

ARTICLE 4 GENERAL PROVISIONS

Section 4.1. - Duration of Agreement

A. This Agreement shall become effective when ratified by the employees in the bargaining unit and by the Employer, or July 1, 2009, whichever occurs later.

B. This Agreement shall continue in effect until midnight through midnight of the day immediately preceding the beginning of the 2012-2013 academic year, subject, to the following:

1. The second year of this agreement shall begin with the first day of the 2010-2011 academic year and end at midnight of the day immediately preceding the beginning of the 2011-2012 academic year. The third year of this agreement shall begin with the first day of the 2011-2012 academic year and end at midnight of the day immediately preceding the beginning of the 2012-2013 academic year.

2. Either party shall be entitled to open this Agreement once during each of the second and third years of this Agreement for the limited purposes of:

- a. negotiating Article 14, Economics of bargaining unit members and/or
- b. negotiating one additional issue.

3. In order to exercise either or both of the reopener rights provided in I. above, the party initiating a reopener shall notify the other party, of its intention to do so. Such written notice will be provided no earlier than 75 days and no later than 60 days prior to July 1, 2010 and July 1, 2011. For purposes of this reopener agreement, the first year of this Agreement shall be deemed to end on June 30, 2010, and the second year shall be deemed to end on June 30, 2011, regardless of the date when this Agreement is actually executed and/or ratified.

4. The reopener rights provided in this Section are in addition to, and shall not be taken as otherwise affecting the rights of the parties under Sections C. and D., below, as to negotiating a new or further agreement proper in accordance with the terms and conditions therein stated.

C. Negotiations for a further agreement shall take place, at times and places selected by the parties in accordance with their mutual convenience, at the request of either, commencing no later than 60 days prior to expiration of this contract.

D. If agreement as to a complete replacement agreement is not reached before this Agreement expires, this agreement shall continue as provided by law until a successor agreement is ratified.
Section 4.2 - Severability

If any provision of this Agreement, or part of a provision, shall be declared or rendered null, void or invalid through court action or by reason of legislation, the Agreement shall otherwise remain in full force and effect.

Section 4.3 - Waiver

Except as specifically set forth elsewhere in this Agreement, the parties may mutually agree upon any method for achieving goals or for resolution of any question, controversy, claim or matter of difference regarding this Agreement or the performance or breach of any part thereof. Failure of either party to require performance by the other party of any condition of this Agreement shall not affect the requirements of the parties to perform at any time thereafter, nor shall the waiver of any alleged breach of a term or condition of this Agreement be a waiver of said term or condition thereafter.

Section 4.4 – Masculine/Feminine and Singular/Plural Pronouns

The use of masculine pronouns may be understood to mean feminine pronouns and the use of singular pronouns may be understood to mean plural pronouns in this Agreement.

Section 4.5 - Protection Against Discrimination

A. Neither the College nor the Union shall discriminate against any employee covered by this Agreement because of Union membership or non-membership, or activity in support of or opposition to the Union. This Section does not apply to the Union's right to refuse to represent non-members in the *Grievance and Arbitration Procedure*.

B. The parties agree, to the extent discrimination is prohibited by and defined in applicable federal or state law, neither will discriminate against employees based on race, color, religion, national origin, sex, age, disability, marital status, veteran status, or sexual orientation. It is the intent of the parties that any employee alleging discrimination under this Section will have a choice of remedy, *i.e.*, under the applicable federal or state statutes or under the *Grievance and Arbitration Procedure* under this contract, but not under both. By filing a charge with the applicable state or federal agency, the employee and the Union on behalf of the employee waive the right to file a grievance under this contract. If already filed, the grievance shall be dismissed.

Section 4.6 - Drug-Free Workplace

The Administration may implement and maintain a Drug-Free Workplace to the extent permitted by State and Federal law. The Administration will make a good-faith effort through the Employee Assistance Program (EAP) to assure that any faculty member determined to be dependent upon legal or illegal drugs, or alcohol, is remediated and returned to active status with the College. The Union recognizes the existence of an existing College drug policy (302.5) that includes faculty. Any change to such policy that affects faculty will be by mutual agreement of the parties. There will be no random drug testing of faculty during the term of this contract, unless required by state or federal regulations, or affiliated agencies. Faculty will be advised of any affiliate drug testing policy prior to assignment or change in policy.

No faculty member will be discriminated against because of his refusal to submit to a drug test not permitted by this Agreement.

UFF-Brevard Proposal: Article 4
Previously: Article 4, Article 11, and new language

Section 4.7 - Forms

Such printed forms as are used in the specific implementation or maintenance of this Agreement shall be by mutual agreement of BCC and UFF-BCC. With the exception of the Grievance Procedure form, which will be available from the Union, a faculty member may receive from his immediate administrative supervisor or the Executive Director of Human Resources, a copy of each form used to implement this Agreement. Mutually agreed upon forms are included in Appendices herein.

Section 4.8 - Non-Assignment

The rights, duties and obligations of the Board and Union included in this Agreement shall not be assigned or transferred without the written consent of the other party.

Section 4.9 - Controlling Clause

This Agreement shall supersede prior agreements between the parties. Upon ratification, this Agreement shall become the official policy of the Association and the Board. Any conflict between the provisions of this Agreement and any Board policies and Administrative Procedures or practices shall be resolved in favor of the terms and conditions of this Agreement. Any conflict between the provisions of this Agreement and any federal or state law, including Chapter 6A-14, Florida Administrative Code, shall be resolved as stated in Article 4.2, *Severability*. This Agreement may not be altered, changed or modified except by or with the written consent of the parties and approved by appropriate action by the Union and the Board.

Section 4.10 - No Strike

In accordance with the laws of the State of Florida, no employee or the Union may participate in a strike against the Board as a public employer, by instigating or supporting, in any manner, a strike. Any violation of this Section shall subject the violator to the penalties provided by the laws of the State of Florida.

Section 4.11 – Contract Printing

The parties agree to share equally the cost of printing this Agreement for distribution to the bargaining unit members and to the Administration.

Tentative Agreement Date: March 19, 2009

For BCC-BOT:

For UFF-BCC:
