



NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY

PLANNING DIVISION

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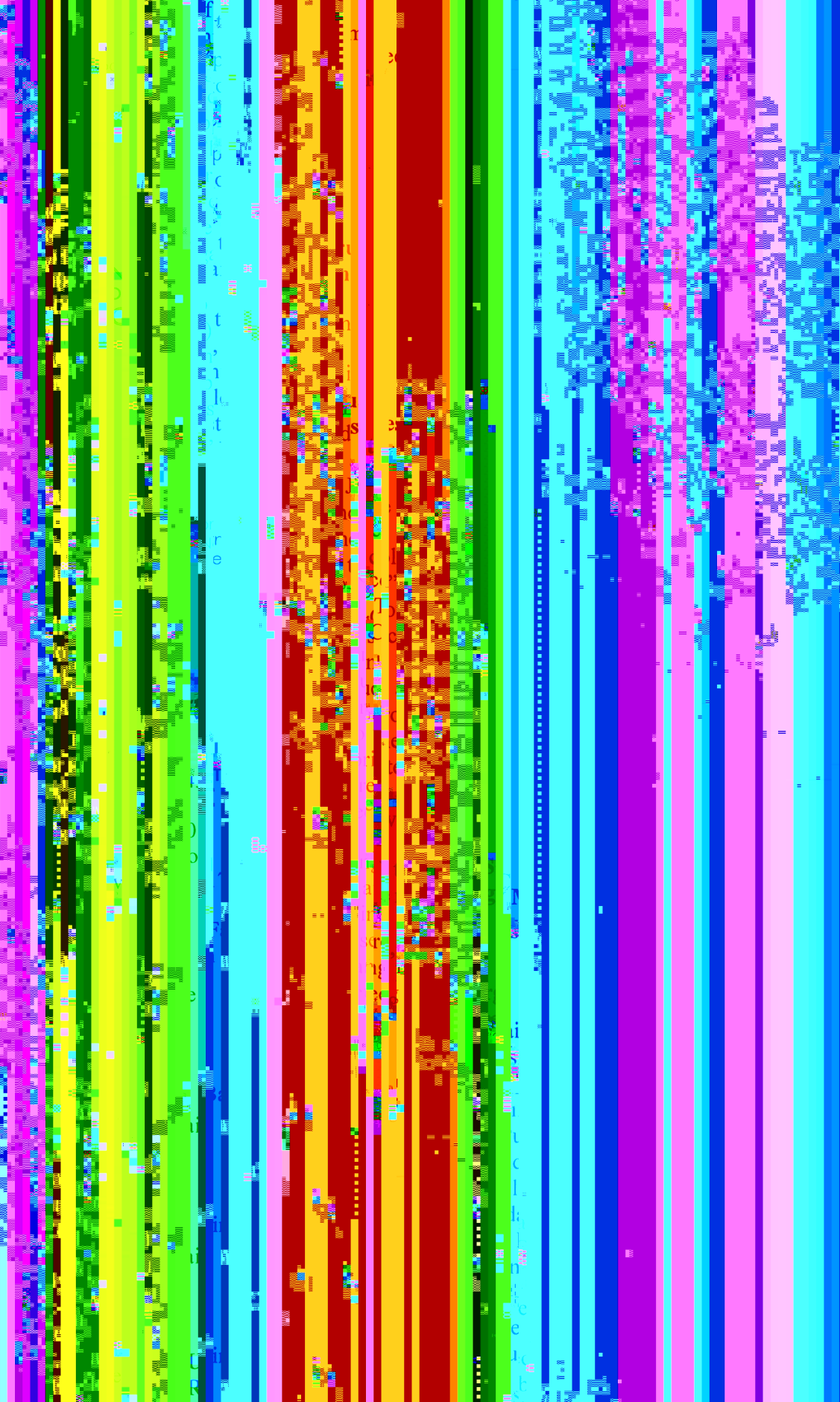
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LAMPANG-SURABAYA

May 24, 2021

Page 3

2. Base Wages Increase	Adopt the language of the University's May 3, 2021, Compromise Proposal ² amend Article 21, as set forth in attached <u>Exhibit A</u> .
3. Entry Level Base Hourly Wage Increase	Status Quo
4. Notice of Discretionary Wage Increases	Status Quo
5. Copies of Financial Settlements	Status Quo

C. RATIONALE FOR RECOMMENDATIONS

1. Orientation Packets.

Union. The Compromise Proposal would take effect on the first pay period following ratification by both parties (or on the first practicable pay period following the date the impasse is resolved by the UBOT). The Compromise Proposal would be effective for those eligible employees who were employed with the University as of July 1, 2020, and who continue to be employed by the University as of the date payment is made. The funding impact of the Compromise Proposal is approximately \$840,000 for the bonus, and \$840,000 in annual recurring cost for the general wage increase. Again, this Compromise Proposal is made despite the difficult economic circumstances being encountered by the University.

3. Entry Level Base Hourly Wage Increase

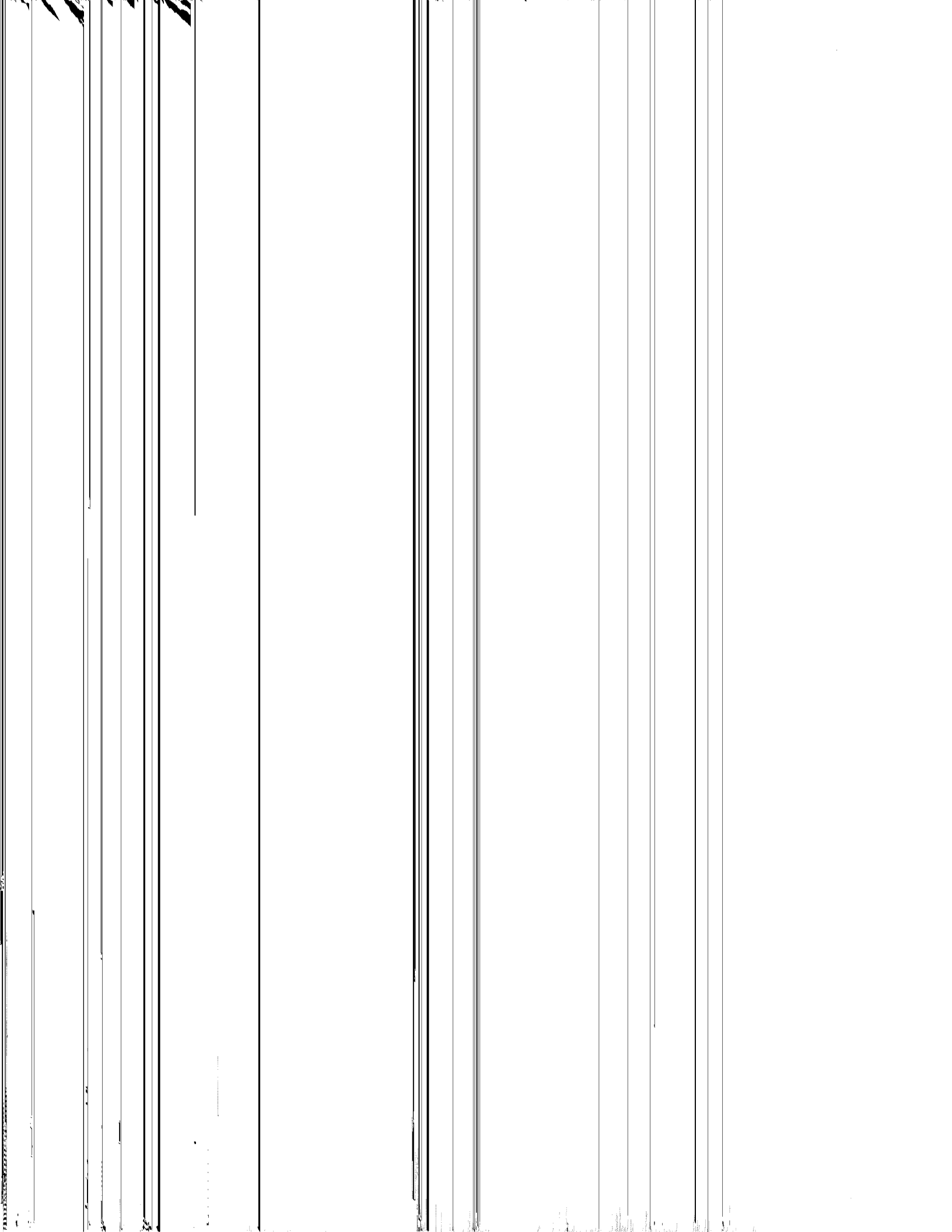
The President is not recommending any adjustment to the base minimum hourly rate set forth in the agreement, \$10.54. Notably, Florida's present minimum wage of \$8.65 is set to increase to \$10.00 per hour effective September 30, 2021, and each September 30 thereafter, minimum wage will increase by \$1.00 per hour until the minimum wage reaches \$15.00 per hour on September 30, 2026.

4. Notice of Discretionary Wage Increases

President Currall does not recommend that AFSCME's proposal to add a new requirement in Article 21 that the University provide AFSCME with thirty (30) days advance notice to meet and confer prior to exercising its long-recognized authority to make wage adjustments for market equity, compression/inversion or other reasons be implemented. AFSCME has provided no explanation or justification for thy.

May 24, 2021
Page 5

bcc: Gerard D. Solis, Esquire

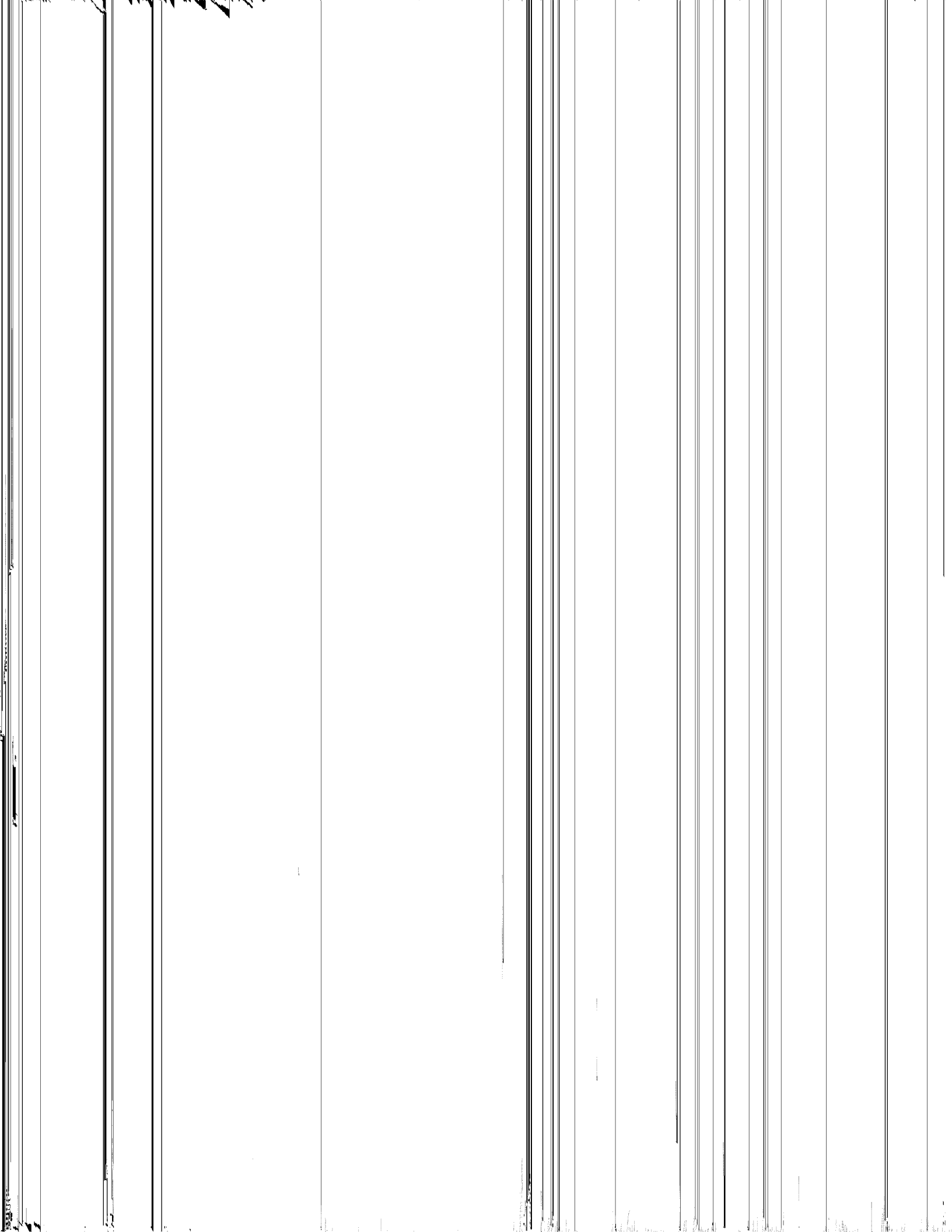


Article 21

Wages

21.1 Wage Adjustment

4. Wage Adjustments.



STATE OF FLORIDA
PUBLIC EMPLOYEES RELATIONS COMMISSION
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UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES,)	
)	
Public Employer)	
)	
- and -)	
)	SM-2020-010
FLORIDA PUBLIC EMPLOYEES COUNCIL)	
79, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, LOCAL 3342)	
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Employee Organization)	

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I. Background

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60CG3.007 Recommended Decision of Special Magistrate.

- (1) Following the close of the hearing(s), the special magistrate shall review and consider all of the relevant evidence which has been presented during the hearing(s) and any oral or written argument provided by the parties, and he shall prepare a recommended decision. In reaching a decision, the special magistrate shall consider only that evidence presented at the hearing(s) in light of those factors set forth in Sec 447.405, F.S. The special decision shall include findings of fact and recommendations for settlement of each issue in dispute.

It should be duly noted that I gave due consideration to all the above factors before making my recommendations.

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In writing this Report and Recommendations, I took note of the following

- Since the % OE š] • [o •, there have been significant societal changes including agitation for economic and social justice. Given my obligation under the statute to consider the interest and welfare of the public, I took these recent developments into account
- As a result of the Covid19 pandemic, the budgets of state-sponsored institutions of higher education all around the country have been under severe duress, with an uncertain future going forward from declining enrollments added costs of having to move to online instruction, the need to purchase personal protective equipment and offer testing, and a loss of revenue from diminished state support, underutilized dining halls and dormitories, empty campus parking garages and cancellation of athletic events. The impact of these developments is h ^ & [•

a contract article (Article 4) as well as USF policy that are labeled as such, CE ••u v š X_

4. The fact that other Florida Universities do not have similar language in their contracts is immaterial as each SUS school negotiates their own contracts.

Summary of the USF Response

1. USF wishes to maintain the status quo pointing out that the USF policy already expressly prohibits and recommends discipline for threatening and abusive language, as well as aggressive and violent behavior, and is readily accessible at the computer station in every department.

2. No other SUS school has this language in their contract.

3. This proposal is to involve itself in disciplinary actions against management employees who have been accused of bullying.

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At this moment in time there is increased sensitivity to, and less tolerance of, abusive or coercive behavior for any reason including bullying which has become a frequent topic of discussion in the media² Because bullying often involves power imbalances between the parties, organized labor has been one of the groups most vocal about bringing this issue to the forefront

In recognition of these developments, and based on the evidence before the Special Magistrate finds as follows:

1. While it may be true that the USF has a policy prohibiting threatening or abusive behavior bullying can involve a much broader scope of inappropriate behavior than just threats or abusive language.

2. Including language in collective bargaining agreements

4. The contract does not include language on topics that are already addressed in policy³

5. While it may be true that no other SUS labor agreement has language specifically prohibiting bullying, it is not determinative because each campus has the latitude to decide what issues are of sufficient import to include in their contract. And, just as these parties cannot dictate what other campuses include in their contracts, similarly, neither do the other SUS schools get to dictate what language USF elects to include in its contracts

6. USF's proposal to involve itself in the disciplining of managerial employees found guilty of bullying is, of course, entirely speculative. To the contrary, while the Union has no formal role to play in disciplining management employees, they certainly have legitimate reasons to see that individuals are held accountable for engaging in proscribed behavior towards bargaining unit members

7. It seems reasonable to presume that the best way to prevent bullying of bargaining unit members is to have language in the contract that speaks definitively to that obligation and defines and specifically calls attention to and prohibits that conduct by name

8. Because many members either do not own a computer, lack easy access to one, and/or are not computer literate, it creates an unnecessary and unreasonable barrier for employees to have to research their rights online, something that clearly is not in the best interests.

9. And now () it is a good reason to maintain the status quo. And, in a balancing of the equities, the importance of educating employees on their rights, and hold accountable those who engage in this prohibited conduct, clearly outweighs the rationale for upholding the status quo

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Including anti-bullying language in the contract is a timely topic, is a matter of mutual importance to both USF and bargaining unit members, involves nothing in terms of cost or inconvenience to add, does not conflict with any existing USF policy or practice, reflects behavior

³ It appears that the contract already contains language on issues that are already addressed in USF policy. Presumably these would include such issues as discipline, non-discrimination, personnel records, health and safety, performance evaluations, hours of work, benefits, and worker compensation to name some examples.

that can never be condoned and is always improper and often illegal

5. While USF asserts that granting this additional two hours a week would constitute 25% of a 40-hour work week amounting to only 5% of her work time. Thus, not only would the burden be minimal, but the full two hours may not even be needed every week. And, this additional time will be used to resolve issues which would be of mutual benefit to both bargaining unit as well as USF.

6. USF attempted to cite a PERC decision. However, PERC does not oppose release time but rather, we have already adopted the private sector view that paid release time is a valuable benefit for a bargaining unit as a whole. In fact, PERC recently recognized that it has long held that a fundamental way in which employee organizations and public employers can help provide effective grievance investigations is through the use of paid release time.

7. Florida Statute 44.405, Sections (3) and (4) requires Special Magistrates to consider the interests and welfare of the general public that USF, as a public employer, provides and promotes a good work environment. This additional release time would assure that the Union will provide a minimum amount of time per week to ensure that employees are adequately represented in grievance investigations when policies are being proposed and in all manner of discipline.

8. Section (4)(h) of that statute requires, in the interest of the public, that the Special Magistrate shall consider the interests and welfare of the general public that USF, as a public employer, provides and promotes a good work environment.

Summary of USF Response

1. USF proposes the status quo. Per Article 5.8 the 56 hours of paid leave per year for Union committee members to attend negotiating sessions with USF already provide sufficient time to discharge its representational duties.

2. Article 6.2 permitting the President or employee representative to investigate the grievance and represent the Grievant at any step of the grievance process. USF proposes to amend Article 6.2 to require the President or employee representative to be paid for the time spent investigating the grievance and representing the Grievant at any step of the grievance process. USF proposes to amend Article 6.2 to require the President or employee representative to be paid for the time spent investigating the grievance and representing the Grievant at any step of the grievance process. USF proposes to amend Article 6.2 to require the President or employee representative to be paid for the time spent investigating the grievance and representing the Grievant at any step of the grievance process.

At that point, it would be faced with the untenable choice of either violating 447.501(1)(e) and committing an unfair labor practice, or violating the contract.

8. The Union failed to provide any comparison evidence in support of this proposal in contrast to USF which showed that of the four comparable State Universities that provide release time, two (FSU and FAMU) provide release time, one (USF) provides release time, and one (UCF) does not provide any paid release time (and UCF requires the use of accrued annual leave)

investigating, interviewing potential witnesses, negotiating informal resolution of the dispute with management, and then should a grievance be filed, grievance preparation and write-up, attending each stage of the grievance process, including arbitration hearings should they be needed and writing post-hearing briefs.

The current contract provides Union reps with a reasonable amount of paid time off to represent an employee, but only if a grievance has been filed. This approach would appear to be at odds with and to defeat the purpose of Article 6.1 (A) of the contract which reads:

The University and AFSCME encourage informal resolution of employee complaints. To that end, employees should present such complaints for review and discussion as soon as possible to the lowest level University representative who has authority to address the complaint. Such review and discussions should be held with a view to reaching an understanding which will resolve the complaint in a manner satisfactory to the employee,

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a week, would be negligible¹³. And, perhaps the issue should be framed as not one of cost, but as one of investment in good labor relations which pays dividends for both parties.

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For all the above reasons, the Special Magistrate finds the] } v proposal reasonable and appropriate under the circumstance and supported by the evidence given the necessity of helping to provide coverage to

2. The contract is a document that contains pertinent information for employees such as their rights and benefits and satisfies the purpose of a few employee orientation.

3. Section 447.405 requires that the Special Magistrate consider, in the interest and welfare of the general public that employees of USF, as one of the largest public employers in the community, know their rights and benefits. The contract reflects that USF has agreed to live up to and uphold and providing a copy of the labor agreement to new bargaining unit hires helps

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(š Œ } v •] Œ] v P š Z h, v the Special Enclave) I recommend maintaining the status quo by leaving current contract language unchanged š š Z • u š] u U š Z š [• v } š š) š Z š š Z h v] } v Z • v [š Œ] • To address the lack of notice to employees improve their %o Œ () Œ u v U • Á concerns about allowing too many bites at the apple, I recommend • } o μ š] } v š Z š Á } μ o %o %o Œ š } Œ • adding language Œ š] • [} v making non-disciplinary counseling a

On January 8, while the USF announced no tenured faculty layoffs, it did announce loss of vacancies resulting from early retirements, and cuts in temporary visiting instructors and contingent faculty (adjuncts and graduate teaching assistants). And, then, on January 13, 2021 the Board of Trustees approved cutting recurring costs by \$36.7 million in anticipation of the upcoming legislative session where US budgets are expected to tighten even further.

In addition, because the Union attempted to suss out the state of h ^ & f r a n c e s via a variety of secondhand and inaccurate sources rather than rigorous accounting principles, its analysis of š Z • š š } (h ^ & [• w a s u n s u e r w e l m e n g s as a consequence, its approach compromised the degree to which it was able to accurately cost out its proposals, as well as its projections Œ P Œ] v P u n d i n g a b i l i t y to pay for its proposals

Impasse Issue #6

Article 15.3 t Shift Differential

Summary of the h v] } v P r o p o s a l

In recognition of those employees who work the non-daylight shift, the Union proposed adding the following language to Article 15.3:

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long this Union has been without a contract, the position of its members a34(32()-12(t)344(h)-28(e)-34()-2

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4. WageAdjustments.

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pandemic,

appropriations in the next state budget year. While that may be so the current budget was approved by the Board of Trustees before July 1, 2020.

8. USF Exhibit Tab 8 Pages 55 through 57 reveals that of the 123 listed job positions, in only 24 categories was USF's average pay rate market value or above or viewed another way, in 99 of the 123 listed positions USF average pay was below the market average. And, a detailed look at USF Exhibit Tab 8, Pages 59 through 62 shows that of the 127 job positions listed, only 23 job classifications paid at or above the market average, with 104 positions below

9. USF Exhibit Tab 8 Page 63 further illustrates how USF's pay compares to the local labor market (Hillsborough County). Comparing pay bands for different job classifications employed by both, of the 46 jobs surveyed in only two cases is USF's pay higher than the

proposed on October 23, 2020 that there be no increase to wages that the minimum hourly rate of pay remain at \$10.54 for the time being.

4. Two important statutory factors within Section 447.405 at the Special Magistrate must consider in making his recommendation are:

(1)

(3) While the Union testified that the minimum hourly wage was raised to \$15/hour for employees of the City of Tampa on October 1, 2019, recently for employees of Hillsborough County, for employees of the City of St. Petersburg on December 30, 2019, and for all employees in Florida as passed by Florida voters on November 3, 2020, these are not valid comparisons.

6. The Union admitted that the minimum hourly wage for employees of the City of Tampa is \$15.00 until September 2026 and the minimum hourly wage for employees of Hillsborough County is \$10.54. The current minimum wage (\$8.56 as of January 1, 2021) is substantially higher than both the current minimum wage (\$8.56 as of January 1, 2021) and is not scheduled to be surpassed by Hillsborough County until 2026. The Union also testified that the current minimum wage is scheduled to increase to \$11.00 by January 1, 2022.

7. The Union admitted that it does not know and cannot compare the benefits provided by USF to the benefits provided by the City of Tampa or Hillsborough County.

8. The Union admitted that it does not know how the pandemic has financially affected the City of Tampa or Hillsborough County compared to USF.

9. The Union admitted that it does not know the number of employees 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 City of Tampa, Hillsborough County, or St. Petersburg.

10. With respect to the other universities in the SUS, Neshiem testified that none has a minimum hourly rate of \$15.00.

11. Witnesses Neshiem and Trivunovich testified that the proposed wage increase would cost USF \$5,483,709 annually (i.e., a recurring cost), and \$7,768,587 immediately as a retroactive payment from July 1, 2019 to November 30, 2020. On the other hand, Rodrigues testified that neither he nor the Union attempted to calculate the cost of the proposed wage increases.

12. Nearly two-thirds of the state's population is in the education sector (there is no flexibility in how it is spent), and state appropriations and tuition revenue (which together make up the education budget) are not sufficient to cover the costs of the proposed wage increases (This is supported by the fact that the state's education budget is not sufficient to cover the costs of the proposed wage increases). The Union's proposal for a 10% wage increase is not supported by the facts.

13. There was a reduction in state appropriations and tuition authority to USF in 2020 and FY2021, and the Governor held back 6% of state appropriations for 2021 from all universities in the SUS (\$25.9 million from USF), with that holdback likely permanent. And, the Florida Board of Governors is requiring all state universities to plan for an 8.5% reduction in the state's appropriations in FY2021 (\$36.7 million loss to USF) and a further 10% reduction in FY2022 (an approximately \$43 million loss to USF).

14. USF has lost about \$2.5 million in tuition revenue since the pandemic primarily due to a decrease in enrollment by international and out-of-state students along with a substantial loss in revenue from student room and board since many students have not returned to campus.

15.

nor the current fiscal year (FY

in order to earn a living wage in this part of the state. In other words, the same minimum hourly rate of pay the Union is proposing.

In response to the many employers, including municipalities across the country have either raised their minimum wage to \$15/hour or are in the process of doing so., and, many states, like Florida, have mandated it.³² The citizens of Florida recently passed Amendment 2 to amend the State constitution. That initiative established a \$15/hour minimum wage for all employees each year thereafter until it reaches \$15/hour by end of September 2026. The Union points out the cities of Tampa and St. Petersburg, as well as Hillsborough County, have already passed ordinances raising their minimum pay to \$15/hour.

USF counters that the other universities, not county and municipal employees, are the appropriate comparables. To the contrary, the statute requires me to consider similarly situated public employees within the state which would clearly include the cities of Tampa and St. Petersburg, as well as Hillsborough County, comparably large public sector employees, and all hiring out of the same local labor pool.

USF also emphasizes that its current minimum hourly rate is not only higher than the current minimum wage, but even left unchanged will remain higher than the mandatory state minimum until September 2022.

well as with Tampa, St. Petersburg and Hillsborough County, the narrowing of the differential would send the message to

\$6.46/hour, necessitating a 38% increase in the rate between now and 2026, and requiring annual raises of 7.6%/year between now and then³⁸

2. Provide a 6% wage increase to all bargaining unit employees who, on the date of

On July 1, 2018, the beginning of the current 3-year agreement, the Union received its last general wage increase of 2%. Then, at the time the parties began negotiating for a successor agreement in December 2018, the parties continued to negotiate throughout 2019 and 2020 when, in March of that year, the pandemic struck bringing a halt to face-to-face negotiating. While further negotiations conducted over the phone and via emails and video conferences and budget uncertainty complicated efforts to get a deal done, leading to impasse. The inability to negotiate a new agreement in 2019 and into 2020 led the Union to propose a general wage increase (6%) that would serve to cover missed wage increases for both the 2018-2019 and 2019-2020 contract years.⁴⁴

For a variety of reasons, generally due to uncertainty, it is not unusual for parties to agree on a new contract that defers negotiating certain issues to some late date via a contract reopener.⁴⁵ In the future, making it difficult to determine what if any wage increases are feasible in the second and third year of the new contract, reopener provisions appear to be the most prudent approach to address wages for those years.

4. While the USF would retain sole discretion to provide wage increases beyond negotiated amounts, it would be required to provide the Union at least 30 days advance notice during which the parties would meet and confer; and proposed adding that increases could be for market equity, compression/inversion or other reasons.

The legal duty to negotiate with the bargaining unit members terms and conditions of employment, arguably first among them wages, the current agreement contains the unusual proviso that not only grants USF the right to raise wage rates on its own volition, for any reason and without any input from the Union, but also provides the Union with advance notice before doing so.⁴⁶ This kind of

⁴⁴ In the process giving up any contract improvements from 19 up through the present. And, technically not a request for retroactivity.

⁴⁵ In fact, USF has proposed a variation of this approach by suggested that the parties defer talking about wages

⁴⁶ Whether by intent or not, discouraging members from seeing a need to join the Union and erodes the trust between the parties.

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State minimum hourly wage	\$8.56	\$10 (eu Tf 1 0 0)	TBD ¹			
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h ^ & [• o • š } ((CE Á • š } %o CE } %o } • š Z š š Z %o CE š] • x While] • μ • • Á P] v CE had been asked to take wage freeze (in 2020⁸), we must not forget that this bargaining unit has had a wage freeze since July of 2018.

Asking the Union to maintain the status quo on Á P • ^ () CE š Z š] u • š v P š] š [v being asked to agree to continuing their current 2½ year wage freeze for some indeterminate period of time, • • μ u š Z CE] • I finances would recover within the not too distant future to the point where it feels that it can afford an increase, and then, when all is said and done, without any guarantee that USF would propose or agree to

delaying implementation until some future date based on the principle of proportionality. In light of the additional delay asked of the Union which is currently 2+ years and counting and the interruption of negotiations resulting from the pandemic, to grant retroactivity in light of the extenuating circumstances⁵⁹

More particularly, to cover the contract years 2019, 2020 and 2021, I would recommend that the Union receive a 2.5% increase technically effective on the start date of the first year of the new contract (that would cover 2019, 2020 and into 2021), but to increase until the start of the new contract

any advance notice, nor any reasons behind the increase
proposal that it be

8. USF objected to this proposal based on a Special Magistrate recommending against it in 2106, and also because only one other SUS school provides a similar discount. The Union finds these arguments unpersuasive since what other Universities in the system elect to do, and what a prior Special Magistrate previously recommended, have no bearing on what the Union and the USF agree to in this contract.

9. Given that Special Magistrates are to take into consideration the welfare of the general public, in the interests of the community that the USF be identified as an institution that gives consideration to the needs of its employees.

or parking fines imposed by the SFU_ Á Z] Z] authorized by Section 100942 Florida Statutes. Mensah testified that implementing the h v] } v [• %o } %o } • be prudent because the department has already experienced substantial revenue losses (estimated to be a 55% loss of revenue by the end of this fiscal year) due to the pandemic.

6. Apart from Union witness Z } } P μ • [• š • š] u } v Ç v } %o } } š } P } } v F which are non-recurring funds and admittedly should not be used to pay for recurring expenses, the Union has presented no evidence regarding the availability of funds to pay the recurring expense of this proposal. Further, he also admitted that ^ € • • } indicators do not bode well for the Parking and Transportation Services budget with shift to distance learning and working (} u Z } u X _

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Jared D. Simmer

Jared D. Simmer

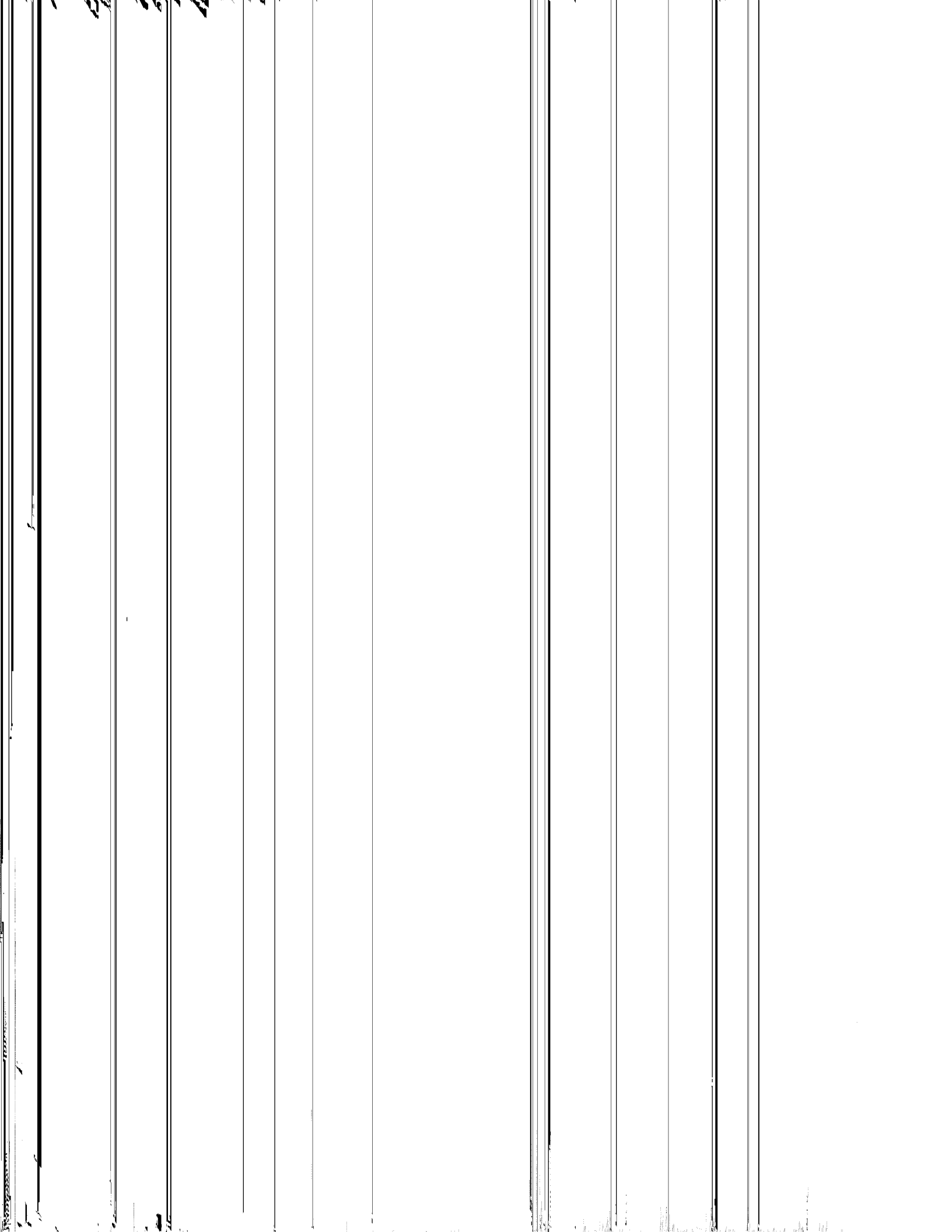
Special Magistrate

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STATE OF FLORIDA
PUBLIC EMPLOYEES RELATIONS COMMISSION

In the Matter of Impasse Between)	
)	
UNIVERSITY OF SOUTH FLORIDA)	
BOARD OF TRUSTEES,)	
)	
Public Employer,)	PERC Case No. SM-2020-010
)	
and)	
)	
FLORIDA PUBLIC EMPLOYEES COUNCIL 79,)	
AMERICAN FEDERATION OF STATE, COUNTY)	
AND MUNICIPAL EMPLOYEES, AFL-CIO,)	
)	
Employee Organization.)	
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NOTICE OF REJECTING SPECIAL MAGISTRATE'S RECOMMENDATIONS

COMES NOW Public Employer, University of South Florida Board of Trustees ("USF"), by and through its undersigned attorneys, pursuant to Section 447.403(3), Florida Statutes, and files its Notice of Rejecting specific recommendations set forth in Special Magistrate's Report and Recommendations ("R&R¹") as follows:

Impasse Issue #1: Article 4 – Nondiscrimination

USF rejects the recommendation that the Union's proposed language modifying Article 4 of the CBA be adopted.

First, in making his findings and recommendation, the Special Magistrate considered

of prohibited conduct, which in turn belies his finding that adopting the Union's proposal would have ~~de~~ ~~minimum~~ ~~effect~~.

Third, the Union did not meet its burden of proving that a change to the status quo is necessary. The USF Progressive Steps for Disciplinary Action policy, which is applicable to all employees (including AFSCME bargaining unit employees) and readily accessible on USF's website and at the computer station located in every department, expressly prohibits threatening language, abusive language, aggressive behavior, and violent behavior. Indeed, the policy is stricter than the Union's proposal, as such behaviors need not be "repeated and/or severe" to be actionable under the policy.

Impasse Issue #2: Article 5.1 – Release Time for Union Activities

USF rejects the recommendation that the Union's proposed language modifying Article 5.1 of the TJ ET Q 10A. 1 0 in ~~Fu~~ ~~7~~ ~~1~~ ~~1~~ ~~9~~ ~~(e)~~ ~~3.7~~ ~~(d)~~ ~~-449~~ ~~.b~~ ~~(n)~~ ~~-9.2~~ ~~(y)~~ ~~3450~~ ~~.8~~ ~~(t)~~ ~~-2~~ ~~(h)~~ ~~-10~~ ~~(e)~~ ~~4~~ ~~n~~ ~~pe~~ ~~cl~~ ~~fg~~ ~~.9~~ ~~(i)~~ ~~-1~~

approximating the actual hours spent.” (R&R at p. 13). In addition, while addressing USF’s argument that the Union failed to present evidence as to why it needs to be the Union President who attends these meetings and conducts the grievance investigations when other representatives designated by the Union President under Article 5.2 could do so (particularly when such meetings and investigations take place at USF’s Sarasota or St. Petersburg campuses), the Special Magistrate speculates, without any supporting evidence presented at the hearing, that that decision “likely reflects the difficulty in getting other Union officers to agree to use their own limited accrued sick and vacation time to attend to Union matters. (R&R at p. 13).

Third, the Special Magistrate’s modification of the Union’s proposal from providing release time to the Union President “for the purpose of carrying out AFSCME obligations in

be required to ensure that the “employer funded release time is only used by [the AFSCME President] for direct representational activities and that it has objective corroboration of [the AFSCME President’s] direct representational activities.” Having “objective corroboration” of the Union President’s direct representational activities each week would require USF to not only obtain an accounting of those activities from the Union President each week, but USF would also need to obtain third-party corroborating evidence that the Union President’s accounting is accurate.

Union's literature during orientation by either physically handing them out or by stacking them on a table with a sign as the Special Magistrate has recommended.

Second, the Union did not meet its burden of proving that a change to the status quo is necessary. USF provides a quarterly report to the Union with the contact information of every recently hired employee whose position is in the Union's bargaining unit, and provides a bulletin board in the same building as the Human Resources office, on which the Union may post information about the Union and its meetings. In addition, all the collective bargaining agreements between USF and the unions are accessible on the USF Human Resources website.

Third, the Special Magistrate went beyond the scope of the impasse and, quite frankly, beyond the authority of a Special Magistrate when opining that "apparently, for this bargaining unit, under current practice, awareness of the existence of the contract is intentionally not shared with them" and "a case could be made that intentionally withholding all mention of the contract from these same employees does appear to constitute active discouragement, rather than the neutrality the law presumes." (R&R at pp. 16 and 17).

Fourth, the Special Magistrate materially misstates the evidence presented at the hearing when noting that USF "suggest[ed] that if the Union wishes to know who's been added to the bargaining unit, it can file a formal records request in court." (R&R at fn. 18). The testimony actually presented at the hearing was that USF provides, as negotiated by the parties, a quarterly report to the Union with the contact information of every recently hired employee whose position

First, the Special Magistrate improperly considered and based his findings and recommendation on extrinsic evidence that was not presented at the hearing. Significantly, the Union presented absolutely no evidence at the hearing regarding this proposal. Nevertheless, the “Summary of the Union’s Justification for the Proposal” section of Special Magistrate’s R&R

3. “And, for most employers, shift differential pay gives a sense of recognition to employees willing to go above and beyond that their efforts are acknowledged and appreciated.” (R&R at p. 26).
4. “[T]he great majority of employers pay other shift premiums as well, even for employees working daylight hours (e.g., weekend and afternoon work premiums).” (R&R at p. 26).

Second, adopting the Union’s proposed shift differential would cost USF a projected \$309,122 annually at the current rate of pay of the AFSCME bargaining unit employees who work between 7 p.m. and 7 a.m. The Union did not present any evidence at the hearing regarding the availability of recurring funds to pay for the recurring expense of this proposal. FLBOG Regulation 9.007, effective July 1, 2020, prohibits a university from using its non-recurring reserves to pay for recurring expenses.

Impasse Issue #7: Article 21 – Wages

USF rejects the recommendation that the Union’s proposed language modifying Article 21 of the CBA be adopted, as modified by the Special Magist2.8(1 0 0 1)-169.2(fo)2hl(pl)-t0 0 1 2.3949efu

3. “And, while the contract clearly does not state that the minimum hourly rate is predicated on providing a ‘living wage,’ it’s not irrelevant to the discussion, either, particularly in light of the “Fight for fifteen” movement which is predicated on that principle.” (R&R at p. 34).
4. “In order to consider the current minimum hourly rate in context, it’s illustrative to look at the Massachusetts Institute of Technology (MIT) Living Wage Calculator which shows the hourly rate an individual would have to earn in order to support themselves and their family,” citing “<https://livingwage.mit.edu/metros/45300>. The assumption is the sole provider is working full-time (2080 hours per year). In the case of households with two working adults, all values are per working adult, single or in a family unless otherwise noted.” (R&R at p. 34 and fn. 31).
5. “The following chart is based on the cost of living in USF’s local labor market, the Tampa-St. Petersburg-Clearwater metropolitan area where its campuses are primarily situated. Accordi270(Th)2(e).9(l)-a0o teat49(ve)3.1h

6. "In response to the emergence of the 'Fight for Fifteen' movement, many employers, including municipalities, across the country have either raised their minimum wage to \$15/hour or are in the process of doing so., and, many states, like Florida, have even mandated it," noting and citing "This has most recently spawned the 'Living Wage Pledge' for companies (www.wonolo.com/livingwagepledge)." (R&R at p. 35 and fn. 32).
7. "So, while USF may be correct in pointing out that its current rate may be comparable to what other SUS schools are paying, what's more important in my mind is that it's significantly below a living wage in one of the highest cost areas in the state, runs counter to state-wide and national trends." (R&R at p. 36).
8. "Also, I assume that a number of this bargaining unit were deemed 'essential workers,' expected to report to work in spite of the health risks arising from the pandemic, which for many employers (but not USF), would have entitled them to a hazard pay premium," providing examples "Costco, Target, Walmart, Pesico, CVS, Kroger, Amazon, Whole Foods, the California State University, etc." (R&R at p. 38 and fn. 41).

Second, without any supporting evidence presented at the hearing, the Special Magistrate found that the negotiated right of USF to unilaterally raise wage rates for any reason and without advance notice to the Union "clearly [] serves to undercut the Union's authority, discourages non-members from seeing a need to join the Union, and erodes the trust between the parties." (R&R at p. 39 and fn. 46).

Third, with respect to the Union's proposal requiring USF to provide it copies of financial settlements of grievances, lawsuits, and other disputes, the Special Magistrate poses 14 questions

