

## EXECUTIVE COUNCIL MEETING MINUTES

February 28, 2024

(Approved by the Executive Council on March 13, 2024)

Executive Councilors present (noted by \*):

* Sean Martin, <i>presiding</i>	* Brenda Flyswithawks	* Venona Orr	* Ivan Tircuit
* Ashley Arnold	* Amanda Greene	* Jessie Paisley	* Carlos Valencia
* Marc Bojanowski	* Steven Kessler	* Salvador Rico	* Sarah Whylly
* Bita Bookman	* Dawn Lukas	* Emily Schmidt	Patsy Young
* Wayne Downey	* Siobhan McGregor-Gordon	* Christie Soldate	

Negotiators/Appointed Positions present: K. Frindell Teuscher, Mark Ferguson

Staff members present: Stephanie Simons

The meeting was called to order at 3:03 p.m. in Bertolini 4734, on the Santa Rosa campus and via Zoom conferencing.

### CLOSED SESSION REPORTS

1. **Conciliation/Grievance Report**. This report and discussion were conducted in Closed Session.
2. **Cabinet Report**. This report and discussion were conducted in Closed Session.

Closed Session adjourned at 4:01 p.m.

### OPEN SESSION

Open Session reconvened at 4:03 p.m.

### MEMBER CONCERNS

1. **Personal biases affecting evaluations**. A Councilor presented a concern from a member who is wary of the faculty member conducting their evaluation, because the evaluator may have personal biases that affect the outcome of the evaluation.
2. **Additional pay for Hyflex instruction**. A Councilor presented a request from faculty members for more pay or a stipend to teach Hyflex classes.
3. **Retraction of statement made on 2/14/24**. A Councilor offered a retraction and correction of their statement from the Executive Council meeting on February 14, 2024. The Councilor had stated that students in the Adult Education programs do not care about graduating. The corrected statement reads: "The graduation metric doesn't capture the progress that Adult Education students make, and therefore is not an appropriate measure of growth in those classes."
4. **Institutional optics at risk after recent events**. A Councilor reported concerns that the opinions of a few are going to cast a shadow over the whole institution as being a racist college.

### MINUTES

A motion was made and seconded to approve the minutes from the February 14, 2024 Executive Council meeting (18 in favor, 0 opposed, 0 abstentions). (Approved minutes are posted at <http://www.afa-srjc.org/minutes.shtml>).

### DISCUSSION ITEMS

#### 1. **AFA Policies: Professional Conference Policy**

Sean explained that AFA is reviewing all policies to ensure the policies align with the current direction of the organization. The Election Policy will return later in the semester for final review. The Professional Conference Policy was updated and prepared for discussion. The policy directs who will attend and receive reimbursement for the fall and spring CCCI conferences, and one FACCC conference. Siobhan determined, through research with other colleges in CCCI, that a 10% budgeted revenue cap was prudent. The draft policy was projected for the Council. This Item was opened to discussion.

- The suggested changes included:
  - Reimbursement for up to five persons, two of whom will be associate faculty
    - Councilors agreed to this modification
  - Addition of a budget cap set at 10% of budgeted revenue
    - Councilors agreed that a cap was prudent, but the language should be changed to clarify the intent of the cap
  - Language directing the order in which reimbursement should be made if the budget cap is exceeded
    - Councilors requested this section be removed, and be determined during annual budgeting discussions between the Secretary-Treasurer and office staff, with any proposed changes presented to the Executive Council on a case-by-case basis
  - Inclusion of language directing the appointment of replacements should the ex officio attendees not be available to attend a conference
    - Councilors agreed to this modification
  - Reimbursement for an AFA President Elect or Chief Negotiator Elect if those persons are not selected by the existing criteria
    - Councilors agreed to this modification.
- Questions & Comments
  - C: Could the policy include language for temporary adjustments to the budgeted amount?
    - ⇒ A: The Secretary-Treasurer, President and office staff develop the budget over summer. It is not appropriate for a small group to make the decision to adjust the budget ad lib. The 10% cap language is meant to be a trigger for the Treasurer to reduce the allotted budget during budget creation, should it be determined the conference fees will exceed the cap.
  - C: Is the budget based on the estimated amount or the actual amount?
    - ⇒ A: It is the actuals. If the actual amounts were getting too close to the cap, e.g. fall was expensive and there is not enough left for spring, the number or amount of reimbursements would need to be amended for spring.
  - Q: If the cap of 10% is not met, can the unused funds be rolled over for the next fiscal year?
    - ⇒ A: No. Our budget does not allow for conservatism.

Sean concluded by stating the conferences are meant to build and facilitate leadership. They are an opportunity to benefit from the wisdom of colleagues, and each attendee has a responsibility to bring those ideas back to the AFA Executive Council.

## 2. Bypassing and Direct Dealing

K. Frindell Teuscher presented *Direct Dealing: Ending a Historical Practice of Privilege at SRJC*. Direct Dealing at SRJC is a financial manipulation of faculty perpetrated by the District. AFA has been undoing these instances since 2017.

- Direct Dealing is a form of bypassing.
  - Bypassing occurs when the employer directly bargains with members of the bargaining unit (AFA) on topics for which AFA is the Exclusive Representative.
  - Bypassing can involve a change in working conditions, but also things like grievances and disciplinary actions
- Direct dealing specifically relates to the District negotiating terms and conditions of employment directly with a unit member.
- The Scope of Representation (per EERA)
  - Matters for which AFA is the Exclusive Representative

- Mandatory subjects of bargaining: wages, hours of employment, and other terms and conditions of employment
- Visit the link to PERB to find hundreds of other things that are within the scope of representation (e.g. being issued a key to your office, class size, evaluation procedures, leave, transfer and reassignment policies) (<https://perb.ca.gov/decisions/browse-by-topic/>). Go to "scope of representation", section 1000.00000).
- Questions & Comments
  - Q: What are some other kinds of bypassing?
    - ⇒ A: Another type is settling disciplinary actions. AFA might agree with a remedy, but if AFA is not in the room when the matter is settled, it becomes a form of bypassing.
  - Q: If our culture at SRJC is toxic, does that mean that our culture is against the law as stated by the EERA?
    - ⇒ A: If you have a working condition that is directly negotiated with the dean, it is a culture that negotiates unlawfully. It is the District's responsibility to negotiate lawfully. Even if something benefits the individual faculty member, the faculty member must take the stance that they will not participate in direct dealing. If there is a repeated pattern of bypassing or direct dealing, filing complaints with PERB is a way to combat unlawful negotiation.
  - C: PERB can levy fines and settlements. A recent example involved Pasadena City College. Pasadena was victorious in a PERB case about direct dealing. They were awarded all related attorney fees. All precedent rulings are available on PERB website and have been helpful in quashing direct dealing.
  - C: It is best to advise that whenever you have working conditions where your dean/manager has offered you something, you should ask AFA if it needs to be negotiated.
    - ⇒ A: Yes. It has happened that the District brings faculty interests that arise out of direct dealing to the table, and that results in faculty (via AFA) negotiating against faculty. It is best that the faculty member bring the concern to AFA to avoid this type situation.
- Examples of Direct Dealing
  - The District negotiates a contract for a special project directly with a faculty member
    - Why is this bad for faculty?
      - Power imbalance – a faculty member may feel pressured to agree to unfair terms
      - Nothing preventing the District from backing out of the contract
      - The contract may be offered to some faculty members but not others
    - What would be the legal way to handle this?
      - The District brings the project to the negotiations table and agrees on a contract with the union, who can ensure the terms are fair and equitable for all unit members.
  - Questions & Comments
    - C: A faculty member should not be interested in a special project that is offered directly because in the future the faculty member might be one of those overlooked for another special project.
  - The District assigns a faculty member to perform duties outside of the contractual job description and unilaterally determines compensation
    - Why is this bad for faculty?
      - Power imbalance – a faculty member may feel pressured to perform the duties even though not required by contract
      - The compensation may not reflect the work performed.
      - Nothing to prevent disparate treatment
    - What would be the legal way to handle this?
      - Compensation and terms of such assignments are worked out at the table
      - A general contract provision allows for faculty members to be compensated for extra work at the base hourly rate.
    - Special assignments are worth different amounts across campus because the District unilaterally assigned pay value and scope of work. AFA has negotiated a general contract

section for jobs that are not special assignments, and special assignments are negotiated individually.

- The District solicits (or gives) input on mandatory subjects of bargaining directly from (or to) faculty members
  - Why is this bad for faculty?
    - Faculty members may feel that their idea has traction and that the District will carry it out
    - If the union finds that the idea violates the contract or is otherwise not fair or possible, the union will shut down the idea
    - The faculty members find themselves in conflict with the union, feeling that it is the union keeping them from their goal. This conflict is a form of union busting.
  - What would be the legal way to handle this?
    - The District brings its interests to the negotiations table
    - The union consults with faculty stakeholders and represents their interests at the table
- A faculty member goes directly to the District to ask for a special accommodation related to their teaching assignment
  - Why is this bad for faculty?
    - If the District honors the request, the faculty member may gain privileges that other faculty members do not have access to.
    - It may be good for the individual at the moment, but it is bad for the faculty overall
  - What would be the legal way to handle this?
    - The faculty member contacts AFA with the concern or need
    - AFA brings the matter to the negotiations table and confers with the District
    - AFA negotiates according to general principles, not special deals for individuals, so many faculty members could benefit from the accommodation instead of just the individual who came forward.
- The District uses shared governance to develop or propose changes to a policy that affects terms and conditions of employment
  - Why is this bad for faculty?
    - Individuals outside the unit have a part in determining working conditions for faculty
    - Ideas gain traction and unfairly influence the negotiations process
    - Participants in shared governance put in a lot of hard work that is then undone
    - Unit members who participated in the policy development feel that AFA is working in opposition to them – another form of union busting.
  - What would be the legal way to handle this?
    - The District notifies AFA that it will propose a policy change that has effects that fall within the scope of representation
    - AFA consults with faculty stakeholders and represents the faculty interests at the table
    - The District and AFA negotiate over the effects of the proposed change
    - Then, work on the policy can begin
  - If faculty or administrators encounter this situation, they should use the “pause button” to stop the process before it gets too far.
- Why is direct dealing bad for the faculty?
  - Direct dealing divides the faculty
  - Chosen faculty members are privileged over others
  - The power of the union is weakened
- The Union advocates for the good of the whole, not the individual, to ensure fair and equal treatment.
- Questions & Comments
  - Q: Can AFA develop a handout that explains this process?
    - ⇒ A: Yes, this is a great idea that will help all parties involved.

### **OTHER REPORTS**

**1. President's Report.** This report was postponed.

The meeting was adjourned at 5:00 p.m.

Minutes submitted by Stephanie Simons.