

**STATE OF FLORIDA
PUBLIC EMPLOYEES RELATIONS COMMISSION**

IN THE MATTER OF IMPASSE BETWEEN

**CHIPOLA COLLEGE
BOARD OF TRUSTEES,**

AND

Case No. SM-2009-002

**UNITED FACULTY OF FLORIDA –
CHIPOLA FACULTY ASSOCIATION**

REPORT AND RECOMMENDATIONS OF SPECIAL MAGISTRATE

Thomas W. Young, III

May 29, 2009

Appearances:

For Chipola College

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PRELIMINARY MATTERS

Pursuant to Section 447.403, Florida Statutes, and Florida Administrative Code Rule 60CC-3.004, the undersigned was appointed Special Magistrate in the above captioned proceedings by letter dated March 3, 2009, from Stephanie Williams Ray, Chair of the Florida Public Employees Relations Commission. The parties were advised of the appointment by letter from the undersigned dated March 6, 2009.

On March 24, 2009, Chipola College District Board of Trustees (CC) and United Faculty of Florida – Chipola Faculty Association (UFF) filed a Joint Motion to Schedule Hearing outside the statutory guidelines. The motion was granted, and, with the agreement of the parties, the hearing was scheduled to be held on April 22, 2009.

The hearing was convened at 10:37 AM CST, in Room 173 of the Public Service Building at Chipola College in Marianna, Florida. The parties presented witnesses, documents and argument. At the conclusion of the hearing, the parties agreed to file their briefs on May 22 and that the hearing would be closed at that time. The briefs were transmitted electronically and received May 22, and were transmitted by mail on the same date. It was agreed that the Special Magistrate's Report and Recommendations would issue no later than May 29, 2009.

After consideration of the 218 page transcript, the exhibits, including a 13 page *Review of the Annual Audits of Chipola College* by Leroy W. Dubeck, and the post hearing briefs, the undersigned makes the following Report and Recommendations.

References to the official transcript of these proceedings will be indicated parenthetically by "Tr.," followed by the appropriate page number of the transcript. Both parties submitted an indexed compilation of exhibits. References to the exhibits will be indicated parenthetically as CC Ex. __ at __, or UFF Ex. __ at __ as appropriate. References to the briefs of the parties will be indicated parenthetically by CC Br. at ___, or UFF Br. at ___ as appropriate.

BACKGROUND

Situated in Marianna, Florida, Chipola College is one of twenty-eight locally governed colleges within the State of Florida's Community College System. As with the other colleges in the statewide system, Chipola College is governed locally by a District Board of Trustees, which also serves as the public employer for collective bargaining purposes. The colleges are jointly coordinated under the jurisdiction of the State Board of Education, with the Chancellor of Community Colleges serving as chief executive officer of the System. The Chancellor reports to the Commissioner of Education who serves as chief executive officer for Florida's K-20 system. General policy for the entire College System generates from activities of the Board of Education and is authorized by the Florida Legislature.

Originally founded in 1947, the Chipola District serves Jackson, Washington, Holmes, Calhoun, and Liberty counties, which are rural areas. Chipola's primary campus is located in Marianna, Florida, and provides the only public higher educational services in the area to approximately five thousand (5,000) students, with an annual FTE enrollment of fifteen hundred (1,500) students. The College employs approximately forty-five (45) full-time instructors who are organized in a certified collective bargaining unit represented by the United Faculty of Florida.

The College provides a wide range of accessible, affordable and quality educational opportunities, including general and pre-professional classes, associate degrees, workforce development programs and continuing education classes. Additionally, in 2003, the College began offering baccalaureate degrees which now include four year programs in business, education and nursing. As the only comprehensive college in a five county area, the College is unique as it serves a significant role in the community to provide students and residents with programs such as fine arts and athletics not otherwise available to the District's community.

The College and the United Faculty of Florida have enjoyed a positive collective bargaining relationship since the unit was certified more than twenty years ago. Since that time, the parties have entered into a series of collective bargaining agreements resulting in the most recent agreement that expired prior to this fiscal year. After its expiration, the parties met and exchanged

proposals and positions during at least nine bargaining sessions. Despite both parties' efforts to reach agreement on a contract in 2008-2009, the parties reached an impasse over two articles and several substantive issues raised therein. Consequently, the UFF declared impasse on January 20, 2009, with the Public Employees Relations Commission ("PERC"), and requested that a Special Magistrate be appointed to render a recommendation resolving the impasse. The Special Magistrate was appointed on March 3, 2009

ARTICLES AT IMPASSE

The impasse was declared regarding Article 6 – Faculty Working Conditions, and Article 12 – Compensation and Fringe benefits. Within these two articles, there are a number of specific issues upon which the parties are at impasse. After a review of the record and the briefs of the parties, it is determined that the following contract provisions were unresolved at impasse.

Article VI – Faculty Working Conditions

- 1) **6.01 A. Base Contracts**
- 2) **6.01 B. Special Contracts**
- 3) **6.01 C. Assignment Notification (new section proposed by UFF)**
- 4) **6.02 Teaching Load and Points**
- 5) **6.02 D. Low and High Point Loads (new section proposed by CC)**
- 6) **6.02 E. Oversize Class Points**
- 7) **6.02 G. Laboratory Points**
- 8) **6.02 J. Summer Term(s) Points**
- 9) **6.02 UFF proposes language re: notice, workload**
- 10) **6.02 Clock Hours and Credit Hour Courses, B. Extra Duties and Points**
- 11) **6.03 Overload Assignment**
- 12) **6.05 Substitution**
- 13) **6.08 Duty Schedule**
- 14) **6.08 D. Duty Schedule Form**

15) 6.08 F. Office Hours (new section proposed by UFF)

16) 6.09 Faculty Working Hours

17) 6.10 D. Assigning Grades

18) 6.14 Compensatory Time

Article 12 – Compensation and Fringe Benefits

19) 12.04 Other Provisions

20) 12.07 Overloads

DISCUSSION AND ANALYSIS

Section 447.405 specifies that certain factors, among others, shall be given weight by the special magistrate in arriving at a recommended decision.

Comparability

Section 447.405 provides that the special magistrate shall consider the factor of comparability which is defined as either:

- 1) 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.

UFF introduced evidence and testimony clearly establishing that Chipola College faculty salaries are among the lowest of the Florida Community Colleges. Faculty salaries at Chipola College rank 27th out of the 28 Community Colleges in Florida in FY 2008-2009. The average salary in Florida was \$53,533 while Chipola's average was \$43,222, more than \$10,000 below the state average. (Tr. 11-13).

CC does not dispute the ranking. However, CC argues that, after examining Chipola's salaries in comparison to colleges of similar size and state funding levels, the College is in fact competitive. Chipola currently ranks approximately 26 of 28 in terms of student enrollment, and 26 of 28 in FTE funding. CC maintains that Chipola is competitive with other similarly sized schools such as North Florida, Florida Keys, Lake City and Sumter Community College.

As testified by Steve Young, the primary reason for the placement on the ranking is "diseconomies of scale." For example, the record establishes that Chipola is a comprehensive college offering a variety of services and opportunities to a rural district, and to a smaller student base than other community colleges ranked above it. CC points out that all employees, including administrators and career service employees, reflect a similar ranking statewide as a result of these funding realities. CC presented testimony and evidence to indicate that Chipola's exceptionally high student to full time faculty ratio, which is more typical for the small colleges in Chipola's comparator group, impacts the availability of funds for faculty salaries. At Chipola, less than twenty (20%) of classes are taught by adjunct teachers, which are less costly than full-time faculty and perform the same or similar duties. The College prides itself on the high faculty ratio, but this is costly and a reason average salaries compare less favorably to larger schools. Moreover, Chipola has the highest expenditures for faculty from its Fund 1 account of the other five small comparator schools. These factors attribute to Chipola's base salary ranking. (CC Ex. 1 at Tab 3; Tr. 121-127).

CC also submits that base pay fails to demonstrate the entire investment of funds to each full-time faculty member. CC notes that the reporting numbers of comparator schools are unaudited. Consequently, according to CC, it is difficult to compare economic benefits. For example, Chipola expended over \$300,000 in overload pay in 2007-2008. It is unknown whether the salary figures attributed to other community colleges include overload pay. CC argues that, on average, the inclusion of benefits and overload raise the average salary of faculty from \$47,000 to a total average expenditure of \$67,000. (CC Ex. 1 at Tab 3, F-1).

CC also points out that full time faculty cost more than adjuncts. 81% of Chipola's courses are taught by full time faculty, as compared to 54% at Tallahassee Community College. Adjuncts are employed without benefits, and Colleges such as Tallahassee Community College, using significant numbers of adjuncts, have more funds available for full time faculty salaries. (Tr. 125-128).

Conclusion re: Comparability

Notwithstanding the fact that the figures used in comparing salaries of Florida community college faculty are "unaudited," UFF has established that its bargaining unit members make substantially less than those at the vast majority of other community colleges. However, there was no evidence regarding comparative cost of living at the colleges used in the comparison. There was insufficient evidence concerning a comparison of the total cost of the economic packages at the various colleges, including length of work year, leave policies, and health insurance, including cost of the insurance to the employee and employee out of pocket cost. Although CC's evidence concerning the cost of full time faculty versus the employment of adjuncts is compelling, there is insufficient evidence of record to indicate which of the community colleges in the comparison use significant numbers of adjuncts thus potentially skewing the salary figures. Consequently, while it is a fact that CC's faculty salaries rank 27th out of 28 community colleges, there is insufficient evidence, especially when considering that all CC employees share this same approximate ranking, to establish that this ranking is not justified by the circumstances.

Interest and Welfare of the Public

Another of the statutory factors required for consideration by the Special Magistrate is the interest and welfare of the public. Neither party spent much time on this factor. However, as the subsequent discussion regarding the availability of funds will indicate, it is concluded that funding the UFF economic proposals in their entirety could conceivably result in the elimination of programs and the replacement of full time faculty with adjuncts, assuming there were adjuncts available. These results are not consistent with the delivery of services currently maintained by the College. It is concluded that fully funding the UFF proposals would not be in the best interest of the employees, or the students and community they serve.

Availability of Funds

The final of the statutory factors required for consideration by the Special Magistrate is the availability of funds. As in virtually every special magistrate proceeding, there is no agreement regarding the availability of funds to meet the demands of the union.

UFF Position –

Athletics

UFF presented considerable evidence and testimony regarding the emphasis the College places on athletics. UFF introduced evidence to establish that Chipola spends more on its athletic program than any other community college in Florida, regardless of the fact that Chipola is the third smallest of the 28 community colleges. The amount spent by CC was almost one million dollars last year. UFF noted that the two colleges that are smaller do not have athletic programs.

Testimony established that Lake City, although one third larger than CC, spent one third of the amount CC spends on its athletic program. (Tr. 14-20, 45, 52-56). Implicit in this presentation of testimony and evidence is the assumption that CC values its athletic program more than it values providing faculty with adequate salary increases to bring them up to at least the average salary for all other faculty in the community college system. (UFF Br. at p.4). In support of this argument, UFF introduced testimony indicating that from 2001-2002 to 2007-2008, CC increased its athletic department budget by 60%, while increasing the faculty salaries 10% during that same period. (Tr. 27).

In support of its argument that CC has sufficient funds available, UFF points out that the funding sources for all community colleges is the same. However, when comparing recent salary increases given by other community colleges, UFF notes a wide disparity. Testimony and evidence established that of the 10 faculty bargaining units represented by UFF, two were at impasse (including CC), one was still in bargaining, and the others received raises from 2.5% (TCC) to 5.5% (PBCC) (Tr. 24-26; UFF Ex. 2).

Administrators' salaries

UFF presented evidence to establish that CC pays its 30 administrators \$2.5 million, the same amount that it pays in salary to its 48 faculty members. (Tr. 21; UFF Ex. 2)

Morale and attrition

UFF presented testimony that the current failure to fund salary increases has had a serious impact on faculty morale. (Tr. 27). Furthermore, UFF points out, now that CC is offering degrees in education, business and nursing, it needs more faculty with “terminal degrees,” – i.e., Ph.D, and that the low salaries put CC at a competitive disadvantage. (Tr. 28-32). UFF argues that attrition is also a consequence of the comparatively low faculty salaries. For example, in the School of Nursing, the number of staff has gone from 8 to 4 over the past year. (Tr. 60-63).

Dubeck – financial ability to pay

Finally, although unmentioned in its brief, UFF presented evidence from its expert witness, Dr. Leroy Dubeck, in the form of a written document entitled “*Review of the Annual Financial Audits of Chipola College.*” (UFF Ex. 4). Dr. Dubeck pointed out that CC’s unrestricted net assets increased from \$92,828 as of June 30, 2004, to \$971,828 as of June 30, 2008. In addition, he noted that the administration listed its “liability for compensated absences as \$1,621,314 as of June 30, 2008, of which the current portion was \$200,000, the amount expected to be paid in the coming fiscal year.” (Ex. 4 at p. 5). In this regard, Dr. Dubeck concludes that “in reality, the Noncurrent liability for compensated absences will not be paid from current unrestricted reserves. Hence, the Unrestricted Funds available to the University were actually \$1,621,314 - \$200,00 = \$1,421,314, larger than the 971,828 reported in the 2008 Financial Audit as of June 30, 2008.” (Id. at p. 6)

Dr. Dubeck also quotes the College in its 2008 Financial Audit as stating, “The College’s financial position , as a whole, improved during the last fiscal year ended June 30, 2008.” He notes that the same statement was made by the administration for the fiscal years ended June 30, 2007, 2006, 2005 and 2004.

Dr. Dubeck makes several observations concerning the future. First, he predicts that the “decrease in the value of investments held by the College’s foundation which probably has occurred since June 30, 2008, will likely be at least partially reversed by the end of the 2008-09 fiscal year.” He also suggests that the stimulus plan should enable more students to attend college, resulting in additional fees and revenue, and that the stimulus plan will generally help the College’s budget. (Id. at p. 9)

Cost of UFF proposals

UFF estimates the cost of its proposal to reduce the points from 72 to 60 will be a maximum of \$135,000, and, as indicated at page 19 of its power point presentation to the special magistrate, the cost of the \$1000 bonus in lieu of retroactive pay for 2008-09 will be \$45,000, for a total for FY 2008-09 and 2009-2010 of \$180,000. (Tr. 82-84). UFF asserts that Chipola College presented no evidence that it could not fund the UFF proposals. (UFF Br. at p. 11).

CC Position-

Athletics

CC addressed the UFF argument concerning the athletic budget. CC pointed out through testimony that, as part of Chipola’s mission, it strives to present a comprehensive experience to its students and residents in the five county area it serves. CC argues that the record evidence shows Chipola spends competitively with the five colleges in its conference and has excelled its athletic program while doing so. (CC Ex. 1 at Tab 3, p. 14). In addition, Steve Young noted that funds for athletics come from a variety of sources in addition to the general operating budget (Fund 1), including Fund 2 (Restricted) and Fund 5 (Scholarships). (Tr. 131; CC Ex. 1 at Tab 3, p. 12).

Moreover, the analysis presented by Steve Young demonstrates that reporting of athletics from other institutions is unaudited and may, or may not, include expenses included in the amount representing CC’s expenditures on athletics. For example, CC’s figures include costs for athletic accident insurance (\$75,000 – 80,000), and it is not known whether other community colleges include such costs in their athletic budget. Young also points out that CC’s expenditures include

costs for post season travel due to the remarkable success of their athletic teams, i.e. national and state titles for all its programs necessitating travel costs. Other colleges would not have such expenditures. (Tr. 130-135, 139; CC Ex. 1 at Tab 3, p. 13).

The College maintains that a true comparison lies with Chipola's competitors in their athletic conference, which also offer four sports. Notably, other smaller schools do not offer the four sports and are thus not true comparators. In comparison with the schools Chipola competes against, and routinely prevails over in competition, the funding differences are negligible. (CC Ex. 1 at Tab 3, p. 14; Tr. 135-139).

With regard to UFF assertions that there has been a disproportionate increase in the athletic budget as compared to faculty salaries, Young introduced evidence intended to establish that the actual increase in athletic department general expense from 2001-2002 to 2007-2008 was approximately 15%, while the faculty salaries increased approximately 20% during that time. (Tr. 131-139; CC Ex. 2). The College maintains this evidence was uncontroverted. In addition, Young noted that Lake City spent approximately \$300,000 on one sport, whereas CC spent approximately one million dollars on four sports. CC contends the record evidence demonstrates that providing an athletic program with four sports costs roughly the same amount for any school, regardless of size. CC argues that it should not be criticized or asked to cut this successful program because, by default, its costs constitute a larger percentage of Chipola's overall budget due to the comparatively smaller size of the College. According to CC, the elimination or reduction of the athletic program would require the loss of student scholarships, administrative positions, and community involvement, consequences that the College is not prepared to accept.

Administrators' salaries

UFF suggested in its presentation of the case that certain administrative functions at the College are unnecessary and/or that the College excessively funds these functions. CC presented evidence to demonstrate that administrators across the College are also impacted by the same budget constraints due to the College's size as are the faculty. (CC Ex. 3; Tr. 141). The College argues that it must employ administrators to offer and manage programs to provide comprehensive services to the students. For example, in UFF's Exhibit 2, a list of the administrators indicates in

fact a list comprising the main functions of any institution of higher learning, such as a director of library services, physical plant, and theatre. These programs and services are already staffed by administrators who, unlike their larger school counterparts, are not provided the typical mid-level staffing of higher funded schools. The College points out that it is simply not possible to combine the duties of certain positions, and UFF failed to identify how the College could do so. It is CC's position that these administrators occupy positions that are necessary for it to be a fully comprehensive College.

Current financial situation

According to the evidence and testimony presented by CC, the College, like many public and private employers across the country, is facing unprecedented revenue shortfalls making additional expenditures fiscally irresponsible. Florida is experiencing unprecedented revenue losses impacting employment, services, and programs being offered to the public. (CC Ex. 1 at Tab 6). This massive revenue shortfall directly impacts the amount of funding the College receives from the State of Florida and is projected to only worsen in the next fiscal year. CC asserts that such extraordinary budget reductions have created serious challenges to the College to avoid reductions-in-force, maintain its educational services, and protect current wages and benefits. It is CC's position that cuts of this magnitude eliminate the possibility of new expenditures necessitated by the UFF's proposals to decrease workload or increase wages.

CC points out that the State of Florida, through the Legislature's appropriations, has not provided any funding to the College for wage increases in FY2008-2009. Thus, any wage increase would come from the College's operating budget, which was already reduced significantly at the beginning of the budget year and then in an unanticipated further reduction during the course of the academic year.

CC maintains it is undisputed that the College is currently operating this fiscal year by using non-recurring funds from the reserve balance as a stop-gap measure to cover recurring costs. In the long term this is not sustainable as reflected by the testimony of the College's Chief Financial Officer. (Tr. 106-108). Further, as testified to at the hearing, the financial outlook at the College is not projected to improve in the next fiscal cycle as further revenue cuts are projected at

unprecedented levels. (Tr. 101, 106, 109-113). Absent changes to its expenditures, the College will in fact expend all its reserve balance to cover its costs in FY2009-2010 and operate at a deficit without reserves. (Tr. 109-113; Chipola 1 at Tab 3). CC asserts that threats to this year's budget are still possible, and the College is facing monumental budgetary challenges to continue providing services and programs at its current level without making significant cuts. If further cuts are required, the consequences could include reducing the number of employees. (Tr. 113).

In response to Dr. Dubeck's opinions, his budget analysis admittedly is based on information from last year's financial audit and fails to reflect a single funding deficit recognized this fiscal year or discuss next year's fiscal outlook at the College. (UFF Ex. 4, at p. 9). CC argues that the importance of this failure cannot be understated as drastic funding decreases from the state have essentially rendered the analysis moot. Specifically, it is projected that the College's reserve fund balances will be depleted absent cuts to current expenditures by next fiscal year. This fiscal year, the reserve is already being depleted to fund non-recurring expenses, a practice that Steve Young states must obviously cease, as the operating budget is below zero. (Chipola 1 at Tab 3; Tr. 108-113).

Furthermore, CC points out that, in its opinion, the Dubeck report offers two observations regarding the future that are not realized or practically relevant to this proceeding. First, the report speculates that the stock market will rebound resulting in increased funding to the College's foundation. (UFF Ex. 4 at p. 9). Notwithstanding the Foundation's limitations on discretionary spending, it is CC's position that neither the College nor the Foundation should rely on a speculative market to make concrete expenditures. Prudent fiscal policy demands the exact opposite approach. Secondly, the report identified stimulus money to "bail-out" educational institutions suffering in this economy. Again, reliance on this source of funding is speculative. The Chancellor of the Florida Community College System opined the funds would not be realized until next fiscal year and "will be non-recurring revenues and [College Presidents] should be careful not to pledge recurring expenses against these sources of funds." (CC Ex. 1 at Tab 6; Email from Holcombe to Presidents).

In response to UFF's assertions that the College has only increased faculty salaries approximately 10% while increasing the budget of the athletic department by more than 60%, CC introduced evidence to establish that it has historically increased faculty salary when funding is available. According to CC witnesses, since 2001, the faculty members have realized an increase of over 23.3% in their base salary, while the budget of the athletic department has increased approximately 18% during that time. (Tr. 119, 131-139; CC Ex. 2).

CC adopts the basic premise that institutions rely on recurring sources of funding to support annual salaries and expenses. As a general rule a community college cannot rely on non-recurring revenues to fund a recurring budgetary item because the non-recurring revenues are not guaranteed to continue in the future.

Chipola uses the fund accounting system and has designated eight (8) separate funds in its budget. Specifically, Fund 1 and Fund 3 are defined as unrestricted funding. Fund 1 is the general operating fund and is the only fund available for salary increases. Unlike some College's, Fund 3 (auxiliary) is not appropriate to fund salary increases or other discretionary spending because the majority of these funds, which constitute revenue from vending and bookstore commissions, is transferred to the restricted Fund 5 to cover institutional scholarships. This is a result of Chipola's size. The other budgetary components are restricted for use either by State statute or Federal law. (Tr. 93-97; Chipola 1 at Tab 3).

Due to the College's size, and unlike the larger schools, it is highly dependent on state revenues. Where a larger institution collects more fees, a school of Chipola's size is more greatly impacted by decreased funding from the State. At Chipola, approximately seventy-five percent (75%) of its operating budget comes from the State of Florida. Historically, except for the year of September 11, 2001, the College has seen increases in state revenue funding and created budgets based on those expectations. CC points out that its funding from the state decreased by one-million dollars since the height of the College's appropriations in FY2007-2008, the final year of Dr. Dubeck's assessment of the College's financial condition. This amounts to approximately a ten-percent (10%) cut for FY 2008-2009.

Tuition adjustments approved by the Legislature in FY 2008-2009 did result in new revenues. However, at the beginning of FY 2008-2009, the College's revenue had decreased by a total of six-percent (6%) from the previous fiscal year. Further revenue shortfalls resulted in a mid-year cut of another four-percent (4%) and despite unexpected increases in student fees the College suffered the loss of another \$250,000 (2%) from its operating budget. Consequently, absent any further cuts to revenue, which is still uncertain, it is the College's position that it is operating at a deficit of approximately \$565,000. (Tr. 98-106; CC Ex. 1 at Tab 3).

To compensate for the deficit, and as a temporary stopgap measure, the College used its nonrecurring reserve fund balance to cover its recurring expenditures. This process is not sustainable for the long term. (CC Ex. 1 at Tab 3; Tr. 106-108, 113). All information provided by the State to the College is that there is no indication of a reversal in the trend of revenue losses nor are there any promised Federal monies for 2008-2009. (CC Ex. 1 at Tab 6).

The impact of these revenue shortfalls to the College's budget were explained by Mr. Steve Young. Simply stated, if the College maintains its current level of expenditures and if State revenues are cut by a conservative and predicted 10% (this could be as high as 15%), the College will operate at a deficit of 1.4 million, with a reserve balance of approximately 1.3 million. Thus, the College is facing the potential of a negative reserve balance under these estimations. (Tr. 109-113; CC Ex. 1 at Tab 3, Tab 6).

Based upon these facts, Chipola has determined that there are no available funds that can be fiscally or responsibly committed for any additional economic benefit increases for FY 2008-2009.

Conclusion re: Availability of Funds

UFF estimates a cost of \$135,000 to fund its proposals and \$45,000 to provide a \$1000 bonus to bargaining unit members. CC estimates the total cost to be \$345,000.

The evidence presented by CC regarding availability of funds is more compelling. The significant reductions in State revenue during the past two years, coupled with the increased expenditures, and

the anticipated further reductions in FY 2009-2010, place CC in a position that does not justify significant expenditures at this time that will result in recurring cost - i.e., wage increases. Continuing to fund recurring expenses from non-recurring revenue sources is an untenable position. The assessment of CC's financial condition by UFF's expert witness is not persuasive because it failed to include an assessment of the impact of the significant reductions in State revenue after June 30, 2008. The impact of these reductions on the College is more significant than on other larger institutions because of the higher percentage of revenue received from the State, and the fact that larger schools can generate more revenue through fees. The continued impact of the recession and the unknown impact of the federal stimulus package add to the uncertainty of CC's financial future.

Are there financial resources available to fund the UFF economic proposals? Yes. However, CC's position - i.e., that funding recurring costs (wages) from non-recurring fund sources (fund balance) is not fiscally prudent policy, is persuasive. Furthermore, UFF's argument that CC's funding of the athletic program is excessive is diminished by CC's analysis of the other community colleges that it competes against in its conference. The UFF argument that the increases in the budget of the athletic department greatly exceeded increases in faculty salaries was effectively rebutted by CC's presentation.

UFF's argument that salaries for administration are excessive lacked substance. Other than the unsupported assertion that there were too many administrators, there was no evidence presented that any of these positions were unnecessary. The fact that administrators suffered the same basic salary comparison to other districts as did the faculty also diminished the UFF argument concerning administrator's salaries.

Whether or not to fund these economic proposals by reducing expenditures in the athletic program, reducing other programs and services, or reducing course offerings, are policy decisions - decisions that CC is entitled to make. And, it has chosen to maintain the level of programs, services and course offerings because of the perceived benefits to the students and the community.

For these reasons, it is concluded that a recommendation of significant expenditures of funds for recurring costs is not in the best interests of the college, its students, its employees and the community it serves.

RECOMMENDATIONS

It is noted at the outset that the presumption of this special magistrate is in favor of existing contract language. Recommendations to change existing contract language will not be made absent a compelling and persuasive argument to do so. In the absence of such argument, the special magistrate is reluctant to substitute his judgment for that of the parties to the contract who live this language on a day to day basis.

The unresolved issues fall into three general areas:

1. The UFF has proposed a wage bonus of \$1,000.00 per faculty member.
2. The UFF has proposed a reduction of faculty workloads from a Fall, Spring and possibly Summer (72 point) schedule to a Fall and Spring (60 point) schedule.
3. The UFF has proposed a reduction of the contractually scheduled hours on campus from thirty-five (35) hours to twenty-five (25) hours per workweek.

The majority of CC's proposals assert the status quo and are consistent with the current practice regarding points and on campus hours.

Article VI – Faculty Working Conditions

1) 6.01 A. Base Contracts

UFF proposes a 60 point workload over a 166 day academic year workload (Fall and Spring contract without a summer load of 12 points).

CC proposes maintaining the status quo.

UFF –

The effect of UFF's proposal is to reduce the teaching load, points and contract length. Currently the faculty teaching load is two and one-half semesters, 72 points and 198 days. UFF proposes reducing the faculty load to two semesters (Article 6.02), 60 points (Article 6.02) and 166 days (Article 6.01) without a reduction from current salaries. This reduction in teaching load and contract length would effectively give the faculty an increase in salary. In addition, the faculty choosing to work summers would receive "overload" pay. (Tr. 67-68). UFF estimates the cost of this proposal would be a maximum of \$135,000 if every faculty member worked the summer. UFF argues further that the cost would actually be less because every faculty member would not work the summer for a full 72 points, and the College could control the costs by reducing the course offerings in the summer. (Tr. 82-84)

In support of its position, UFF points out that Table 17 of the 2008-2009 Fact Book reveals more than half of Florida's college faculty work a two semester contract. (UFF Exhibit 1) These colleges continue to operate in the summers utilizing the full time faculty at overload rates, and adjuncts. UFF maintains that this is done without disruption to the student's needs. (Tr. 36, 40, 63).

CC –

CC rejects the UFF proposal and reiterates the status quo. The 2 ½ semester, 72 point work schedule has been the status quo for more than 20 years. Currently, a faculty member works a 198 day contract for 72 points which may be completed during the summer. (Tr. 66-67, 164). The UFF proposal would reduce each full time faculty members teaching requirement by twelve points or two courses. According to CC, this would eliminate approximately eighty courses taught by full-time faculty.

CC rejects the UFF's proposal to reduce faculty workload for reasons beyond the economic impacts on the college. In addition to the obvious cost associated with the reduction of faculty workload, the loss of services and reduction in the collegial interaction of faculty and the

administration also motivated the rejection. As testified by Dr. Clemmons, this proposal would result in lower enrollment, lower tuition and less FTE funding. (Tr. 165).

Chipola offers a robust curriculum during the summer and wishes to continue to do so. If the UFF proposal were accepted, it is CC's position that it would be faced with either recruiting qualified adjuncts to teach courses, a task which is undisputedly difficult in Chipola's district, or relying on volunteers from the current faculty to teach in the summer at what would be now the overload rate. (Tr. 165-166). Recruiting qualified adjuncts is not the preferred method of teaching at Chipola, which takes pride in the high percentage of full-time faculty members teaching classes. (Tr. 173). CC points out that the other community colleges that run a two semester contract do not have the difficulty that the College has experienced in finding adjuncts to teach courses (Tr. 184).

This proposal is a radical change from a twenty year practice. It would affect the width and breadth of the curriculum and will directly impact Chipola's primary customer – the student. Such a result is contrary the best interests of the College and the public it serves. For these reasons, in addition to unbudgeted economic impact of this proposal, Chipola submits the special amgistarte should adopt its position reffusing to fund the UFF proposals.

Discussion

The cost of the proposal is significant whether one accepts the UFF or CC estimate. For that reason alone, it is recommended that the UFF proposal to reduce the work load be rejected. For the reasons indicated above, funding significant recurring expenses from non-recurring revenue is not a fiscally responsible position.

Furthermore, the argument by CC concerning the adverse impact on the breadth and quality of the curriculum is persuasive. Assuming that UFF is correct that all faculty members would not choose to teach in the summer, the College would be required to hire additional faculty, almost certainly adjuncts, assuming they are available. During the hearing, the College repeatedly expressed its pride in the number of full time faculty teaching at Chipola as compared to the greater percentage of adjuncts used at other community colleges. The College understandably concludes that full time faculty members provide a more high quality education than adjuncts, whose availability on campus after class would be minimal.

Furthermore, testimony at hearing by both CC and UFF witnesses indicates that it is difficult to find adjuncts willing to come to Marianna because of its relative remoteness from major population areas. Consequently, failing to find adjuncts to teach courses that full time faculty members have chosen not to teach will result in the elimination of courses that the College currently provides, thus diminishing the course options currently provided to students..

Recommendation

It is recommended that the UFF proposal to reduce the workload be rejected and that the 2 ½ semester, 198 day, 72 point work schedule be maintained.

2) 6.01 B. Special Contracts

The UFF opposes summer term as part of the faculty workload. CC proposes status quo on workload.

Recommendation

For the reasons stated above, it is recommended that the UFF proposal be rejected and the status quo maintained.

3) 6.01 C. Assignment Notification

UFF proposes a new section providing that each faculty member shall be notified in writing no later than the end of the second week of each term of their assigned classes, labs, and clinical. Such notification shall include the points assigned per course and the total points for the term.

CC rejects the proposal and offers no counterproposal.

UFF -

Currently, according to UFF, faculty members, particularly nursing faculty, do not receive written notice of class assignments and point value for those classes until well into the academic year. This

creates potential scheduling problems and could affect a student's graduation date. The nursing faculty testified that they often do not know their assignments and point values until two months into the semester. UFF maintains that employees have a right to know how their wages are determined and that such notice be in a timely manner (Tr. 68-70, 212). UFF points out that the College opposes this new language even though CC's own witness, Dr. Clemmons, stated that no administrator has more than six faculty assignments to make, and that the notice requested by UFF would not be difficult to accomplish. (Tr. 215).

CC –

(In its brief, CC discusses this subject under the heading "Assignment Notification Article 6.02.". For the purposes of this discussion, it is assumed that CC's argument in this regard is in response to the UFF newly proposed language in Section 6.01 C.)

CC submits the status quo on notice of schedule and points proposal. Currently, the practice at the College involves an interactive process where a faculty member submits a duty schedule and the form is reviewed by supervisors and eventually is returned to faculty as their semester schedule, indicating points, office hours, and other hours within the scheduled 35 hour workweek. This is posted outside the door by the second week of class and provides a clear, transparent and concrete schedule for faculty, staff, students and administrators. (Tr. 176-178).

Discussion

The UFF's argument in support of its proposal is persuasive. Having written notice of the class assignment and point value within two weeks of the beginning of the academic session seems reasonable. The administration testified that accepting the proposal would not impose an unreasonable burden on staff.

Recommendation

For the reasons stated above, it is recommended that the UFF proposal regarding notice of assignments and point value of classes

4) 6.02 Teaching Load and Points –

The UFF proposes a workload of 60 points and no summer teaching except as an overload.

CC recommends the language changes intended for clarification in this introductory paragraph and proposes status quo on the workload issue.

Recommendation

For the reasons stated above, it is recommended that the UFF proposal be rejected and the status quo regarding work schedule be maintained. To the extent that the UFF agrees that CC's language changes are for clarification and do not constitute substantive changes, it is recommended that the language changes proposed by CC be accepted.

5) 6.02 D. Low and High Point Loads -

The UFF proposes a contract without summer teaching.

CC proposes the status quo on workload. The remaining language changes to this section are intended by CC to clarify the status quo as set forth in CC Ex 1, Tab 5.

Recommendation

For the reasons stated above, it is recommended that the UFF proposal be rejected and the status quo regarding work schedule be maintained. To the extent that the UFF agrees that CC's language changes are for clarification and do not constitute substantive changes, it is recommended that the language changes proposed by CC be accepted.

6) 6.02 E. Oversize Class Points –

CC proposes language that would allow it to add five students to a class (only 2 for Gordon rule) without requiring faculty permission. To compensate for the additional students, the College proposes a one-fourth class point for each student paid at a rate of \$250 per point.

UFF -

UFF indicates in its brief that it can accept the CC's proposal if UFF's proposals on Article 6 are recommended by the Special Magistrate and accepted by the College. Otherwise, UFF rejects the College's proposal for Article 6.02(E) as an increase in workload without additional compensation.

CC -

CC has proposed a substantive change regarding class enrollment to permit the College to exceed class limits by five students except for Gordon Rule classes which shall be limited to no more than two students in excess of the maximum, subject to room limitations and technology requirements. To compensate for the additional students, the College is offering a one-fourth class point for each student paid at a rate of \$250 per point. (Tr. 179-180). According to CC, the intent of this proposal is in the interest of student opportunities and the College's defined benefit for any increase in class size based on that need.

Discussion

UFF does not present a substantive argument in opposition to this proposal, choosing instead to condition its agreement upon agreement of the College to the remainder of the UFF proposals in Article 6. There is a failure of agreement on the remaining sections of this Article. UFF then argues that the change constitutes an increase in workload without additional compensation. CC has offered additional compensation at a rate of $\frac{1}{4}$ class point per student based on the rate of \$250 per point.

The CC proposal to exceed maximum class size seems reasonable on its face. However, there is insufficient evidence on this record to indicate whether the compensation offered by CC is reasonable, nor is there an indication on this record that the proposed compensation is acceptable to UFF. As was indicated at the outset of the discussion of proposed contract changes, the presumption of this special magistrate is in favor of existing contract language. Recommendations to change existing contract language will not be made absent a compelling and persuasive argument to do so. In the absence of such argument, the special magistrate is reluctant to substitute his judgment for that of the parties to the contract who live this language on a day to day basis.

Recommendation

For the reasons stated above, it is recommended that the proposal by CC to permit the College to exceed class limits be rejected, and that the status quo in this regard be maintained.

7) 6.02 G. Laboratory Points –

CC proposes new section 3 intended to confirm current practice for lab point values.

Discussion

UFF did not address this issue in its brief, nor was there any evidence introduced by either party concerning this matter at hearing.

Recommendation

To the extent that the UFF agrees that CC's language changes confirm current practice and do not constitute substantive changes, it is recommended that the language changes proposed by CC be accepted.

8) 6.02 J. Summer Term(s) Points

The UFF proposes deletion of the entire article. The UFF proposal also increases the overload rate for the fall and spring semesters to \$250 per point and increases the summer overload rate to \$350 per point.

CC proposes status quo on the position of workload, submits language changes for the purposes of clarification.

UFF –

The UFF proposal would eliminate the calculations for summer assignment and replace it with a straight formula of points times the overload rate. UFF points out that “[A]t the back of Tab 2 of

the College's exhibit it is noted that the increase of overload rate to \$250 and the substitute pay increases were "offered and accepted" (no TA'd). It would therefore appear the only issue for the Special Magistrate is the summer overload rate and deletion of (Article 6.02(J)) if the UFF Article 6 proposals are accepted."

CC -

CC maintains that the language identified as new in section 3 is relocated from the status quo Section 6.03, at the second paragraph. CC agrees to the increase in compensation per point in this article as proposed at Chipola Exhibit 1 at Tab 4. However, the UFF proposes an increase in summer overload to \$350 per point. Chipola rejects this proposal.

Discussion

The UFF proposes deletion of the entire article based on its position that the contractual workload of faculty should no longer include summer school teaching.

Having reviewed Tab 2 as referenced by UFF above, the undersigned is unable to find a reference to an agreement by CC to the increase from \$200 to \$250. However, in the transcript, there is a reference to Article XII in terms of overload indicating the UFF proposal is to go from the current \$200/point to \$250 for Fall and Spring, and then, "if we teach overload during the Summer, to go to \$350/point." (Tr. 84). Furthermore, in CC Ex. 1, Tab 4, the matter is addressed in "Part II – Other Compensation." There, in Section 12.07 (renumbered by CC as 12.06) Overloads (Renamed by CC as "Paid points for Other Related Duties"), there is a reference to compensation of \$250 for paid points. In this section, "Compensation per point as used in assigning teacher loads shall be \$200" is shown as deleted. Because this is CC's exhibit, it is assumed that CC agreed to increase the amount from \$200 to \$250.

Finally, because it appears that the entire UFF proposal is premised upon a workload of 60 points and no summer teaching except as an overload, the issue of the increase for overload in the summer appears to be moot.

Recommendation

Because the UFF proposal was premised on acceptance of its proposal to go to 2 semesters, and it is recommended that that proposal be rejected, it is recommended that the UFF proposal regarding this section be rejected as well.

To the extent that the UFF agrees that CC's proposed language changes are for clarification and do not constitute substantive changes, it is recommended that the language changes proposed by CC be accepted.

With regard to the increase in compensation for points from \$200 to \$250, no recommendation appears necessary because the parties have apparently agreed to the increase. This change will be reflected in Section 12.06.

9) 6.02 Clock Hours and Credit Hours Courses

UFF proposes language that would require that faculty receive notice of their classes and workloads within two weeks of the beginning of each semester. CC rejects this proposal and recommends status quo procedure for assignments.

This issue was addressed in the above discussion and recommendations regarding Section 6.01 C. The undersigned is confused as the proper numbering of this proposal.

10) 6.02 Clock Hours and Credit Hour Courses, B. Extra Duties and Points

CC proposes to strike the language because it contradicts other language in the contract, and further because the formula for working more than the 72 points at other areas in the contract governs the pay for these overloads.

UFF did not address this issue in its brief, nor was there any evidence introduced by either party concerning this matter at hearing.

Recommendation

If UFF agrees that the current language is contradictory, and its deletion is not a substantive change in the contract, it is recommended that the section be deleted. However, if there is no such agreement, it is recommended that the status quo be maintained and the current language remains in the contract.

11) 6.03 Overload Assignment

CC recommends striking the language in this section.

The UFF proposes the language remain only if the 72 hour workload is recommended as the continued status quo by the magistrate.

CC –

According to CC, the first paragraph is proposed for deletion because it is redundant and addressed at other areas in the contract regarding workload points. CC notes that the second paragraph has been relocated to the newly numbered H, subsection 3.

Deletion of the third paragraph is a substantive change and is intended to prevent a faculty member from replacing (“bumping”) an adjunct instructor that has been employed to teach a class. According to CC, in practice, this language allows a faculty member to replace an adjunct at any time prior to two weeks into the academic session. As testified at the hearing, this practice has impeded planning, as faculty can replace the adjunct whenever they choose to do so. (Tr. 174-175).

The practice the College is seeking to avoid is where a faculty member actually replaces an adjunct instructor that has been employed to teach a class. The adjunct instructor may have made plans based on the hiring to teach a course, may have dedicated time and effort to prepare for the course and may have even met with the course and begin the instruction – only to be bumped out of the assignment by a full time faculty member. Such a practice results in the unfair treatment of the adjunct instructor, the possibility of disruption in the course delivery and generally discourages the recruitment of adjuncts.

UFF –

Other than proposing that the entire section remain unchanged if their proposal on the reduction of the workload is not accepted, the UFF offered no substantive argument in opposition to the CC position regarding the deletion of the third paragraph.

Discussion

It appears that the first paragraph of this section is redundant, and the faculty members' rights would not be diminished by its deletion. The second paragraph has been moved to 6.02 H., without modification.

The proposed deletion of the third paragraph does constitute a substantive change regarding faculty's ability to "bump" a part time faculty member for any course offered as an overload. The argument presented by CC is compelling. The potentially adverse impact on adjuncts is obvious, as is the fairness of CC's position. What is missing is an indication of how frequently such adverse impacts occur. If it is not a problem, why fix it? Nevertheless, whether the problem is real or not, it is certainly potentially a problem, and "fixing it" seems in order.

Recommendation

For the reasons expressed above, it is recommended that CC's proposed deletion of this section be accepted.

12) 6.05 Substitution

UFF proposes deleting the first two paragraphs of this section and substituting the following language:

A faculty member is encouraged to make substitute recommendations but shall not make final substitute assignments. The administration may request a faculty member to teach an absent faculty member's class. If the faculty member teaches the class for the duration of the assigned class period, the faculty substitute will be compensated

with substitute pay based upon the hourly rate for substitutes in Article XII.

The faculty member must have met his/her 25 contact/office hour requirement to receive compensation.

If a faculty member substitutes during his/her scheduled office hour(s), the faculty member may elect to reschedule the office hour(s) during the same week and be compensated as a substitute.

CC recommends the status quo on all UFF's proposals related to scheduled on-campus working hours. In addition, CC has recommended the deletion of the last sentence that prohibits substitute pay for simply checking the roll. Additionally, CC submits the remaining language at Tab 5 is proposed for clarification and is not believed to be at impasse.

Discussion

Neither party provided a rationale in its brief for its position regarding this section. This section was briefly discussed at the hearing, but the intent of the parties regarding the proposed changes is not clear. (Tr. 71-73) According to testimony by UFF witness Lipford, the language in green in the UFF powerpoint presentation is proposed new language, and the language in red is intended to be deleted. (Tr. 68). In reviewing the powerpoint presentation (which is not a part of the official record), the testimony of record, and the CC language in Tab 5, it is concluded that, with one exception, there is conceptual agreement between the parties on this section. The one area of difference is the language related to 25 contact/office hours. This language relates to the UFF proposal to reduce the contact hour requirement and should be rejected consistent with the recommended rejection of that concept in the other UFF contract proposals.

The new language proposed by UFF to replace the first paragraph seems reasonable and to the benefit of both parties. The language changes proposed by CC in the remaining paragraphs appear to be either for clarification and/or are agreed to by UFF.

Recommendation

It is recommended that the UFF proposed language replacing the existing first paragraph be accepted. It is recommended that the remainder of the UFF proposed changes be rejected. Further, it is recommended that the changes proposed by CC to the remaining portion of this section, as indicated in CC Ex.1, Tab 5, be accepted.

13) 6.08 Duty Schedule

The UFF has made a series of proposals to reduce the scheduled on campus workweek from 35 to 25 hours, and the annual workload from 72 to 60 points. UFF proposes the following new language:

A. The professional obligation is comprised of both scheduled and non-scheduled activities. The parties recognize that it is a part of the professional responsibility of employees to carry out their duties in an appropriate manner and place. For example, while instructional activities, office hours, and other duties and responsibilities may be required to be performed at a specific time and place, other non-scheduled activities are more appropriately performed in a manner and place determined by the employee.

CC rejects this proposal and reiterates the status quo.

UFF -

UFF maintains that this proposed language is intended for the purpose of recognizing that Chipola College faculty members are professionals. They are salaried employees. UFF argues that current contract language treats faculty members as if they are hourly employees. The proposed language in this and subsequent sections requires faculty to post their scheduled office hours and teaching hours. All other duties would be performed as and when needed. The testimony of record clearly established that most faculty members perform grading and class preparation at night and on weekends, well outside of the current posted hours. (Tr. 32-41).

CC –

CC desires to maintain the status quo language for work hours and workload proposals. CC notes that its proposed language changes to this section, as identified at Tab 5, are for organization and clarification and are not opposed by the UFF, assuming that the Magistrate recommends the 35 hour scheduled workweek remain the status quo.

Discussion

This new first paragraph of Section 6.08 proposed by UFF sets the tone for the remainder of its proposals which have the effect of reducing the contractually prescribed schedule from 35 to 25 hours per week. Such a reduction is not recommended for the reasons stated below in the discussion of Section 6.08 D., and 6.09. The proposed language, while philosophically appealing and consistent with the current performance of Chipola College faculty members' professional responsibilities, raises questions concerning possible conflict with current contract language. Consequently, the language will not be recommended.

Recommendation

It is recommended that the new first paragraph proposed by UFF not be accepted. With reference to the remaining proposals made by CC to section 6.08, to the extent that the UFF agrees that CC's language changes are for clarification and do not constitute substantive changes, it is recommended that the language changes proposed by CC be accepted.

14) 6.08 D. Duty Schedule Form

UFF proposes deleting the following language:

The faculty duty schedule will show ten office hours unless assigned class and/or laboratory would cause contact hours and office hours to exceed 2, for a total of class, office and on-campus hours of 25.

UFF proposes the following language consistent with its proposed reduction of the contractual workweek

The faculty member will schedule and post 25 hours of student contact and office hours per week over four days. Those faculty who are teaching an on-line course may use two of the required hours as off-campus on-line office hours.

CC rejects the proposed changes and reiterates the status quo.

In addition, the UFF proposes changing “Duty Schedule Form” to “Faculty Schedule Form.” This terminology change is adopted by CC in Tab 5 and thus not at impasse.

UFF –

Except for the general proposition that Chipola College faculty members should be treated as professionals, UFF, in its brief, offers no rationale in support of the reduction of contractually required hours from 35 to 25 hours per week.

There was, however, considerable testimony of record on this subject. UFF witness White testified that faculty members consistently perform work which occurs outside the contractually required work week, such as grading papers and attending faculty meetings. UFF proposes that faculty members post 15 classroom hours and 10 office hours instead of the current 15 hours per week for classroom work, 13 hours of office time and 7 hours of on campus time. UFF testimony was offered to indicate that the current schedule is restrictive in that the requirement that staff be physically present on campus results in frequent interruption of their work by students, necessitating longer hours away from campus to fulfill their professional responsibilities. UFF maintains that, because the faculty members are professionals, the work will continue at the same level under the new schedule with the benefit of increased flexibility to do the work. It was pointed out in testimony that many other community colleges offer a 25 hour work week posted schedule with no adverse effect on the curriculum or student services. (Tr. 33-40, 71-72, 76-77).

CC-

CC points out that the UFF proposal to reduce the current faculty on-campus workweek schedule from thirty-five to twenty-five hours is a radical departure from a twenty-year old past practice at the college and the majority of community colleges in Florida. (Tr. 170-172; 174; Chipola 1 at Tab 5). At the College, the current practice requires twenty-eight total scheduled hours for instruction and student office hours and seven discretionary hours for educationally related activities such as securing mail, committee meetings, research, class preparation, visiting or tutoring students. (Joint Exhibit 1 at 13).

CC submits the historical practice of scheduling thirty-five hours on campus by the faculty should be maintained. The UFF's proposal would alter all faculty work schedules and waive any contractual obligation for ten (10) hours of a faculty member's time currently spent on campus. CC argues that there are numerous adverse results from the UFF's proposal. The College's primary focus is on teaching and not research or publishing. The College strives for full time faculty to engage students, rather than part time adjuncts in its daily operations. Reduced scheduled hours result in less accessibility to students. The College is guided by the fact that the amount of interaction between the student and teacher is critical to a successful educational experience. CC argues that, because of the teaching overload, there would be fewer hours available for student interaction with faculty. (Tr. 170, 173).

CC argues further that adopting a reduced on-campus schedule would also disenfranchise or create a disparity for the College's Workforce program faculty who are legally required to work thirty (30) hours of contact time per week. At present seventy-percent (70%) of the faculty are only on campus four days a week. As pointed out by Dr. Clemmons during her testimony, the argument for full-time faculty is significantly diminished when an entire workforce only visits the jobsite three times a week, which would be possible under the UFF proposal, while continuing to receive the salary and benefits of a full-time faculty member. Due to the considerable difficulty in obtaining substitutes, it is likely that classes would be cancelled. In addition, the current scheduling of on-campus hours provides transparency and accountability for other staff, faculty, and students concerning when and where the faculty is performing their duties. (Tr. 169-172, 176-178).

CC argues that the factors of comparability and the interests and welfare of the public to be considered by the special magistrate give weight to CC's proposal to maintain current practice. CC maintains that, whether dealing with a professional or others, an employer cannot concede to essentially reduce all faculty workweeks from 35 to 25 hours and optimistically assume every faculty member will perform their expected duties, without any contractual obligation to do so. Most importantly, the loss of the ten hours would undisputedly eliminate at least three hours per week that a student could interact with their teacher.

Consequently, CC requests the Magistrate reject the UFF proposal and adopt CC's proposed changes. CC maintains that the language changes to this section as identified at Tab 5 are for organization and clarification and not opposed by the UFF if the Magistrate recommends the 35 hour scheduled workweek remain the status quo.

Discussion

As is noted by both parties, this proposal is a significant change of the status quo. Such a change should not be made absent compelling reasons to do so. UFF suggests that increased flexibility is a reason that would support such a change. However, testimony from UFF witness White on cross examination established that there is flexibility under the current contract language. Faculty members could restrict student access and interruptions at times if they choose to do so. According to testimony, faculty members, to their credit, generally have an open door policy for students because they believe that student access is an important part of their professional responsibilities. (Tr. 50-51). Both parties agree that, whether the contract requires 35 or 25 hours, faculty members would continue to attend faculty meetings and continue to do work at home.

UFF also made the point that many other Florida community colleges offer a 25 hour work week posted schedule with no adverse effect on the curriculum or student services. CC's response pointed out that a 35 hour contractual work week continues to be more typical. (Tr. 173).

The testimony, evidence and argument presented by UFF are not persuasive, especially in view of the significance of this proposed change in the status quo.

Recommendation

It is recommended that the status quo concerning the contractual work week be maintained, and the UFF proposal in this regard not be accepted.

15) 6.08 F. Office Hours

UFF proposes a new Section F. as follows:

F. An office hour is a designated hour when an instructor will be available for one-on-one consultations with students in a non-class setting. The availability and location of these office hours shall be made known to the students on the faculty schedule form. An office hour is sixty (60) minutes. If the location is to be at a site other than the faculty member's office or in a classroom between classes, the faculty member and the immediate supervisor will agree upon the location. Two of the posted office hours may be off campus.

CC submits the status quo should be maintained.

UFF –

UFF does not provide an argument in support of this position in its brief. However, testimony by UFF witness Lipford provided sufficient justification for the proposal. In the first place, she indicated that the issue is not currently addressed in the contract. The witness points out that the language permits that two of the hours designated as office hours are not necessarily required to be on campus. The rationale for this is that, particularly with the nursing faculty, much of the time spent with the students is in a clinical setting away from campus. As a practical matter, faculty could more easily provide “office time” at the site, rather than returning to campus to do so. (Tr. 78-80).

CC -

Other than the simple assertion by CC that the UFF proposal is related again to the UFF's primary proposal to eliminate scheduled office hours on campus, and therefore should be rejected, CC offers no further rationale for its position.

Discussion

CC's argument is not persuasive. The status quo is not currently defined by contract. The definition of office hours offered by UFF is reasonable. The argument in support of the discretion to conduct two “office hours” off campus is persuasive.

Recommendation

It is recommended that the UFF proposal regarding office hours be accepted.

16) 6.09 Faculty Working Hours

UFF has proposed a change from a total of 35 working hours to 25 working hours and the elimination of summer school teaching.

CC reiterates the status quo on the issues involving workload and working hours.

Discussion

UFF's proposal is part of the package of proposals dealing with changing the contractually required work week. It adds nothing new and should be rejected.

CC submits that the language changes presented in Tab 5 are not disputed if the magistrate adopts CC's position on those two issues. CC maintains that the changes proposed are for clarification and organization.

Recommendation

It is recommended that the UFF proposal be rejected and the status quo maintained with regard to faculty working hours (with the exception of the changes recommended in Section 6.08 F., above). To the extent that the UFF agrees that CC's language changes are for clarification and do not constitute substantive changes, it is recommended that the language changes proposed by CC be accepted.

17) 6.10 D. Assigning Grades

CC proposes a new section D as follows:

D. Faculty members will assign a student's final grade in each class at the end of each session. Only a student may request a review of his/her grade(s) for a possible grade change. Such requests must be made to the faculty member involved, except when a

faculty member is not on campus, the student may make the request to the faculty member's supervisor who will notify the faculty member to contact the student.

Discussion

UFF does not address this proposal in its brief, nor is the subject addressed in testimony at hearing. There is therefore nothing to indicate that the proposal is consistent with the status quo. However, the proposal seems reasonable, and there is no objection by UFF.

Recommendation

It is recommended that the new language proposed by CC be accepted.

18) 6.14 Compensatory Time

The UFF maintains that this article is in dispute because it references workload points. CC maintains that it is unable to identify language changes regarding the workload proposal by the UFF. CC submits this section should be adopted as identified in Tab 5, as the language changes are for consistency with other portions of the contract. The language changes proposed by CC, as indicated in CC Ex. 1, Tab 5, do not appear to be substantive in nature.

There is no UFF proposal on this section.

Recommendation

To the extent that the UFF agrees that CC's language changes are for clarification and do not constitute substantive changes, it is recommended that the language changes proposed by CC be accepted.

Article 12 – Compensation and Fringe Benefits

19) 12.04 Other Provisions

The UFF proposes a lump-sum bonus of \$1000.

CC proposes that faculty members remain at their previous year step and status quo for all wage increases.

Discussion

There is no question that the salaries of the Chipola College faculty are near the very bottom of the list of community colleges in Florida. With the College having proposed no salary increase, there is no question that the Chipola College faculty members are losing ground to inflation. For the reasons described earlier regarding availability of funds, it is not recommended that there be a significant expenditure of funds from sources that are non-recurring.

However, in the discussion of this \$1000 bonus at hearing, and in the briefs of the parties, there was no indication that this “bonus” was to be added to the salary schedule, nor that it would be reflected in the individual faculty member’s salary step. Assuming for the sake of this discussion that the \$1000 is a one-time bonus, it does not constitute a recurring expense, and therefore would not impose an additional fiscal liability for the next fiscal year. Bases upon the testimony of record, it would appear that the cost of this one-time bonus would be \$45,000 - \$47,000, depending on the actual number of bargaining unit members. A \$1000 one-time bonus would constitute an approximate 2% increase in the income of faculty members, and would somewhat diminish the impact of inflation. If the bonus were effective during this fiscal year, this cost should be capable of being absorbed without a severe impact on the 2008-2009 reserve fund balance.

Recommendation

It is recommended that UFF bargaining unit members receive a one-time \$1000 bonus effective FY 2008-2009, with the understanding that this bonus does not change the base salaries of bargaining unit members in terms of future salary negotiations.

20) 12.07 Overloads

CC proposes retitling this section as “Paid Points and Other Related Duties,” and submits language changes for the purposes of clarification.

UFF proposes an increase in summer overload to \$350 per point. CC rejects this proposal.

Discussion

There was no discussion of the proposed increase to \$350 per point in summer overload. Consequently, there is no cost estimate for the proposal.

It would seem that the UFF proposal in this regard is related to its proposal to move to two semesters, with the faculty who chose to teach in the summer being paid on the basis of overload. The UFF proposals in that regard have not been recommended.

Recommendation

It is recommended that the UFF proposal to increase the summer overload rate to \$350 per point be rejected. To the extent that the UFF agrees that CC’s language changes are for clarification and do not constitute substantive changes, it is recommended that the language changes proposed by CC be accepted.

12.10 Substitute Pay

Testimony at hearing indicates that there was agreement on the increased rates for substitutes, and that the UFF withdrew its proposed language with which CC did not agree.

Consequently, this section is not at impasse and no recommendation is necessary.

12.15 Supplements

In its brief, CC lists this section in its discussion of the articles at impasse, stating that “Out of an abundance of caution, Chipola submits that any proposal in addition to Chipola’s at Tab 4 is rejected for economic reasons.”

The undersigned was unable to find any mention in the UFF brief of a proposal to increase supplements, nor does there appear to be any reference to the subject in the transcript.

Accordingly, Section 12.15 Supplements, does not appear to be at impasse, and no recommendation is necessary.

Respectfully Submitted,

Thomas W. Young, III
Special Magistrate

Date