well, they work year -- they don't work
14 year-round, do they?

15 THE WITNESS: Actually, I believe they were
16 on an 11-month contract.

17 SPECIAL MAGISTRATE: Eleven month?

18 THE WITNESS: Yes.

19 SPECIAL MAGISTRATE: What does this "Will
20 work 210 clock hours mean"?

21 THE WITNESS: That means -- so that is the
22 extended summer assignment. I guess if you count
23 up the number of hours during the regular term
24 and --

25 SPECIAL MAGISTRATE: It's extra hours?

1 THE WITNESS: Well, it's extra time.

2 SPECIAL MAGISTRATE: Extra time?

3 THE WITNESS: It takes the regular school
4 year and it pushes on into the summer so they can
5 have an extended assignment.

6 SPECIAL MAGISTRATE: Okay. So that means
7 that would allow them to work during the summer,
8 12 months? Is that what we're talking about?

9 THE WITNESS: Eleven months.

10 SPECIAL MAGISTRATE: Okay.

11 THE WITNESS: Eleven total months.

12 SPECIAL MAGISTRATE: Okay. And they don't do
13 that now?

14 THE WITNESS: Well, there isn't one.

15 SPECIAL MAGISTRATE: Okay.

16 THE WITNESS: They're correct on that in that
17 the international adviser retired two years ago.
18 And then previously, as far as actual counselors,
19 was about five years prior.

20 SPECIAL MAGISTRATE: And how would they be
21 compensated for that?

22 THE WITNESS: For summer work hours?

23 SPECIAL MAGISTRATE: I mean, they're not
24 doing it for free.

25 THE WITNESS: I don't know how that was

1 because it's been so long.

2 SPECIAL MAGISTRATE: Okay.

3 THE WITNESS: I wish I did, but I don't know.

4 SPECIAL MAGISTRATE: Okay. Got it.

5 MR. WAZLAVEK: I think they are just
6 basically paid at their daily rate.

7 SPECIAL MAGISTRATE: Okay.

8 MR. WAZLAVEK: They have an established daily
9 rate and it's just a matter of getting paid all
10 the way through 11 months.

11 SPECIAL MAGISTRATE: Okay.

12 THE WITNESS: This lays out essential duties
13 and responsibilities of faculty on nonteaching
14 duty days. Not particularly in dispute.

15 BY MR. WAZLAVEK:

16 Q Right. Well, that goes back to your question
17 earlier about defining nonteaching days. This is that
18 section?

19 A Yeah.

20 Q All right. Now, this came up yesterday.
21 It's 9.06 about office tasks. So explain what that
22 language is referring to.

23 A Yes. This is to prevent faculty from being
24 asked on a volunteer basis to perform office tasks for
25 free. And we did yesterday make reference to a

1 specific case where some faculty were requested by
2 their Dean to essentially work the office for a few
3 days because they were hiring an office person -- this
4 was like almost exactly today last year -- that person
5 was not coming in -- actually, that person was not
6 arriving until March 1 of last year. So the last week
7 or two of February, they were asked to fill in as for
8 office tasks. So this prohibits faculty from being
9 required to do that.

10 **Q So when we talk about office tasks, what are**
11 **we referring to?**

12 A I'm talking about working the front desk,
13 answering the phones, meeting students when they come.
14 That is exactly what they were asked to do.

15 **Q In other words, doing receptions, clerical?**

16 A Correct.

17 **Q Administrative assistant type work?**

18 A Yes. Office referring to the front office.

19 MR. CROSLAND: For a couple of days under the
20 circumstances when things were changing?

21 THE WITNESS: About three or four days they
22 were asked to do that, yes.

23 MR. CROSLAND: And that was a great problem?

24 MS. HEEKIN: That one time?

25 THE WITNESS: They're busy. They've got a

1 lot of work to do. They've got students. They've
2 got their duties. Is that the best for student
3 success, to have our folks to have to man the
4 front office?

5 MR. CROSLAND: Got a couple of classes to
6 teach and a bunch of reassignments, right?

7 THE WITNESS: Anyway.

8 SPECIAL MAGISTRATE: Got it.

9 BY MR. WAZLAVEK:

10 Q And then last but not least in Article 9.

11 A Okay. Yeah, this simply provides a process
12 by which the faculty may apply to teach in other
13 disciplines. There are cases where individuals have
14 multiple degrees. They have a degree in another area.
15 As long as it is agreeable with both divisions, then
16 both faculty members -- I'm sorry, not both faculty
17 members -- then the faculty member may teach in both
18 divisions as long as it's agreeable to both divisions
19 and fits within their work schedule. I don't think
20 we're particularly in dispute over this item.

21 SPECIAL MAGISTRATE: Is this a current
22 practice?

23 THE WITNESS: It is a current practice, yes.

24 SPECIAL MAGISTRATE: Okay.

25 MS. HEEKIN: Well, I think if you look at the

1 parties, the college has an Article 13 and union
2 has -- I'm sorry, Article 18 -- and the union has
3 an Article 18 that covers this very issue. So I
4 don't know why it needs to be in Article 9. I
5 think putting language in, just like the
6 nonteaching days, several different places in a
7 contract just calls for interpretation disputes.

8 MR. WAZLAVEK: Yeah, I don't think we're at
9 odds. I think this is just a matter of that
10 language in nine was kind of buried in there. You
11 had come up with the division transfers late in
12 the game, didn't you? Wasn't that kind of a late
13 proposal? But anyway, we'll take a look at that
14 language.

15 MS. HEEKIN: Okay.

16 MR. WAZLAVEK: And see if we can resolve that
17 one.

18 SPECIAL MAGISTRATE: Okay.

19 MR. WAZLAVEK: Anything else, Mr. Balinsky?

20 THE WITNESS: No.

21 MR. WAZLAVEK: Cross?

22 MR. CROSLAND: No.

23 MR. WAZLAVEK: All right. We're going to
24 move on to the next article then.

25 SPECIAL MAGISTRATE: Can we take a ten-minute

1 break?

2 MR. WAZLAVEK: Sure.

3 MR. CROSLAND: Yes.

4 (Whereupon, a recess was taken.)

5 BY MR. WAZLAVEK:

6 Q We shall move to the next article. And we
7 talked about this some yesterday, but this is kind of
8 our official response, I suppose.

9 Mr. Balinsky, would you talk about annual and
10 continuing contracts for librarians and counselors?

11 A Yes. So this matter is in dispute. I
12 believe -- or I think I did hear -- and it may have
13 been in error -- I think I heard Mr. Crosland saying
14 yesterday something to the effect of librarians are not
15 faculty. And I'm not sure if you meant it that they're
16 not currently faculty or just that you do not believe
17 that they're faculty.

18 But they are currently faculty at the college
19 and they do teach classes. But they have been
20 faculty -- they have been considered to be faculty for
21 approximately six years, and that is currently what
22 they do. They are helpful to the teaching faculty in
23 their disciplines. They're assigned to work with those
24 divisions as a singular liaison to that division
25 providing considerable support for a lot of the

1 coursework in there.

2 Q Okay. And you will find in your packet that
3 Exhibit 6 and 7. And TCC has that packet as well. And
4 those two documents are the State Board of Education
5 rule that provides for continuing contract and TCC's
6 policy on the same. And in those, the faculty -- and I
7 think librarians are specifically mentioned, right?

8 A I've reviewed both of those, and there's
9 nothing that precludes the State Board of Education
10 rule for library to be faculty.

11 MS. HEEKIN: So are we going to renumber
12 seven and eight, because I've got UFF 6 was the
13 presentation?

14 MR. WAZLAVEK: I was about -- that's fine.
15 You want to make them seven and eight instead of
16 six and seven?

17 MS. HEEKIN: Well, that way we only have one.

18 MR. WAZLAVEK: Okay.

19 SPECIAL MAGISTRATE: I have TCC faculty
20 teaching load and class. Is that what you're
21 talking about, Union 6?

22 MS. HEEKIN: Union 6, right, is the
23 presentation, TCC presentation.

24 SPECIAL MAGISTRATE: Yeah, presentation.

25 MS. HEEKIN: So seven will end up being their

1 State Board of Education Rule 6A-14.0411.

2 MR. WAZLAVEK: Right.

3 SPECIAL MAGISTRATE: Where is that in here?

4 MR. WAZLAVEK: It should be in your binder
5 the very back tab.

6 SPECIAL MAGISTRATE: Okay. Florida Statute
7 what?

8 MR. WAZLAVEK: It was a state board rule.

9 SPECIAL MAGISTRATE: Okay.

10 MS. HEEKIN: It's listed as Exhibit 6 on that
11 list of exhibits in the back behind four.

12 SPECIAL MAGISTRATE: Six is the presentation
13 for me.

14 MS. HEEKIN: Correct. Behind the Tab 4 is
15 the list.

16 SPECIAL MAGISTRATE: Okay.

17 MS. HEEKIN: So if you look on that list,
18 it's listed as Exhibit 6, it's now going to be
19 seven.

20 SPECIAL MAGISTRATE: Okay.

21 MS. HEEKIN: And then what's listed as
22 Exhibit 7, the Policy 05-02, is now going to be
23 UFF 8.

24 SPECIAL MAGISTRATE: Okay. Got it.

25 (UFF Exhibit Nos. 7 and 8 were marked for

1 identification.)

2 THE WITNESS: So the State Board of Education
3 rule does not say anything precluding library from
4 being full-time faculty and TCC policy 05-02 is
5 the same.

6 SPECIAL MAGISTRATE: Question.

7 MR. WAZLAVEK: Yes, sir.

8 SPECIAL MAGISTRATE: Real quick. As you see,
9 I'm asking the same question. Can you go back
10 one?

11 MR. WAZLAVEK: Sure.

12 SPECIAL MAGISTRATE: Obviously you've had
13 librarians for a while. What's the current
14 practice?

15 MR. WAZLAVEK: The current practice is
16 they're eligible to continue.

17 SPECIAL MAGISTRATE: In other words, your
18 position is current practice, no change?

19 THE WITNESS: Correct. They are attempting
20 to remove something they currently have.

21 SPECIAL MAGISTRATE: Okay. Go ahead.

22 MR. WAZLAVEK: All right. That's really -- I
23 think that's all of Article 11. We'll introduce
24 that. That should be Exhibit 9 instead of
25 Exhibit 8.

1 (UFF Exhibit No. 9 was marked for
2 identification.)

3 BY MR. WAZLAVEK:

4 **Q But this is a list of -- I'm sorry,**
5 **Mr. Balinsky, will you please identify the document?**

6 A Yes. This is a survey that was taken, data
7 gathered from around the state by our library faculty
8 regarding whether the librarians are considered faculty
9 at other colleges and not faculty at other colleges. I
10 believe that, quote, in the newspaper Mr. Crosland
11 stated that they were attempting to simply bring the
12 position of librarian in line with the rest of the
13 state as not faculty. However, as the data indicates,
14 that it is more common for them to be faculty than to
15 be not faculty around the community college system, at
16 least in our state.

17 MR. WAZLAVEK: And that will be Exhibit 9,
18 like I said.

19 SPECIAL MAGISTRATE: Got it.

20 BY MR. WAZLAVEK:

21 **Q This is the same issue of the grievance**
22 **waiver issue, right?**

23 A Right.

24 MR. WAZLAVEK: Cross?

25 MR. CROSLAND: No.

1 MR. WAZLAVEK: We're at 13. I think we've
2 pretty much kind of gone through 13.

3 MR. CROSLAND: Can we go back to 11, please?

4 MS. HEEKIN: It's Exhibit 9, the survey.

5 MR. WAZLAVEK: I'm too far ahead. You want
6 Article 9, you said?

7 MS. HEEKIN: The one with the survey,
8 Exhibit 9, UFF Exhibit 9.

9 SPECIAL MAGISTRATE: You were one step away
10 from it, I think, or two.

11 MR. CROSLAND: I'm just trying to confuse
12 you, Tom.

13 MR. WAZLAVEK: Well, it doesn't take much.

14 MS. HEEKIN: I have a question. Where you
15 have Santa Fe, that was one of those Aspen
16 winners, right?

17 THE WITNESS: Yes.

18 MS. HEEKIN: What does that "not applicable"
19 mean?

20 THE WITNESS: It means no data.

21 MS. HEEKIN: You don't know whether --

22 THE WITNESS: No.

23 MR. WAZLAVEK: -- they're considered faculty
24 or not?

25 THE WITNESS: Yeah, we didn't get data from

1 those individuals.

2 MS. HEEKIN: Okay. But the other Aspen
3 school was Valencia, right?

4 THE WITNESS: Right.

5 MS. HEEKIN: And they're not faculty there,
6 correct?

7 THE WITNESS: Right.

8 SPECIAL MAGISTRATE: Hold on a second. I
9 don't have that. Here it is.

10 MR. WAZLAVEK: It's the slide.

11 SPECIAL MAGISTRATE: I misnumbered there.

12 MS. HEEKIN: Okay. That's it. Thank you.

13 THE WITNESS: You're welcome.

14 SPECIAL MAGISTRATE: I'm glad you brought
15 that up because I misnumbered it.

16 MS. HEEKIN: One more question. So on that
17 list you have St. Pete was not applicable. You
18 didn't have data on that?

19 THE WITNESS: We didn't have data on that.

20 MS. HEEKIN: Are you aware that PERC has
21 issued an order saying that they're excluded from
22 the faculty bargaining unit?

23 THE WITNESS: I'm aware there's an issue with
24 library faculty at St. Pete College, yeah. That's
25 a pretty good issue down there.

1 MS. HEEKIN: Okay.

2 THE WITNESS: I'm not familiar with the PERC
3 order, but I'm familiar that that's a big
4 contention at St. Pete.

5 MS. HEEKIN: Okay.

6 MR. CROSLAND: Well, it's not an issue
7 anymore. They're out.

8 MS. HEEKIN: Yeah, PERC issued an order
9 excluding them from the bargaining unit. But
10 that's okay, we can submit that as part of the
11 brief.

12 MR. CROSLAND: It's just legal authority.

13 BY MR. WAZLAVEK:

14 **Q Was the St. Pete effort in overriding**
15 **successful?**

16 A It was not successful.

17 **Q And our library is considered faculty in this**
18 **bargaining unit?**

19 A They are.

20 **Q Okay. This is the same issue. I think**
21 **that's where we're at right now.**

22 **Discuss our proposal on advanced notice for**
23 **classroom observation. It's in the rationale claim.**

24 A Yeah. I would like to begin by discussing
25 something that was mentioned yesterday. An example was

1 given yesterday of an instance where four or five
2 individuals would come to the Provost and would have a
3 complaint about a faculty member, and the comment was
4 made in response that it would be necessary for the
5 Provost or the Dean, perhaps, to immediately go and
6 observe that classroom.

7 And the question in my mind was then why is
8 it if four or five students come to the Provost with a
9 complaint, would it not be the next step for that
10 administrator to contact the faculty member, not to go
11 observe their classroom? So I had an objection with
12 that.

13 Our proposal is as a professional courtesy
14 that advance notice would be provided for classroom
15 observation. That is the current practice.

16 **Q What's the logic behind asking for advanced?**

17 A The logic behind asking for advanced notice
18 is so that individuals are not feeling a chilling
19 effect that the Dean or the other administrator is not
20 hovering over them and entering their classroom at any
21 time. I understand if the AC is broken or if there's
22 some immediate issue, that that is not -- that that
23 would be an exceptional case. But as a general concept
24 and a general rule, we don't understand why as
25 professionals we would need to be immediately popped in

1 on by administrators as we're teaching our classroom.

2 **Q So it's an issue of trust then?**

3 A It's an issue of trust, as discussed
4 previously.

5 **Q All right. Talk about class size.**

6 A Class size. UFF proposal would count class
7 size of online or hybrid classes. So this is a strong
8 objection that we have to the college's proposal that
9 there are no class limits set to an online class and
10 that what if the college decided to suddenly put 80
11 students in my online class, what would prevent that?
12 That's a rhetorical question.

13 And similarly, 48 hour notice before an
14 administrator could observe an online class. Again, it
15 would have a chilling effect on faculty members, that
16 they feel like they're being watched at any moment by
17 the administration. We feel like it's a professional
18 courtesy they would be given advanced notice.

19 **Q That's the same issue, right?**

20 A Same issue.

21 SPECIAL MAGISTRATE: Go back. I was going to
22 ask this question. I'm more familiar with high
23 school, down to grade school teaching systems and
24 procedures. You do not have a -- they don't have
25 classroom observations for evaluation purposes,

1 correct?

2 MR. WAZLAVEK: Yeah, they do.

3 SPECIAL MAGISTRATE: They do?

4 MR. WAZLAVEK: That's the problem is that
5 they want to come in unannounced. It's the same
6 issue that you face in K12 where the teachers want
7 some advanced notice to be able to put their best
8 foot forward to create a lesson plan.

9 SPECIAL MAGISTRATE: But you have that?

10 MR. WAZLAVEK: Yeah.

11 SPECIAL MAGISTRATE: But that's with advanced
12 notice now?

13 THE WITNESS: Yes. That's correct.

14 MS. HEEKIN: Under Article 21, which is the
15 faculty evaluation, for the evaluation process
16 there's advanced notice.

17 SPECIAL MAGISTRATE: Okay.

18 MS. HEEKIN: It goes through that whole
19 process, exactly.

20 SPECIAL MAGISTRATE: Okay.

21 MS. HEEKIN: These other things about just
22 being able to go in is not for the purpose of the
23 evaluation process. It's if there's an issue.

24 SPECIAL MAGISTRATE: Got it.

25 MR. WAZLAVEK: Article 21 is the grievance

1 issue again. Here we go.

2 All right. We're up -- you're up now, I
3 think.

4 MR. CROSLAND: It's noon. What do you want
5 to do?

6 MS. HEEKIN: I have one question for Martin.

7 THE WITNESS: Sure.

8 MS. HEEKIN: Could we just go back to the
9 class size on the distance education?

10 THE WITNESS: Class size, yes.

11 MS. HEEKIN: Yeah. I just have a question
12 about it. What do you mean by this? Are you
13 trying to say that the same load formula will work
14 for the online classes? Is that what this is?

15 THE WITNESS: Sure.

16 MS. HEEKIN: That's all I wanted to clarify.

17 THE WITNESS: Yeah.

18 MR. WAZLAVEK: All right. Are we doing
19 lunch?

20 SPECIAL MAGISTRATE: Let me ask. I don't
21 know how far along we are today, so how far are we
22 along?

23 MR. WAZLAVEK: We're close. The wages is the
24 other big issue to deal with. And once we get
25 through that, then --

1 SPECIAL MAGISTRATE: And then you have some
2 other witnesses, don't you?

3 THE WITNESS: Well, we have Dr. Moore-Davis.

4 SPECIAL MAGISTRATE: Okay.

5 MS. HEEKIN: She's going to come on for some
6 rebuttal. And then we have -- Dr. Wills is going
7 to do the finance portion of it and the wages and
8 the benefits. And then after, there's probably
9 something very little on discipline and the
10 academic calendar and that's it.

11 MR. CROSLAND: Discipline and the academic
12 calendar and the duration. Those three will take
13 about 15 minutes.

14 MS. HEEKIN: Yeah.

15 SPECIAL MAGISTRATE: Okay. It's probably
16 just as good to go to lunch now. It's a good
17 place to break.

18 (Whereupon, a luncheon recess was taken.)

19 (CONTINUED IN VOLUME 4)

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