

AFA Report to Board of Trustees, 10/13/20, Sean Martin, AFA President

President Burns, Trustees, President Chong, Colleagues and other members of the community,

Today, I'll be speaking a bit about the law as it pertains to faculty purview over the mandatory scope of bargaining. Specifically, I wish to address the nexus of law with local processes through which faculty purview is either manifested or undermined.

AFA's intent is to facilitate the changes necessary to build a more harmonious, productive, and responsive institution that is better able to pursue the values and goals entailed in our public mission.

Adherence to the law will greatly enhance our capacity to address the myriad challenges we face by providing a solid and shared basis from which we may proceed. But also, AFA has an obligation to the law. If we fail in our responsibilities to uphold and defend the legal rights of our members, we are liable, both as an organization and as individuals.

AFA has become keenly aware of a perception that faculty purview generally, and labor law in particular, are somehow hostile to efforts to bring positive change. These perceptions reflect the experience of people working in a system that has, for some time, failed to incorporate processes that align with the law. As a result, efforts by AFA to demand such alignment are misconstrued by well-intentioned individuals as obstructionist or otherwise antagonistic to good ideas. My hope is to gradually put these anxieties to rest by clarifying the law and providing examples of how adherence to law will help, and not frustrate, efforts to improve our institution.

I'll start with some basics: AFA's purview is grounded in the Educational Employment Relations Act (EERA). This act grants AFA the role of exclusive bargaining agent on all matters relating to "wages, hours of employment, and other terms and conditions of employment." The scope of representation covered by the EERA is interpreted through the binding precedent of the Public Employees Relation Board (PERB). PERB case history enumerates hundreds of specific topics

that fall within the mandatory scope of representation through its published decisions.

In other words, the scope of representation, and AFA's role as the exclusive bargaining agent, is far wider than most assume. This scope has been established for good and wise reasons over decades of careful deliberation and attention to relevant evidence. And this scope is balanced with the established legal purview of other stakeholders who also have a legal responsibility to their constituents.

All of this can seem daunting to a person who has not spent years exploring the topic. But the effort to comprehend the legal landscape is well worth it, as adherence to the law is a necessary condition for developing a shared understanding.

The problem at SRJC, which is hardly unique in this regard, is that our committee structures that collectively fall under the umbrella of the term "shared governance" have never been consciously developed with the law in mind. As a result of decades of organic development, we have a wide array of conflicting or redundant committees, councils, task forces, and workgroups that are composed of members, and given charges, that are in conflict with law. This system encourages well-intentioned participants to engage in work that is not properly theirs to do, leads to decisions that undermine the legal purview of others, and as a result contributes to a divisive and contentious culture. Even when good ideas emerge from such a system, those ideas are stultified, causing delays in implementation, inter-constituent suspicion, and wasted resources.

When people are working within the law, not only can good work be done, but it can be done faster and in a more collegial manner that generates buy-in from stakeholders.

In recent instances, working with our partners on the District Negotiations team, we've been able to re-direct efforts that originated in an improper manner to the appropriate venues. To illustrate, we've recently reached agreement on the establishment of a Queer Resource Center Coordinator and IGNITE program coordinator. As a result, good ideas are able to move forward and the institution can address the vital needs these positions and programs are intended to serve, all while protecting the rights and interests of faculty.

Yet there remain numerous examples of committees and councils that continue to cause division and enmity, not because the members of those committees have ill intent or harbor hostility toward faculty purview, but because the committees themselves are ill-conceived. When the faculty are forced, due to their legal obligations, to confront these groups and their work, it is entirely understandable that committee members feel underappreciated and undermined. This is all entirely avoidable.

AFA is intent on honoring its responsibilities under the law. We are not at all interested in being an obstacle to positive change.

Among the hopes we have for the upcoming PRT visit is the establishment of a well-defined process that supports our community as it aligns SRJC's shared governance structures with the law and Ed Code regulations. Further, this work must be done by members of our community. Thus, the resources derived from the PRT visit should be put to this end and not diverted to any outside entity such as a paid consultant.