

**PUBLIC EMPLOYEE RELATIONS COMMISSION
IMPASSE RESOLUTION MEDIATION**

PERC CASE No. SM-2007-038

**BROWARD COMMUNITY COLLEGE,
BOARD OF TRUSTEES**

v.

UNITED FACULTY OF FLORIDA

**BROWARD COMMUNITY COLLEGE, BOARD OF TRUSTEES MEMORANDUM
OF LAW AND FACT IN SUPPORT OF DECEMBER 17 AND 19, 2007,
PRESENTATION AT IMPASSE HEARINGS**

I. Introduction & Background

Like most labor negotiations which reach impasse, the instant dispute between the United Faculty of Florida [hereinafter referred to as "UFF"] and Broward Community College [hereinafter "BCC" or "College"] stems from a fundamental disagreement over the best way to spend limited institutional resources. In the past, BCC has been responsive to the demands of UFF in order to avoid impasse, but this responsiveness has required considerable expense and even the postponement of longer range goals and initiatives called for in the College's Education Master Plan. In 2007-2008, the College, under the stewardship of President David Armstrong is attempting to set a course for a new vision of BCC which seeks, as an institutional priority, to actually fund initiatives identified in the Education Master Plan and to make long-needed adjustments for other employees. In doing so, however, the College has had to make tough decisions that impact the faculty in the short term, but will assist BCC with its growth and vision in the long term. Our aim in this Memorandum is to highlight BCC's arguments to show how the current budget has been crafted with these considerations in mind, while also pointing out

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how UFF has failed to show how its requests could be funded, or how those requests could be practically or realistically met in light of other critical long-term goals.

Throughout the impasse hearings, UFF suggested that it shared the priorities set forth by the new administration, yet still argued for more salary and other forms of financial compensation without substantiating how BCC would pay for their requests. In light of the various critical aspects of BCC's operational costs and its long-term mission, such unsubstantiated requests cannot and should not be met. Moreover, UFF has done nothing to refute the allocations of BCC's proposed budget, nor has it proposed any additional sources of revenue to fund its proposed requests. Changing the budget in this way disregards the reality of the current fiscal environment and, further, disregards the basic financial maxim that in order to increase a given line item on a budget, another line item must be decreased.

UFF consistently admitted throughout the impasse hearing that it has done no financial analysis for their proposals nor has it suggested from where the funding should come from to meet their demands. BCC's proposed budget, on the other hand, is the result of hundreds of hours of painstaking financial analysis and strategic planning in light of the College's long-term goals. In its presentation, BCC discussed the difficulties it faced in making budgetary decisions in light of its overall objective of remaining open access without creating new student tuition and fee revenues or laying off any current personnel. Additionally, the College discussed the need to confront higher fixed costs resulting from inflationary increases in the cost of utilities and fuel, a new and more costly custodial contract and the high cost trend of health benefit increases. Even with the present budget, BCC faces substantial and continued uncertainty in light of anticipated future budget reductions at the state level. Without careful attention to budget realities in light of state reductions, BCC would compromise its ability to address the Educational Master Plan

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priorities necessary for the future of BCC and the sustained success of its students. BCC maintains that the detrimental effect of restructuring the budget in this way will by far outweigh any short-term benefit that UFF's proposals would yield for faculty members from this year's Collective Bargaining Agreement.

II. Florida Statutory Criteria for Decision Making

As the Special Magistrate is aware, in dealing with issues that are at impasse, §447.405, *Florida Statutes* provides a non-exclusive list of the following five factors to be given weight in arriving at a recommended decision following a labor impasse hearing:

- (1) *A comparison of the annual income of employment of the public employees in question with the annual income of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved.*
- (2) *Comparison of the annual income of employment of the public employees in question with the annual income of employment of public employees in similar public employee governmental bodies of comparable size within the state.*
- (3) *The interest and welfare of the public.*
- (4) *Comparison of the peculiarities of employment in regard to other trades or professions, specifically with respect to: (a) hazards of employment; (b) physical qualifications, (c) educational qualifications, (d) intellectual qualifications, (e) job training and skills, (e) retirement plans, (f) sick leave, (g) job security.*
- (5) *Availability of Funds.*

Because of the unique position of BCC within the Broward community, and the difficulty in equating an analogous group of employees within the local area, both parties presented limited comparisons of faculty at BCC with *employees in the local area* who have similar qualification. However, broadening the scope of inquiry beyond the local area, evidence and testimony were provided by both BCC and UFF which examined *comparable public employees throughout the*

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state. The parties addressed the collective bargaining agreements at certain other community colleges in the state of Florida, with particular emphasis on the collective bargaining agreements of Hillsborough Community College and Miami-Dade College. This evidence and testimony is discussed in Section IV below, but in summary, BCC stresses that the total compensation of its faculty - taking health care benefits, salary, required duty hours and all other relevant factors into account - is indeed comparable and quite competitive with each of these institutions.

BCC presented testimony at length at the hearing regarding the strategic priorities of the administration's Education Master Plan. The purpose of this testimony was to establish the relationship between BCC's budget allocations and its goal of increasing the quality of the services it provides in the *interest of the public*. The strategic priorities of Student Success, Access and Penetration, Entrepreneurial Partnerships and Quality Improvement and Community Image are specifically geared to the interest and welfare of the public.

UFF, on the other hand, presented limited testimony regarding the benefit of its proposals on the interest and welfare of the public and provided little, if any testimony to dispute BCC's priorities. UFF's presentation, and its position in collective bargaining to date, has been narrowly focused on the acquisition of greater increases to salary and other benefits for the faculty, period. BCC's presentation has sought to highlight the additional budgeting responsibilities and priorities which it has a duty to take into account on behalf of the public it serves.

The issues presently at impasse do not pertain directly to *hiring criteria, hazardous working conditions, leave time or job security*. Limited testimony was presented by BCC's Health Care consultant regarding the health care benefits provided to retirees, with particular emphasis on the pharmaceutical coverage subsidized by the BCC's health benefits plan.

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[Rhodes; 223:3-16]². BCC takes pride in the intellectual qualifications, training and skills of its faculty, and acknowledges their central importance to the success of BCC. Likewise, BCC endeavors constantly to provide abundant job security, sick leave and comfortable working conditions to its faculty, but the discussion about these issues at the impasse hearings were admittedly limited.

The fifth and final factor listed in §447.405 – *the availability of funds* - lies at the heart of BCC's presentation. The simple fact is that BCC is in a year of financial uncertainty, increased costs and scarce fund. President David Armstrong was one of several witnesses who testified that BCC's budget is more volatile this year than ever before. This is the result of many factors including two consecutive years of declining enrollments; decreases in state revenue projections which have already resulted in budget reductions, with more reductions likely in the future; and the higher fixed costs discussed above and elaborated upon in more detail in the following sections.

In its discussion regarding the budget, BCC sought to show how each of its proposals was based upon a responsible analysis of the source of funds for each item. UFF failed to establish a source of funding for neither its requests nor any analysis relating to the same. Yet, UFF maintained that the faculty should essentially "get more" in a vacuum. Such lack of reasoning or analysis on the part of UFF should not prevail in this regard.

III. The Education Master Plan

A lengthy segment of BCC's presentation at the hearing in this matter was dedicated to outlining the Educational Master Plan, and explaining how many of the budgetary decisions related to the priorities and objectives BCC has established therein. The purpose was to

² References to testimony will be cited throughout as follows: [[witness name]; [page of transcript]; [line of transcript]]

demonstrate that the current budget allocation was based on a reasoned assessment of the College's needs and a plan to direct budget dollars into programs which would have the greatest beneficial effect on student success on a short-term *and long-term* basis. In short, because UFF has contended that BCC should spend money to satisfy UFF's short-term wants, it is critical to understand the larger view in order to come to a sound recommendation.

Testimony from President Armstrong established at the hearing that ensuring student success is an obligation imposed upon community college presidents by the Office of Program Policy Analysis and Government Accountability, which oversees community colleges on a state level. [Armstrong; 36:2-8]. In order to achieve this success, President Armstrong created an initiative to analyze BCC's programmatic strengths, and to get past the point of having "good ideas, but not much money to support those ideas." [Armstrong; 41:22-25, 42:1-3]

After obtaining feedback from the faculty and the administration, President Armstrong and his advisors examined the school's existing Education Master Plan. The Education Master Plan is a strategic vision for BCC, and the development and maintenance of such a plan is a requirement for BCC's accreditation. [Macia; 65:13-17] Armstrong and his advisors narrowed the focus of the existing plan to four key issues, and attempted to identify the resources which would make those objectives operational, rather than unfunded rhetoric. Thus, for the first time, the Education Master Plan is providing the operational guidance for the school's current budget. [Macia; 75:4] The issues and the funding necessary to meet each operational objective were discussed by several witnesses for BCC.

A. Objective #1 – Student Success

BCC's Vice President for Student Affairs, Angelia Millender detailed the unique set of challenges facing the student body of BCC and provided an outline of the strategic initiatives the

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College is undertaking to confront those problems. While the challenges facing BCC are, to some extent, endemic to the nation's community colleges, Ms. Millender testified that BCC's need to confront these issues now is more urgent than at other schools. BCC is endeavoring to improve rates of graduation, retention and student success that are currently at unacceptable levels. [Millender; 86:6-10]

A significant challenge discussed by Ms. Millender is providing remediation to students who have had insufficient academic preparation for college-level coursework. Florida's community colleges are "open door" institutions, meaning that prospective students with a GED or high school diploma will be automatically granted enrollment. [Millender; 82:10-13] Frequently, such students arrive at BCC without the academic skills they need to succeed. In order to confront this problem BCC must maintain a number of pre-collegiate courses and study skills courses [Millender; 83: 24-25]. Of the students arriving at BCC, 85% require remediation in reading, math, study skills, or writing [Millender; 85:12-14]. On average, the nation's community colleges provide remediation in these subjects to only 42% of their students. [Millender; 85:15]. In an attempt to provide services to its students at their level of readiness, BCC is providing 48,000 semester hours of remediation this year, a 10% increase over the amount of hours it provided last year. [Millender; 85:23]. BCC, being located in South Florida, is also faced with an increasing number of students whose first language is not English, and must provide services to equip these students for success as well.

Ms. Millender discussed how inadequately prepared students face further difficulty at BCC because of the high ratio of students to available advisors. BCC's student to advisor ratio for this year was 1000:1, compared with the national standard of 350:1 [Millender 86; 23-25]. BCC's student demographic mandates that a greater number of advisors be available to provide

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A comprehensive enrollment management plan requires dedicating money to student recruitment and retention of students [Pan; 9-12]. BCC's budget commits these funds by providing \$200,000 of increased need-based financial aid to allow students of all backgrounds to attend BCC, and by dedicating \$170,000 to branding, marketing and an online portal designed to make BCC more attractive to prospective students. [Pennell; 156: 4-14].

Outreach to the 17 to 45 demographic age group is addressed in the current budget by dedicating \$50,000 to develop online course support. [Pennell; 156:15-18] Online courses provide academic opportunities to non-traditional students, whose work schedules and life obligations do not permit them to participate in a conventional academic schedule. [Pan; 117:17-25, 118:1-4]. BCC has likewise dedicated \$25,000 to obtain increased exposure to high school and middle school students through Enrollment Services officers in public high schools. [Pennell; 156:19-21].

C. *Objective # 3 – Quality Improvement and Community Image*

BCC's Quality Improvement objective is aimed at making responsible investments in the College's capital assets which will pay dividends and create savings in the near future. As such, several of the line items dedicated to quality improvement are among the largest expenditures in BCC's current budget. Several of these large investments are one-time expenditures, however, and accordingly are budgeted from non-recurring revenues for this year. These expenditures include the restoration of existing capital assets on campus, and a "Green" initiative to invest in environmentally sound and cost-saving measures such as digging wells to provide water for BCC's cooling towers and cooling needs purchasing efficient low water or no water urinals. [Pennell; 158:20-25, 159:1-9] As testimony from Bill Pennell, BCC's Chief Financial Officer, explained, \$1.3 million of the revenue available to BCC for discretionary spending is one-time

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revenue which can not be dedicated to the establishment of new programs or recurring salary increases. [Pennell; 152:14]. The green initiative expenses paid out of these revenues will not be recurring, but they will generate an estimated **\$400,000 in annual savings** for BCC in each year after they are purchased. [Pennell; 159:3-9]

In addition to one-time investments BCC is investing in operational support staff, warehouse space and online employment systems with the goal of strategically aligning its organizational capabilities. BCC is also faced with a substantial increase in the cost of Health Care insurance. Although this issue is discussed more substantially below, it should be noted that a large expenditure in BCC's quality improvement initiative is dedicated to absorbing this cost increase without increasing premiums to employee participants in BCC's Health care plan. [Pennell; 157:1-10].

D. Objective # 4 – Entrepreneurial Partnerships

BCC's fourth and final strategic priority is to develop entrepreneurial partnerships with other organizations and local businesses which will generate additional grants and funding for its programs. To that end BCC has established partnerships with civic and faith-based organizations in Broward County including Hispanic Unity, the Urban League and Take Stock in Children. [BCC Exhibit 6, Slide 21 – *Strengthen Middle and High-School Outreach Initiatives*].

The expenditures described above represent BCC's best efforts to fund critical programs in a year in which very little funding is available. Under BCC's budget as it stood in the first quarter of 2008, increases to annually recurring costs outweighed BCC's annually recurring revenues to such a degree that the College was forced to cut its costs by \$1.4 million. This required such steps as increasing the temperature in BCC's classrooms to cut energy costs, reducing administrator cell phones, and strictly limiting travel and operational expenses.

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make its compensation system, *as a whole*, more competitive with other community colleges throughout the state.

BCC has proposed a flat increase, rather than a graduated scale of increases based on length of service or qualifications. This proposal was based on the administration's analysis that entry level salaries were the least competitive in BCC's salary structure, and had not been the subject of recent increases [Armstrong; 53:6-15]. A flat increase provides a greater proportional raise to the lowest paid faculty member. Specifically, BCC's proposal would provide a 2.8% raise to entry level faculty members [Chun 187; 24-25], and more than a 2% increase for over 25% of faculty at the lowest end of BCC's pay scale [Chun; 187:18-20]. Averaged over all of the faculty, the proposal would provide a 2% increase to base salary. [Chun; 187:17-18] In addition to the \$1,000 increase, which BCC proposes to apply to each faculty member's base salary, full time faculty will also receive scheduled increases under the current Bargaining Agreement's salary schedule for each year of experience based on faculty rank. This amount adds roughly another \$1,000 to the base salary of each faculty member with every additional year of experience. [Chun; 188:4-13]

UFF contends that budget issues and financial hardship are not unique to the BCC, and at the hearing they introduced salary figures from neighboring community colleges in the State of Florida. However, the evidence adduced by UFF regarding the salary structures at Hillsborough Community College [HCC], Miami Dade College [MDC] and Palm Beach Community College [PBCC] does not suggest that BCC's proposed compensation structure is deficient. It is axiomatic that compensation is comprised of many parts, and BCC's presentation emphasized the the faculty's total compensation package includes not only direct financials, but also includes

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the first-rate health insurance benefits and number of duty-days required for faculty. In each of the latter areas, BCC presented testimony that it outpaces neighboring community colleges.

Even viewed in isolation, the 2% average increase that faculty will receive under BCC's proposal is not disproportionate to the increases in effect at other community colleges.

Although HCC, for example will put a slightly larger increase to base salary [3%] into effect in 2007-2008, BCC has outpaced that increase in preceding budget years. BCC's 4% increase to faculty salary in the last budget year [Watnick; 550:12-13] exceeds the 3% increase enacted by HCC for 2007-2008 [Watnick; 544:6]. Moreover, in 2003-2004 HCC provided an across-the-board \$1,000 increase to faculty salary [UFF Exhibit 15, 2003-2004 CBA - p.92], while BCC provided a 2% increase to all faculty members' base salary. [UFF Exhibit 13].

At MDC, faculty salaries may outpace BCC's average salaries, but that fact fails to provide a full comparison of total compensation at the two facilities. BCC provided unrebutted testimony that MDC offers its faculty a health insurance package with substantially higher out of pocket expenses [Pan 135:21] with smaller subsidization of the cost of dependent healthcare [Pennell; 229:21-25]. MDC also does not offer an option for a PPO, the most popular option under the BCC plan, to its active employees. [Rhodes; 228:22-23]. It was also established that MDC requires their faculty to work more duty days than BCC's faculty [Pan; 135:11-13].

Another aspect to BCC's proposal for an across the board \$1,000 increase to base salary is the need to provide greater compensation to the College's professional technical staff and adjunct faculty. [Armstrong; 53:6-19] UFF accurately points out that they are not permitted to negotiate for compensation for these unrepresented employees, and that BCC may not tie the compensation system for represented employees to that of unrepresented employees. Nevertheless, in developing its proposal for salary increases, BCC was obligated to allocate

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scarce budget dollars to address the needs of *all* of its employees. The pressing need to provide a larger proportionate increase to professional technical staff [PTS] and adjuncts is thus highly relevant to BCC's consideration of an appropriate increase for represented faculty.

More than one hundred Professional Technical Staff [PTS] members of BCC make less than \$26,000 per year, and a \$1000 increase to these staff members represents a 3.86% to 5.9% pay raise. [Chun; 189:21-22] The salaries of part-time PTS employees have not been increased for several years, and these faculty members are long overdue for an increase. [Chun; 190:12-20]. BCC's proposal seeks to address its responsibility to these employees while still providing a reasonable increase to the faculty.

BCC established that its proposed \$1,000 increase will cost the College approximately \$1.4 million, [Pennell; 146:17-20] an amount that is roughly equivalent to the extensive cost-cutting measures BCC was required to facilitate in order to create a balanced budget. [Pennell; 147:7-9]. UFF, through witnesses and evidence presented at the hearing, failed to provide any credible analysis (or, frankly, any) of how the College would pay for a 3.84% increase to faculty salary, or the consequences such a raise would have on other vital and critical programs and operations costs. [Watnick; 472:24-25]. Given the already significant cost-cutting steps taken by the BCC, any further increase to faculty salary will inevitably have deleterious effects in other critical areas of the budget.

At the hearing, UFF also introduced a proposal that there should be an increase to the rates of pay specified in BCC's salary schedule. This is an issue which UFF conceded was not submitted for consideration at the bargaining table [Rieger; 492:24] and one which UFF's own witness conceded was too complicated to compute or assess for the purposes of the hearing. [Watnick; 479: 3-8] BCC's position is simply that the testimony and evidence presented at the

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hearing, and the discussions at the bargaining table have not provided sufficient information to permit a reasoned decision with regard to any adjustments in the salary schedule. Notwithstanding UFF's attempt to "slip" this issue into the impasse hearings, adjustments to the salary schedule of the Collective Bargaining Agreement are an entirely new issue in these negotiations, and one which would only serve to muddy the waters if injected into the proceedings at the present time. BCC therefore requests the Special Magistrate to make no recommendation regarding adjustments to the salary schedule contained in the Collective Bargaining Agreement, but rather to confine his consideration of salary adjustments to the proposed increase to base salary.

B. Health Care Benefits

The health care benefits proposal currently proposed by BCC is the result of a joint effort between members of the faculty appointed by UFF, professional technical staff and the BCC's administration. The Health Care Benefits Task Force, which developed and approved of the recommended plan, was made up in equal parts of administration, faculty and professional technical staff. The Task Force unanimously approved the proposal, which was submitted to Collective Bargaining for ratification, only to be rejected by UFF, apparently due to its dissatisfaction over the size of the proposed base salary increase. [UFF Exhibit 4]. No other reason was given.

BCC is endeavoring to maintain excellent health care benefits for its employees in the face of widespread increases in the cost of health care. Lloyd Rhodes, BCC's benefits consultant provided extensive testimony regarding the impact of these costs, and the College's attempt to mitigate increased expenses to employees. Mr. Rhodes' testimony also provided a historical

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backdrop for the BCC's health care plan which is essential to understanding why the Health Care Benefits Task Force unanimously approved the proposed changes.

In the early 90's, Rhodes explained that the health care plan benefited from significant surpluses, and as a result BCC made no changes in the premiums or benefits its employees received, despite increasing health care costs. [Rhodes; 219:9-21] Over several years, BCC was able to absorb deficits created by increased health care costs by using surpluses accumulated in its self-funded plan. In the late 90's, however, the financial picture changed significantly.

In 1998, rising health costs reached a breaking point that resulted in almost 75% rate increases to employees, coupled with significant changes in available benefits. [Rhodes; 220: 3-10]. BCC was forced to struggle in the years that followed with "large and catastrophic claims," only reaching a point financial stability recently, in 2005. [Rhodes; 20-25]. In these years, the College was forced to make additional contributions to save the financial viability of its plan, contributions of \$475,000 and \$600,000 were taken directly out of BCC's operating fund in 2003-2004 and 2005-2006 respectively [Rhodes; 227; 8-16]. It is with the lessons learned from this experience that the Task Force created its proposal, which is aimed at making smaller changes going forward, and which will maintain BCC's surplus and prevent radical fluctuations in cost or benefits in the future. [Rhodes; 236; 9-14]

BCC is in a position now, as it has been in the past, where it has accumulated a surplus in its plan. However, as Mr. Rhodes stressed, BCC is also faced with unprecedented increases in the cost trends for healthcare nationwide. These increases are estimated by several sources to be double-digit percentage increases. [Rhodes; 225:17-25]. Faced with these increases BCC must either make some adjustment to its current plan, or risk repeating the mistakes of the nineties by relying on surplus to absorb increased costs.

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BCC has projected close to a \$1.5 million increase over its current expenses in 2008, and has allocated \$450,000, [discussed under quality improvement, above] to help absorb these costs. Additionally, the Health Benefits Task Force unanimously recommended that BCC make increases to the co-payments under each of its plans, and to the out of pocket maximum under its PPO. [See Powerpoint slides presented during testimony of Lloyd Rhodes, BCC Exh. 6].

The Task Force also identified prescription drug coverage as an area of high-expense in BCC's plan, accounting for 22% of the plan's total cost. [Rhodes; 234: 3-6.] Accordingly, their recommendation includes \$5-\$10 increases in co-payments for retail prescriptions and \$10-\$20 increases in co-payments for mail order prescriptions. These changes will result in overall increases to the Health Plan's rates of 11%, a smaller increase than what is being effected in 2008 by both Miami Dade Community College (14.2% increase) and the Florida Community College Consortium (13% increase). [Rhodes; 231:1-5]

Despite the minimal increases to co-payments discussed above, there will continue to be no required monthly employee contribution for either BCC's HMO or POS plan, and the monthly contribution for BCC's PPO will remain entirely unchanged. BCC already contributes over 80% of the funding for its healthcare plan. Under the Task Force proposal the BCC's contribution will increase, with *no increase in contribution required from employees*.

The Task Force's proposal, if accepted, will result in an estimated annual cost reduction of \$460,222. [Rhodes; 235:1-10]. These savings, combined with the \$450,000 in increased contribution from BCC will amount to *\$910,222 in increased revenue for the plan*. This increased revenue, even with the Task Force's proposal being adopted, is still \$569,254.00 short of the projected increase in plan expenses for 2008 [Rhodes; 235:15-16.] This shortfall is still a manageable amount to be funded by BCC's surplus. However, if the Task Force's proposal is

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instead rejected, BCC will have to fund more costs from its surplus, and as a result future increases will only have to be more drastic to compensate for the deficits that accumulate.

In sum, it is clear that the proposed changes to the benefits plan are necessary, prudent and in the best interests of BCC's staff. UFF has simply chosen not to agree to the proposed changes simply due to what it perceives is an inadequate raise, but not because it can argue that the changes are not responsive to the financial needs of the plan and to the taskforce's recommendations on behalf of faculty and staff at BCC.

C. Uniform Rates for Supplemental Tasks

UFF proposes to add a provision to the Bargaining Agreement which sets the hourly rate of pay for any supplemental task faculty members are asked to perform at \$32.50. [Nycz; 305:6]. As it stands, section 5.44 of the Agreement provides the terms under which a faculty member may be assigned to a supplemental position in addition to his/her regular assignment or in lieu of a portion of that assignment [§5.44, Joint Exhibit #1]. Compensation for bargaining unit members filling such supplemental positions is paid as a flat dollar amount, as reassigned time, or as a combination of the two. That flat amount is determined by the zone matrix established in Section 5.44.I of the Agreement.

BCC favors limiting all supplemental assignments to the rate structure which is determined at the time a position is created using the matrix in section 5.44.I. While establishing an hourly rate for these tasks seems, at first blush, to be a straightforward system, it actually would create more administrative complications and serve as an obstacle in budgeting short-duration tasks. There is wide variation in the complexity of supplemental tasks and the time it takes to complete those tasks; BCC believes that a universal hourly rate can not be applied to every task regardless of these variables. [Chun; 564; 5-11].

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Although the hiring decisions of BCC following search committee recommendations may be a source of aggravation to some committee members, service on such committees is *never compulsory*. [Hodge; 278:7-9]. UFF's witnesses also acknowledged that service on a search committee, although it is unpaid and voluntary, provides valuable career experience to participating faculty. [Hodge; 272:1,5]. In fact, UFF expressed that their proposal was not so much aimed at a desire to be compensated at the proposed rate as it was an attempt to deter BCC from conducting duplicative searches. [Hodge 277:22-25, 278: 1-6]

UFF's proposal fails to address that objective directly, and promises unwanted side-effects. Even if UFF's proposal was an effective means of deterring BCC from conducting repeated searches, BCC questions the propriety of a proposal which would limit its managerial discretion in hiring decisions, and which would compel a less thorough search for teaching candidates. The proposal would also make service on a search committee unique among the faculty's opportunities for committee service, in that all other committee positions would be unpaid. This undoubtedly creates an incentive for faculty members to neglect other unpaid committee opportunities in favor of search committee service; moreover, it creates a disincentive for committee members to find qualified candidates on the first term of service.

More problematic than these side effects is the financial impact of UFF's proposal. UFF testimony indicated that a search committee may require between 64 and 80 hours of total faculty time in a given week [Hodge; 277:15-17], and that these committees may convene over the course of 16-25 weeks [Hodge; 275:1-2]. Assuming these figures are accurate (which BCC contends they are not), UFF's proposal to compensate search committee service at a rate of 32.50 per hour, a single repeated search committee could cost BCC more than the annual salary of many full-time faculty members. Such a significant expense is not warranted to address UFF's

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discontent over committee service in which they are not obligated to participate. Further, as with its other proposals, UFF failed to demonstrate how such a provision would be funded and its impact to the College's budget.

E. Faculty Seniority

UFF has proposed a universal definition of seniority to be provided in the Bargaining Agreement. This is in response to a concern by UFF that different departments may use different definitions of seniority when determining methods of intra-departmental dispute resolution. BCC's position is that current provisions of the Collective Bargaining Agreement provide a more favorable system for resolving these disputes by granting discretion to individual departments to create their own policies for departmental governance. The Agreement, at section 2.9.3 presently provides that open departmental meetings should be held at which departments establish a method for resolving disputes. [Chun 402; 9-14]

Under this system, a definition of seniority, or other dispute resolution method is established as a collaborative decision between department heads and faculty, and Administration plays no part [Chun 402; 21-23]. Individual departments are certainly free to adopt UFF's proposed definition if they deem it appropriate, but BCC feels it should not be imposed on the departments. Dr. Chun testified that BCC had conducted informal inquiries to each of its campuses and found no evidence that issues pertaining to seniority had arisen in this context. [Chun; 403:5-9]

It should be further noted that the proposed "universal" definition of seniority would not be applied to BCC's method of determining lay-offs or compensation in any way. Other provisions of the bargaining agreement address these concerns.

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F. Summer Compensation

Very brief testimony was provided by UFF with regard to its proposal for increased incentives for full-time faculty who teach summer courses at BCC. UFF conceded that this proposal, like all of its other proposals, was offered with zero analysis of its financial impact or estimation of its cost to BCC [Rieger; 393:1-4]. The current bargaining agreement provides a structure for compensating faculty for summer employment, and there is no record evidence to indicate that this system is in anyway deficient. Further, again, UFF has provided no information as to what the proposal will cost, or its potential benefit as a policy.

V. Summary of Proposed Recommendations

For the foregoing reasons, BCC respectfully requests the Special Magistrate to enter recommendations on the issues at impasse as follows:

Salary Increase: BCC proposes a \$1,000 across-the-board increase to the Base Salary of all employees, with no adjustment to the existing salary schedule.

Health Care Benefits Plan: BCC proposes that the terms of the Health Care Benefits Plan unanimously approved of by the Health Care Benefits Task Force be incorporated into the Collective Bargaining Agreement.

Uniform Rates for Supplemental Tasks: BCC proposes that no changes be made to the Collective Bargaining Agreement with respect to this issue. BCC will convene a task force in the upcoming year to assess and restructure the current compensation matrix for Supplemental Tasks.

Search Committee Service: BCC proposes that no changes be made to the Collective Bargaining Agreement with regard to search committee service, as the proposed changes would be detrimental to both BCC and UFF.

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Faculty Seniority: BCC proposes that no changes be made to the Collective Bargaining Agreement with regard to a universal definition of faculty seniority. For the reasons discussed above, such changes would create obstacles to departmental governance and would not promote efficiency.

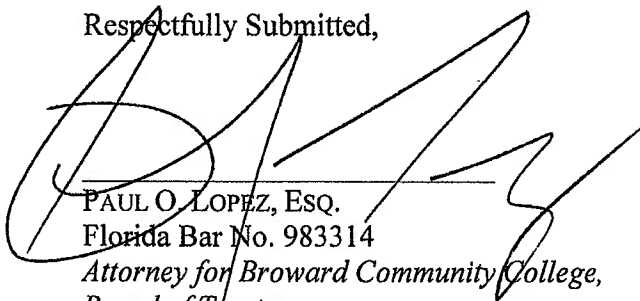
Summer Compensation: BCC proposes that no changes be made to the Summer Compensation system in place under the Collective Bargaining Agreement. The failure of UFF to present any financial analysis or estimate of the cost for their proposal renders it an inappropriate subject matter for decision making at the present time.

VI. Conclusion

For all of the foregoing reasons, BCC respectfully requests that you incorporate the proposed recommendations contained in Section V. above. BCC thanks you in advance for your attention to these important matters.

DATED: 1/22/08

Respectfully Submitted,



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AGENDA ITEM

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