

UFF-Seminole Summary/Analysis of PERC Hearing Officer's Bargaining Unit Recommendation

Summary

On February 9, 2010, UFF-Seminole filed a representation-certification petition seeking to represent a bargaining unit of full-time faculty. On March 22, Seminole State College filed a response, objecting to the proposed unit. A hearing was conducted on May 10 and June 8 (the hearing officer presided via telephone from Tallahassee). The college's challenge sought to exclude program managers, department chairs, and temporary full-time faculty.

Public Employees Relations Commission (PERC) Hearing Officer Suzanne Choppin issued and submitted her recommendation to the commission on August 19. Her recommendation held that an appropriate bargaining unit is comprised of college professors, librarians, and counselors. In her words, these individuals "share a community of interest and do not have a supervisory conflict with other members of the proposed unit." Unfortunately, she recommended excluding department chairs and full-time temporary faculty. She did, however, find in favor of including program managers.

Regarding temporary full-time faculty members, the hearing officer stated that they can be excluded from the bargaining unit because they do not have a reasonable expectation of continued employment beyond the duration of their contracts. Additionally, she stated that her findings indicated that temporary full-timers cannot achieve tenure while in temporary status and that their work during that time does not accrue toward tenure. She also noted that temporary full-timers are not expected to serve on faculty committees and, thus, are not expected to exhibit the commitment of regular faculty. Under these circumstances, she concluded that these faculty members do not share a community of interest with regular faculty and can be excluded.

Turning to program managers, the hearing officer concluded that they do share a community of interest with regular faculty. She indicated that they are, in fact, regular teaching faculty given some responsibility over an instruction program area. Noting that they receive some release time as compensation for their additional responsibilities, "the record demonstrates that they are primarily teachers." Additionally, she noted that program managers' personnel supervision is limited mostly to adjuncts and therefore, creates no conflict of interest with the proposed bargaining unit. Therefore, she recommended in favor of their inclusion.

Finally, there is the matter of department chairs. Here the hearing officers held that a supervisory conflict of interest exists because chairs "prepare evaluations that determine whether a faculty member receives an annual pay raise, is eligible for sabbatical, and is eligible for tenure" (while making recommendations for the granting or denial of continuing contracts). Maintaining that deans rely heavily on them, she determined that department chairs wield effective authority. She also held that any community of interest that chairs share with other faculty is further diminished by their "release from at least half, and sometimes all, teaching duties." Lastly, citing differences in contract length, leave, evaluations, and pay differential distinguishing department chairs from regular faculty, she concluded that chairs should be excluded from the bargaining unit.

Analysis

We are certainly disappointed with the PERC Hearing Officer's Recommendation Order excluding department chairs and temporary full-time faculty from the collective bargaining unit. Seminole State College spent almost \$90,000 in legal fees to disenfranchise this comparatively small number of faculty members of their democratic rights. Beyond the financial costs, the legal challenge served to drag the unionization process out over many unnecessary months and to create the potential for conflict between chairs and regular faculty that has been largely non-existent up to now.

Yet this pyrrhic victory has done nothing to prevent the inevitable certification election. Nor has it weakened faculty commitment to increased professional respect, improved working conditions, and more equal and equitable relations with the administration. If anything, the college's obstinacy has strengthened faculty resolve in favor of collective bargaining. Moreover, the transparency of current administrative promises to bring back the Faculty Institute, restore sabbatical leaves, carry out yet another survey, and put on their listening ears is apparent. It is doubtful these things would be happening were it not for the current unionization effort. Since the Welcome Back, many faculty have expressed satisfaction with the new initiatives which they directly attribute to our union movement.

At this point, we are in a 15 day period that allows the respective parties to file for exceptions to the recommendation order, after which PERC typically schedules an election 30 days hence. In our case, this 45 day window would put the election sometime in October. The election will allow faculty identified as part of the bargaining unit (regular full-time, counselors, and librarians) to vote on whether they want UFF-Seminole to represent them. Collectively bargained issues must include wages, hours, terms and conditions of employment; other matters can be brought to the table. All PERC-approved faculty, not just paid-up union members, are eligible to vote. Election results are determined by a majority (more than 50%) of the votes that have been cast. If only 5 people voted in a unit of 100, then 3 people could decide the results for everyone in the unit.

For the record, the PERC recommendation order does not preclude department chairs and temporary full-time faculty from seeking union representation. Either or both of these groups could do so by establishing their own bargaining units. The process would begin with respective card drives.

We have accomplished a great deal in one year. Last fall saw the fastest faculty card drive in the state's history as two-thirds signed in less than six weeks. We followed that success with formal chapter organization and affiliation with United Faculty of Florida. In the spring, we received recognition from PERC that UFF-Seminole could seek to become the collective bargaining representative for the faculty. We are now on the verge of historic and positive change at Seminole State College. It is our hope that the administration and Board of Trustees will recognize the vibrancy of our movement and work with us for the good of all concerned as we forge ahead.

(If you are interested in reading through the 24 page PERC recommendation order, please send an e-mail request or go to uff-seminole.org)