

TENTATIVE AGREEMENT  
BETWEEN AFT 1493 AND SMCCD  
FOR 2019-2022

REVISIONS AND ADDITIONS TO 2016-2019 CONTRACT

# TENTATIVE AGREEMENT

between the

San Mateo County Community College District and  
San Mateo Community College Federation of Teachers, Local 1493, AFT AFL-CIO

*This tentative agreement is subject to Board approval after review for compliance with SMCCCD administrative policies and regulations. This tentative agreement is subject to ratification by AFT.*

## ARTICLE 2: ORGANIZATIONAL RIGHTS

**2.4 LIST OF UNIT EMPLOYEES AND JOB INFORMATION:** The Union shall have the right to be provided with a listing of all bargaining unit employees, their date of employment, and their primary job site within a reasonable time following request by the Union. **The District will provide to the Union the name, job title, department, work location, work, home, personal cellular telephone number, personal email address, and home address of any new employee within 30 days of hire or by the first pay period of the month following hire. The District will provide to the Union this information every 120 days for all employees.** Thereafter, the Union will be provided with a current listing of additions and deletions to the bargaining unit within a reasonable time after request.

For the District

*Mitchell Bailey*

Date

*5.16.19*

For the AFT

*Paul R. Amie*

Date

*5-16-19*

**ARTICLE 2: ORGANIZATIONAL RIGHTS**  
**TENTATIVE AGREEMENT**  
**SUBJECT TO AGREEMENT ON ALL ARTICLES**

2.6 REASSIGNED TIME FOR UNION BUSINESS: The Union will receive the equivalent of ~~42~~ 18 FLCs per semester of reassigned time for organizational activities. In addition, the District shall provide the equivalent of ~~42~~ 18 FLCs per semester for the purpose of negotiations and the processing of grievances. The Union will notify the District as early as possible of the name(s) of the person(s) who will be credited with this reassigned time so that necessary modifications of schedules may be made. In addition, the Union can buy up to an additional nine (9) FLCs per semester.

**2.7 AGENCY SHOP:** ~~The District agrees to continue to grant AFT Local 1493 an agency shop, subject to the terms and conditions outlined below.—~~

~~2.7.1 The Union shall have a lawful notification to fee payers, informing them of their obligation under this provision of the contract and shall furnish the District with a current copy of such notification, or any amendments to such notification. The Union shall maintain a lawful appeal process including a hearing before a neutral decision maker for challenging all or part of the agency fee, and procedures to hold in escrow any fees that are reasonably in dispute.—~~

~~2.7.2 Those employees in the bargaining unit not wishing to join the Union may choose to pay only an agency (service) fee not to exceed the amount permitted by law.—~~

~~2.7.3 In accordance with Government Code Section 3546.3, employees who, for religious reasons, object to joining or financially supporting employee organizations may instead donate their agency fee to one of the following “non-religious, non-labor organization or charitable fund exempt from taxation under Section 501(c)(3) of Title 26 of the Internal Revenue Code.”~~

~~Employees are responsible for furnishing proof of contributions to the District and to AFT Local 1493.—~~

~~1. The Foundation for the SMCCCD—~~

~~2. Peninsula Community Foundation—~~

~~3. Peninsula Open Space Trust—~~

~~4. The American Red Cross—~~

~~5. United Way—~~

~~2.7.4 The Union will give each member of the unit a form to complete on which they can indicate whether they want to join the Union, pay only the agency fees or object to payment based on religious belief. In the event an employee fails to indicate a choice, the agency fee will be assessed.—~~

~~2.7.5 The Union is responsible for all required notifications to employees of their obligations under this Article and resolution of all employee disputes related to their obligations, including all costs related to such notifications and resolutions.—~~

~~2.7.6 The Union agrees it shall reimburse the District for any and all litigation costs and attorney fees and shall hold the District harmless from any liability arising from any and all claims, demands, lawsuits or any other actions arising from any implementation or compliance with the Article, or District reliance on any list, notice, document, certification or authorization furnished under this Article by the Union.—~~

~~2.7.7 The District and AFT Local 1493 agree that implementation of this Agency Shop agreement is intended to be consistent with all federal, state and local laws and regulations applicable to such agreements.—~~

## WORKLOAD – ARTICLE 6

### TENTATIVE AGREEMENT\*\*

#### SUBJECT TO AGREEMENT ON ALL ARTICLES

6.1 FULL-TIME STATUS: The basic computational unit used in determining faculty workloads is the Faculty Load Credit (FLC), defined such that a full-time unit member will be expected to provide services corresponding to thirty (30) FLCs per year. Unit members who are employed less than full time, but who are paid on the basis of the regular academic salary schedule, shall be expected to earn a proportionately reduced number of FLCs per academic year. The maximum number of FLCs assigned to a unit member in any semester will be eighteen (18), except as mutually agreed upon by the unit member and the District.

6.1.1 The Faculty Load Credit (FLC) Allocation is listed in Appendix F. Increases in the FLCs in the Laboratory Assignment Schedule shall be effective Spring 2022. The parties shall appoint a committee to study further increases to these allocations as well as to other lab classes.

6.2 DESCRIPTION OF FACULTY DUTIES: While this Article deals with teaching, counseling, and learning resources assignments, these specific activities comprise only a portion of the responsibilities assigned to unit members who are paid on the basis of the regular academic employee salary schedule. Other activities that make up the remainder of the assignment of such unit members are listed in the following appendices: 1. Appendix D-1 (Duties and Responsibilities of Instructors) 2. Appendix D-2 (Duties and Responsibilities of Counselors) 3. Appendix D-3 (Duties and Responsibilities of Librarians)

6.3 NUMBER OF PREPARATIONS: Workload relative to the number of preparations shall be fair, reasonable, and equitable according to conventional past practices within the relevant disciplines or groups of disciplines. It is understood that the provisions of Section 6.3 and

6.3.1 shall not be subject to the grievance procedures of Article 17. 6.3.1 Disagreements about the number of course preparations required of a faculty member for a particular semester are to be resolved through informal meetings of the affected faculty member and the appropriate Dean. Either party may invite a member of the staff to assist in the resolution. Disagreements, which cannot be resolved in this manner, may be forwarded to the next administrative level for resolution. Disagreements not resolved at that level may be forwarded to the College President for final resolution. Appeal to the College President concludes the process for resolving disagreements about the number of course preparations. This procedure applies only to this section of the contract, unless specifically cited elsewhere.

6.4 EVENING COURSE ASSIGNMENTS: Normally, regular full-time academic instructors will not be assigned to more than one evening course as a part of their regular load, unless they request such an assignment. However, in circumstances where it is necessary to add an additional evening course in order to complete a full assignment, such additional evening

course assignments may be made, provided that such additional assignments are fair, reasonable, and equitable according to conventional past practices within the relevant disciplines or groups of disciplines. It is understood that the provisions of Section 6.4 and 6.4.1 shall not be subject to the grievance procedures of Article 17.

6.4.1 Disagreements about the number of evening course assignments required of a faculty member are to be resolved through informal meetings of the affected faculty member and the appropriate Dean. Either party may invite a member of the staff to assist in the resolution. Disagreements, which cannot be resolved in this manner, may be forwarded to the next administrative level for resolution. Disagreements not resolved at that level may be forwarded to the College President for final resolution. Appeal to the College President concludes the process for resolving disagreements about the number of evening course assignments. This procedure applies only to this section of the contract, unless specifically cited elsewhere.

## **6.5 Workload Pilot Project**

The District and AFT shall implement a two-year pilot program utilizing the process set forth in this Article for the allocation of professional responsibilities. The pilot program shall be conducted in the 2022-23 and 2023-2024 academic years. During the period of the Pilot, subsection 6.5 supersedes any conflicting provisions of Article 6, and replaces Appendices D-1, D-2 and D-3. Preparation for implementing the program will take place in the 2021-2022 academic year, including the development and review of faculty members' initial professional responsibility plans, as described in this Article. This pilot shall automatically sunset, if not continued by express mutual agreement of the parties. The parties shall reopen the contract to negotiate possible continuation of the program no later than February 2024. During the period of the pilot, the provisions of this program shall not be grievable. A single District-wide committee consisting of the president of the AFT or designee, the District Academic Senate president or designee, the Director of Human Resources or designee, and the Vice Chancellor of Educational Services and Planning or designee, will provide guidance and settle any disputes that arise during this two-year pilot period.

Full-time faculty members shall participate in a range of professional responsibilities. These professional responsibilities are in addition to classroom time, preparation and grading time, and office hours. Participation, to be initially determined by the faculty member, subject to limited review by the supervising Dean as summarized in this Article, may include but is not limited to the committees and activities listed in the table below. First-year contract faculty are not otherwise subject to the terms of this Article, and will work with their deans in taking on an appropriate level/type of professional responsibilities that allows them to focus primarily on teaching.

The faculty member will create a professional responsibilities plan ("Plan") by selecting items from the table below that they will perform over the academic year. The Plan will describe the professional responsibilities with specificity. For example, activities related to course development will identify the specific course; similarly, activities related to training will describe the subject matter and general scope of the training. Professional activities that

depend on appointment by the Academic Senate may only be included in a Plan if the appointment has already been made. Activities that depend on dean approval (e.g. program coordination) may only be included after securing dean approval.

The professional responsibilities are divided into four (4) tiers, the activities under each tier will be given different numbers of points. The professional responsibilities plan will need to include a mix of activities with a minimum combined points of value within the range of 6-7 points each academic year. Where a faculty member's particular professional activity could fall under more than one of the activities generally described in the table, it will be counted once, under the activity with the highest point value. Activities that have an assigned FLC value in Appendix F, or activities for which a faculty member is receiving release time, shall have a point value of "0". The faculty and unit administrator may jointly include items that are not on this list and add them to one of the tiers.

Once the faculty member has created a draft Plan, the member will submit it to their dean for review and approval. Plans for the following academic year will be submitted for review no later than May

1. Plan's shall be approved unless one of the following applies:

- a) The Plan includes activities for which there is no institutional need during the academic year covered by the plan. For example: A Plan includes evaluation of tenured faculty and no tenured faculty evaluations are scheduled for this period. In this case, the Dean will advise the faculty member that a chosen activity is not available and the faculty member will revise the plan accordingly.
- b) The Plan includes activities for which the demand exceeds supply. For example, multiple faculty include in their plans writing a new course curriculum for the same course. In this case, the dean will inform all faculty interested in this activity, and request that they resolve among themselves who will take on this particular activity. If the faculty are unable to resolve among themselves, the dean will make the assignment and instruct the others to revise their Plans.
- c) There is an institutional need for a professional activity that an insufficient number of faculty have included in their Plans. For example: there is need for a particular curriculum review that no one has included in their Plan. In this case, the Dean will first ask for a volunteer to modify their Plan. If that fails, the Dean may assign the activity. However, a dean may not require a faculty member to serve on more than two tenure review committees, or more than 2 hiring committees in an academic year, even where the total points do not exceed 7 points. The assigned faculty member may then, at their sole discretion, determine what to delete, of the same point value, from their Plan. This same approach shall be used if an urgent, unanticipated, institutional need arises after the academic year has begun. An "urgent" institutional need is one where, if not addressed, the District will: 1) be in violation of law; or 2) be unable to proceed with a hiring process. No faculty member will have their professional plan involuntarily adjusted in this manner more than once during the period of the pilot program.

If there is a specific, time sensitive need for the faculty member to provide all of the existing services on the member's plan, the dean may request that the member not delete any activities, so long as the total point value does not exceed 7. Any additional assignment that results in an increase in points may be appealed to the pilot review committee. If the faculty member is requested by the dean not to delete any activities resulting in a plan that exceeds 7 points, and the faculty member agrees to do so, the faculty member will be compensated for the additional service at the special rate for the actual hours spent. Alternatively, faculty requested to exceed the point requirement in year one of the pilot may opt to receive credit for the following year. No faculty member can be required to exceed more than 7 points in an academic year. If the dean does not request additional service, the faculty member may choose, at their sole discretion, not to delete any activities from their Plan. However, such voluntary additional service does not result in additional compensation.

Nothing in the Plan development and approval process precludes a dean and faculty from mutually agreeing to modifications to a Plan after the academic year has begun to address new opportunities or areas of need.

The parties further agree that annually, no later than June 15, each faculty member shall prepare a brief professional responsibility report covering each professional activity included in that year's Plan. The report shall include: 1) The specific project or activity undertaken; 2) The status of the project or activity at the time of the report; 3) Whether the expected progress on the project or activity was made; and 4) If the expected progress was not made, why not. The Report shall be submitted to the faculty member's supervising dean and included in the faculty portfolio as part of the faculty member's evaluation.



**\*\*In reaching this Tentative Agreement regarding Article 6, the Parties further agreed to reopen and revise Article 2.6 to increase AFT release time to 18 FLCs for organizational activities and 18 FLCs for negotiations and the handling of grievances for a total of 36 FLCs.**

<b>.5 point</b>	<b>1 point</b>	<b>2 points</b>	<b>3 points</b>
Update/revise specified course outlines of record	Evaluate adjunct faculty	Serve on scholarship committee	Develop and assess plans for state-mandated initiatives
Monitor and train student tutors who support our classes	Evaluate tenured faculty	Serve as a-member of a College Academic Senate. (Not eligible if receiving release time.)	Serve as department lead
Mentor new faculty (assigned by Division Dean)	Serve on Division Evaluation Committee	Write program review	Serve on Curriculum Committee/Committee on Instruction
Participate in preparing accreditation report (committee member)	Write proposals for department, division or college projects/grants	Degree/certificate creation and submission	Athletic or arts performance off-campus program promotion, transportation to student competitions or performances, outreach to high schools
Serve on Accreditation oversight committee	Write new course outline/develop new course	Serve on FT faculty or administration hiring committee <50 applicants	Coordinate program
Serve on CTE advisory committee where mandated by statute	Serve on the District Academic Senate Governing Council. (Not eligible if receiving release time.)		Accreditation Committee Chair
Attend Division meetings regularly  (This shall be a mandatory activity on all plans, unless mutually agreed with the dean.)	Advise a college-approved student club.  (Maximum of 2 clubs per Plan unless mutually agreed between the faculty member & dean. Additional advising activities are permitted, but voluntary.)		Serve on FT faculty or administration hiring committee 50 – 100 applicants

Attend Department meetings for departments that meet regularly	Serve on flex planning committee		Serve on Tenure Review Committee
Assess course or program SLO's	Serve on Professional Development Committee (article 13 money)		**Serving on FT faculty or administrative hiring committee >100 applicants should be 4 points
	Serve on District/Campus Participatory Governance Committee		
	Serve on Institutional Effectiveness Committee		
<b>.5 point</b>	<b>1 point</b>	<b>2 points</b>	<b>3 points</b>
	Develop and/or lead 3 or more skills workshops led in Learning Center		
	Supervise Independent Study of one student or Research capped at one per academic year, unless independent study is necessary for a student to graduate due to a course cancelation or other exigent circumstance, and the faculty member is requested to provide this service by the dean.		
	Other district/campus standing committees		
	Serve on the planning committee of, or prepare academic content for, a college-wide annual event. 1 event per plan.		
	Serve a on college Evaluation Guidance Committee.  (Shall not count toward point calculation if performed by a senate representative receiving release time to perform their elected duties. Shall count if elected official opts to designate another senate representative to perform this duty.)		



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## ARTICLE 7: HOURS OF EMPLOYMENT

**7.2 DEFINITION OF ACADEMIC YEAR:** The academic year consists of two (2) separate instructional semesters, each of which begin on the first day of instruction **or flex day** and end on the last day of final examinations.

For the District

*Mitchell Bailey*

Date

*5.16.19*

For the AFT

*Loag R. L. L. L. L.*

Date

*5-16-19*

**TENTATIVE AGREEMENT**  
**(SUBJECT TO AGREEMENT ON ALL ARTICLES)**

**ARTICLE 7: HOURS OF EMPLOYMENT**

**7.4 DEFINING OFFICE HOURS:**

Office hours are defined as regularly scheduled times when faculty members are present in their assigned office or approved alternate location, and available for consultation with students.

**7.5 Workweek for Full-time Instructional Faculty:**

Full-time instructional faculty shall be present on campus while performing assigned duties, unless an alternate location is assigned and approved, pursuant to Article 6. For the purposes of this section, “assigned duties” means a faculty member’s FLC and corresponding office hours. ~~in scheduled classes, offices or performing other assigned professional duties for a minimum of twenty five (25) hours per week, prorated for regular and contract faculty with less than a full-time assignment.~~ A faculty member may be assigned to less than a five-day per week schedule. All other professional responsibilities, such as class preparation and completion of a member’s professional responsibilities plan will be carried out at a time and place appropriate for the activity.

**Article 7.6 Workweek for Full-time Counseling Faculty**

Full-time counseling faculty shall be present on campus while performing assigned duties, unless an alternate location is assigned or approved , a minimum of thirty (30) hours per week, ~~twenty-five (25)~~ twenty-two (22) of which are for scheduled counselor duties and ~~five (5)~~ eight (8) of which are for performing other professional duties (as outlined in Appendix D2-A2) Regular and contract counselors shall also be responsible for developing and fulfilling a professional responsibilities plan, as described in Article 6, with a minimum value of 5 points. For the purposes of calculating adjunct load, non-ancillary fulltime weekly duties are 30 hours.

“Scheduled Counseling Duties” means any of the following:

- Scheduled or drop-in counseling appointments with student;
- Group appointments with students;
- Working with students in class, in collaborations with instructional faculty;
- Program coordination, student workshops, or case management activities, so long as they are approved or assigned by the dean;
- Counseling observations for evaluations; or
- Additional duties as approved or assigned by the dean that directly support students.

Hours are prorated for regular ~~or~~ and contract counselors with less than a full-time assignment. Part-time counselor load assignments shall include 1 hour of “other professional duties” time for every 3 FLCs of counselor duties.

Coordination is recognized as a critical and necessary function of specific counselor assignments. Coordination is defined as any responsibilities of leading and organizing a program, initiative or project outside of the primary responsibilities of counselor duties (as outlined in Appendix D2-A1). The assignment of coordination time is mutually agreed upon by the dean and the counselor as commensurate and appropriate to the counselor assignment.

Recognizing the professional and pedagogical expertise of counseling faculty, the value of a collaborative approach at the department level in setting the length of counseling appointments, and that the need for flexibility to adjust appointment length to address student needs is appropriate, the counseling deans and counseling faculty at each college will annually review best practices, scheduling methods, use of technology and other strategies to support a collaborative scheduling approach.

### **7.7 Workweek for Full-time Librarians:**

Full-time faculty librarians shall be present on campus while performing assigned duties, unless an alternate location is assigned. For the purposes of this section “assigned duties” means providing librarian services at assigned times and locations, which for a full-time librarian shall be have a thirty-seven and one-half (37.5) hour workweek, of which thirty-two and one-half (32.5) hours per week. ~~are to be on campus for scheduled professional duties and five (5) of which are for performing other professional duties.~~ Other professional responsibilities will be carried out at a time and place appropriate for the activity. Librarians shall be responsible for developing and fulfilling a professional responsibilities plan as described in Article 6, with a minimum value of 4 points. Librarians are not expected to work more than 37.5 hours per week. Hours are prorated for regular or contract librarians with less than a full-time assignment.

### **7.8 Workweek for Full-time Non-Instructional Faculty:**

Full-time college nurses and faculty assigned to other duties shall be present on campus in scheduled professional duties thirty-seven and one-half (37.5) hours per week, prorated for regular or contract college nurses and faculty assigned to other duties with less than a full-time assignment unless an alternate location is assigned or approved. College nurses and faculty assigned to other duties are not required to prepare a professional responsibilities plan .

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between the  
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San Mateo Community College Federation of Teachers, Local 1493, AFT AFL-CIO

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## ARTICLE 7: HOURS OF EMPLOYMENT

7.11.2 Part-time faculty members ~~shall~~ may participate in flex activities as part of their basic assignments if the flex day falls on a scheduled workday. For example, if a part-time faculty member normally holds a class on a Monday and that day is a scheduled flex day and thus his/her normally scheduled class(es) is/are not held, the part-time faculty member who participates in the College flex activities, shall receive regular pay for the normal student contact hours that would have been worked that day. Those part-time faculty members identified above can elect to participate in a college-approved flex activity on an alternative day other than the College-designated flex day, show written verification of the activity, and receive regular pay for up to the normal student contact hours that the part-time faculty member is scheduled to teach on that day of the week. Requests for approved flex day pay must be submitted by the last day of final exams of the semester in which the flex activity occurred. Other part-time faculty members may voluntarily participate in on-campus flex activities on designated flex days and will be compensated at the special rate not to exceed five (5) hours. ~~but shall not receive pay for such activity if the activity occurs on a day when the faculty member is not teaching.~~

For the District

*Mitchell Bailey*

Date

*5.16.19*

For the AFT

*Greg H. Amore*

Date

*5-16-19*

## **ARTICLE 8: PAY AND ALLOWANCES**

### **TENTATIVE AGREEMENT**

#### **SUBJECT TO AGREEMENT ON ALL ARTICLES**

**8.1 REGULAR FACULTY SALARY SCHEDULE:** ~~The regular academic employees' salary schedule is listed in Appendix B. Wage increases for all full and part-time faculty will be as follows from July 1, 2016 through June 30, 2019:~~

~~1. 3.25% effective with the beginning of the fall semester 2016~~

~~2. 1.75% effective with the beginning of the fall semester 2017~~

~~3. Fall semester 2018, District will inform AFT of the total compensation available by July 9, 2018.~~

~~AFT will inform the District by August 13, 2018 how the total compensation available will be allocated.~~

~~The compensation formula agreed to in the last Collective Bargaining Agreement (2016 – 2019) will be maintained in the new Collective Bargaining Agreement (2019 – 2022). Specifically: the District shall allocate 80% of every new dollar of assessed value of property taxes to compensation for salaries, with AFT receiving an apportionment of that allotment proportional to the base of the faculty bargaining unit as compared to the total workforce. The District shall first deduct costs for STRS, step and column increases and any other regulatory rate increases. The remaining apportionment to AFT shall then be allocated to bargaining unit members in the manner determined by AFT. Further, in the event there is negative growth, compensation and benefits shall remain unchanged. In no event may this formula result in a salary reduction.~~

~~As applied during the period of the 2019-2022 contract:~~

- ~~• For 2019-2020 fiscal year, AFT shall receive 42.95% of the 80% allotment, which after regulatory rate increases is \$2,169,557.~~
- ~~• For the 2020-2021 fiscal year, AFT shall receive 42.50% of the 80% allotment, which after regulatory rate increases is \$3,784,565.~~
- ~~• For the 2021-22 fiscal year, the formula summarized in this Article shall be applied. The District will inform AFT of its apportionment no later than [REDACTED].~~

**8.2 PAYCHECK PROVISIONS:** The following procedures shall apply related to faculty paychecks:

8.2.1 The annual salary for full-time regular employees will be paid over 10 months, commencing with the first month of the Fall semester, provided that employees who were paid on a September to June 10-month schedule as of June 30, 2016, shall continue to have the option to be paid on a September to June 10-month schedule. Deductions for retirement, State and Federal withholding taxes, and all other voluntary deductions are made over a 10-month period.



8.2.2 Payroll Errors: Proper salary grade and step placement is a joint responsibility of the employee and the District. All employees are to review their salary placement at least annually and should they believe that they are improperly placed on the salary schedule, they are to immediately bring this information to the attention of the District.

8.2.2.1 Any payroll error resulting in insufficient payment for an employee in the bargaining unit shall be corrected, and a special payroll check issued no later than five (5) working days after the District has received both a written request from the employee and verification of the error. Otherwise, the supplemental amount will be included in the next regular paycheck following verification of the error.

8.2.2.2 If the District overpays the employee, the employee shall, upon realizing the fact or upon notification from the District, repay the full amount of such overpayment. If the overpayment is \$100 or less, the employee shall have the overpayment deducted in the next paycheck. For overpayments exceeding \$100, the repayment schedule shall be equal to the number of months the employee was overpaid. For example, an employee who was overpaid a total of \$300 over a period of three months shall have \$100 deducted for the three months. Employees who leave the District or go on unpaid leaves prior to complete repayment shall have the remainder of the overpayment deducted from their final check. If the final check is insufficient to cover the amount owed, the employee will submit the necessary funds to the District within 30 calendar days.

8.2.3 Direct Deposit: The District will make payment via direct deposit for payroll checks to all faculty members, unless special circumstances require a paper check to be issued. Employees who were receiving a paper check as of June 30, 2016 will continue to have the right to receive a paper check.

8.3 PLACEMENT OF REGULAR FACULTY MEMBER ON SALARY SCHEDULE:  
Placement of an individual on the regular academic employee salary schedule is based upon academic preparation and teaching experience or acceptable equivalent.

8.3.1 Salary classes based upon academic preparation are defined in Appendix C.

8.3.2 If they are to be recognized for salary placement, units taken after the award of the Bachelor's degree must ordinarily be upper division or graduate units granted by an accredited college or university.

8.3.3 For salary placement purposes, academic degrees and units must be earned from accredited institutions of higher education. Academic degrees from unaccredited colleges and universities, both foreign and domestic, will be acceptable provided that either:

1. the registrar of an accredited institution of higher education certifies that the degree in question is the equivalent of an earned academic degree granted by his/her institution; or
2. the degree serves as the basis for the award of a post-doctoral research fellowship from an accredited institution of higher education.

8.3.4 “Accredited institution of higher education” means an institution of higher education in the United States or its territories, accredited by a United States regional accrediting association which awards accreditation to institutions of higher education as one of its predominant activities, or by a recognized professional organization which awards accreditation to institutions of higher education for training in that profession.

8.3.5 Degrees and academic units to be credited for salary schedule placement must be verified from original transcripts to which the college or university seal or registrar’s signature has been affixed. For new employees, transcripts must be received by the Office of Human Resources by the end of the month in which original employment begins. Verification of membership in the California Bar must be by official documentation certifying that the employee is eligible to practice law in the State of California.

8.3.6 Step placement on the regular academic employee salary schedule is based upon prior teaching experience or acceptable equivalent. High school and college-level teaching experience as a regular faculty member will be recognized on a year-for-year basis. Teaching experience between grades 1 and 8 (elementary) will be counted as one-half the value of teaching experience in grades 9 and higher. A new contract academic employee with 0 to 3 years of prior experience and whose first day of service begins on or after July 1, 2001 will be placed on Step 1. For a new contract employee with four (4) or more years of prior experience, such experience will be recognized, year for equivalent year, up to a total of seven (7) years for a maximum initial placement at Step 5. The Chancellor may recommend initial placement above Step 5 in exceptional circumstances that affect the interest of the District. The Chancellor will inform the Union president of such recommendation. The following chart illustrates initial placement according to this section:

0-3 yrs. Experience Step 1

4 Step 2

5 Step 3

6 Step 4

7 or more Step 5

8.3.7 Part-time teaching will be credited on the basis of its equivalent in full-time teaching at the institution where the teaching occurred.

8.3.8 Related vocational experience, and professional experience other than teaching in regular faculty status, will be evaluated on the basis of duration and closeness of relationship to the teaching assignment in this District. One year of teaching experience will be allowed for each two years of full-time, fully related professional or vocational experience, or its equivalent in part-time experience. Years of service spent as an apprentice, or years of service spent achieving the equivalent of journeyman status, will not be counted. Years of service, whether paid or unpaid, which were spent as a part of a required program leading to a higher academic degree or certificate will not be counted.

8.3.9 Letters of verification of all experience used for step placement on the salary schedule must be received by the Office of Human Resources by the end of the month in which original employment begins.

8.4 CLASS ADVANCEMENT: To qualify for class advancement on the regular academic employee salary schedule, academic personnel will notify Human Resources that they have received an advance degree by July 15th and submit evidence of the advanced degree from an accredited college or university or evidence of a sufficient number of units to meet requirements for class advancement on the salary schedule. As proof of completion, official transcripts must be submitted prior to August 31st of the year for which the change in salary placement is requested. Class advancements are processed only during the month of August of each year, and modify the employee's salary for the full college year.

8.4.1 For class advancement purposes, an academic employee may submit without prior approval:

1. Upper division and graduate units, offered by accredited colleges and universities, relevant to the instructor's teaching field.
2. Education courses required for a credential or degree appropriate to the instructor's field in community college teaching.

8.4.2 Other courses must be individually approved by the Vice Chancellor of Human Resources. Prior approval of courses in which an academic employee plans to enroll should be obtained to ensure that units will be applicable for advancement on the salary schedule. Such requests for prior approval should be submitted to the employee's immediate supervisor, who will attach his/her recommendation and forward them through the Vice President to the Vice Chancellor of Human Resources. The Vice Chancellor of Human Resources will then approve or disapprove, in full or in part, and so inform the instructor, the Vice President, and the immediate supervisor.

8.5 STEP ADVANCEMENT ON REGULAR SCHEDULE: To qualify for step advancement on the regular academic employee salary schedule, an employee's term of service must encompass seventy-five percent (75%) or more of the school days in the college year, or seventy-five percent (75%) or more of the school days in two semesters within a three-year period.

8.5.1 From Step 1 through Step 8, employees will advance at the rate of one step per year. Two years of service at Step 9 are required for advancement to Step 11. Three years of service at Step 11 are required for advancement to Step 14. Four years of service at Step 14 are required for advancement to Step 18. Five years of service at Step 18 are required for advancement to Step 23.

8.5.2 All step advances on the salary schedule are normally effective at the beginning of the Fall semester. However effective spring 1999, step advances for regular, full-time faculty whose service begins in Spring semester and who meet the requirements of Section 8.5, will advance to the next step on a Spring anniversary date rather than the Fall anniversary date.

**8.6 REQUIRED SERVICES OUTSIDE THE NORMAL WORK YEAR:** Academic employees may occasionally be asked to work extra days that are not a part of the 175-day academic year. To the extent that funds have been budgeted and specific assignments approved by the appropriate administrator, required services involving a minimum of six (6) hours of work will be compensated on a per diem basis.

For less than a full day of work, academic employees will be compensated at the special rate of the Parttime or Faculty Overload Salary Schedule.

8.6.1 The per diem rate is six hours at the special rate, Step 10 of the appropriate hourly salary schedule.

8.6.2 Academic employees who are expected to work beyond the normal 175-day academic year because of serving on a screening committee for new employees will be paid at the special parttime rate for actual hours worked in session with the committee or at the per diem rate, whichever is less. Any such work must be necessary and have prior approval of the College President or the Chancellor.

**8.7 SALARY DEDUCTIONS FOR ABSENCE WITHOUT PAY:** When an academic employee whose compensation is based upon the regular academic employee salary schedule is absent for reasons which do not justify the use of any of the forms of authorized leave with pay, a fraction of the employee's annual salary will be deducted. The fraction will be the number of days absent divided by the number of days in the teaching year.

8.7.1 When a deduction for a partial day of absence becomes necessary, the fraction of a day absent will be computed by dividing the number of hours of absence by the total number of hours the employee is scheduled to be on campus on that day, including office hours.

**8.8 PART-TIME SALARY SCHEDULE:** The part-time employees' salary schedule is listed in Appendix B. It applies to academic employees with assignments of sixty percent (67%) or less of full time for the college year. It also serves as the basis of compensation for summer session assignments and of additional compensation for full-time academic employees assigned beyond their regular full-time assignments. Summer Session compensation will be based on the part-time employee salary schedule in effect during the previous Spring semester.

**8.9 PLACEMENT ON PART-TIME SALARY SCHEDULE:** Placement of an individual on the part-time employee salary schedule is based upon academic preparation and teaching experience or acceptable equivalent.

8.9.1 Degrees and units are used to determine step placement on the part-time employee salary schedule in accordance with the following rules:

8.9.1.1 Persons holding an earned doctorate, or who are members of the California Bar, will be given two (2) years of teaching equivalency, to be added to the total of the years credited as a result of evaluating teaching and related experience.

8.9.1.2 Persons holding a valid Master's degree, or a life vocational credential will receive zero (0) years of teaching equivalency.

8.9.1.3 Persons holding only a Bachelor's degree and any number of units taken after the award of the degree will have one (1) year of teaching equivalency subtracted from the years credited for teaching and related experience.

8.9.1.4 Persons holding only an A.A. degree and any number of units short of a Bachelor's degree will have three (3) years of teaching equivalency subtracted from the total years credited for teaching and related experience.

8.9.1.5 One (1) year and no years of college are assigned a value of negative four (4) years of teaching equivalency and treated as above.

8.9.2 Both teaching and related work experience will be evaluated as set forth in Sections 8.3. of this Agreement. As with the regular academic employee salary schedule, high school and college level teaching experience will be recognized on a year-for-year basis up to five years. The maximum initial step placement on the part-time employee salary schedule will be at Step 7, except for holders of an earned doctorate or members of the California Bar, for whom the maximum initial placement will be at Step 9.

8.10 PLACEMENT ON PART-TIME SCHEDULE UPON RETURN: Part-time faculty returning to the District who have been in paid academic status during two semesters (summer sessions are acceptable in lieu of semesters) within a three-year period shall be advanced a step on the salary schedule beginning in the Fall Semester. Part-time faculty returning to the District after a break of more than three years shall be placed on the salary schedule at a step no lower than the step at which they were paid when they left the District.

8.11 STEP ADVANCEMENT ON PART-TIME SCHEDULE: To qualify for step advancement on the part-time employee salary schedule, an employee must have served in paid academic status during two semesters (summer sessions are acceptable in lieu of semesters) within a three-year period. Step advancements will be made only at the beginning of the Fall semester.

8.12 PART-TIME COUNSELING SERVICES PAY RATE: Counseling service, when compensated on a part-time basis, will be paid at the appropriate hourly laboratory rate.

8.13 SUBSTITUTE PART-TIME PAY RATES: Substitute instructors, librarians, and counselors will be paid at the substitute's step of the appropriate column of the part-time salary schedule.

8.14 LARGE CLASS PAY: A large class for the purpose of additional compensation under the terms of this Article is defined as having 70 or more students enrolled at census. Deans will engage in a collaborative process with department faculty to determine which courses can be appropriately designated as "large classes".

Eligible courses are those that meet general education, UC, and CSU requirements, those that meet graduation requirements, major requirements, and vocational courses required for a certificate, degree, or transfer. (Ineligible courses are television courses, open skills labs, Cooperative Education, all matriculation activities, team sports, team taught courses, independent study, and all courses numbered in the 600's and 700's.

Assignment to teach a large class is voluntary.

Additional compensation is at the special rate of pay and does not affect the FLC for the course. The compensation is consideration for the extra time needed for required paperwork.

Additional weekly compensation for large classes: 70-94 students 3 hours

95-119 students 4 hours

120-144 students 5 hours

145-169 students 6 hours

### **8.15 PART-TIME PARITY**

A. Part-time parity shall be defined as 85% of full-time regular compensation

B. For the 2020-21 and 2021-22 academic years, the method used to compare part-time and full-time compensation for the purpose of determining how close the District is to achieving parity shall be as follows:

1. Calculate the average, annualized compensation for instructional adjunct faculty by:
  - a. At each step multiply the instructional rate by 525 hours. (525 hours represents 15 hours per week times 35 weeks).
  - b. At each step multiply the special rate by 175 hours. (175 hours represents 5 office hours [1 hour for each 3 hours of teaching] times 35 weeks).
  - c. Add the results of a and b. This expresses the annualized salary at each step.
  - d. Calculate the average annualized adjunct instructional salary.
2. Calculate the average annual full-time compensation of full-time faculty at Column 2 (Master's Degree), steps 1-11.
3. Parity is achieved when the average annualized compensation on the instructional adjunct faculty schedule is 85% of the average annual full-time compensation of contract faculty at column 2, steps 1-11.
4. For the purposes of a benchmark, applying this methodology using the salary schedules in effect as of August 13, 2018:
  - a. Instructional adjunct compensation is at 66.8% of full-time compensation.
  - b. Non-instructional adjunct compensation is above parity on all non-instructional salary schedules, where the average annualized non-instructional salary for each position is calculated by multiplying each salary step by the full-time contractual hours for the position by 35 weeks, and taking the average.

C. The following steps shall be taken to achieve parity, as defined in paragraph A.

1. For the 2020-2021 fiscal year the following monies shall be applied exclusively to the instructional adjunct salary schedule:
  - a. The District shall add 3 % (\$600,537) to the adjunct instructional faculty schedule over and above the dollars made available to AFT for total compensation for 2020-21. This contribution is contingent on the further contribution described below in section C.1.b.
  - b. An additional 1% (\$ 200,179) shall be added to the instructional adjunct faculty schedule from the dollars made available to AFT for total compensation in 2020-21, resulting in a combined contribution between sections C.1.a and b of 4 % ( \$800,716) being applied to the adjunct instructional schedule.
  - c. At its discretion, AFT may apply additional dollars exclusively to the instructional adjunct faculty schedule.
  - d. All other total compensation dollars that AFT chooses to apply to wages shall be applied equally to all salary schedules.
2. For the 2021-2022 fiscal year, the District will apply an additional 1.5 million dollars (\$ 1,500,000) to the instructional adjunct faculty schedule (HI), separate and apart from whatever salary increases are negotiated for all faculty. This contribution is contingent on AFT's agreement that any total compensation dollars that it chooses to apply to wages shall be applied equally to all salary schedules, unless it opts to make an additional contribution to the adjunct instructional (HI) schedule in order to move adjuncts closer to parity.
3. The District and AFT shall enter into an MOU memorializing that, starting with the 2022-2023 academic year, the District will place instructional adjunct faculty on a salary schedule that includes the same columns and steps that appear on the Regular Salary Schedule (80), using the methodology summarized below. The MOU shall also provide that, when negotiations are opened for the 2022-23 through 2024-25 successor agreement, the MOU shall be incorporated into that agreement. This MOU supersedes conflicting contract language in Articles 8.8-8.11 and 18. Once parity is achieved, this MOU shall cease to apply.
  - 3.A After the 2022-23 academic year, the method used to compare part-time and full-time compensation for the purpose of determining how close the District is to achieving parity shall be as follows:
    - a. each cell in the regular full time salary schedule is divided by 525

b. One-third (1/3) of the special rate that corresponds to each step on the adjunct faculty salary schedule will be added to each cell at that step. For steps on the adjunct lecture schedule that exceed the number of steps of the special rate schedule, the highest rate on the special rate schedule will be used.

c. b is divided by a and multiplied by 100

d. parity is achieved when the value of “c” is 85 at a minimum of 80% of the cells on the lecture adjunct faculty schedule.

### 3.B. CONSTRUCTION OF THE STEP/COLUMN INSTRUCTIONAL ADJUNCT SCHEDULES

2 step and column schedules will be established for Instructional Adjunct Faculty—one for lecture rate and one for lab rate. These will be designated in the salary schedules as the “Adjunct Faculty Salary Schedule Inst./Lecture (HI)” and the “Adjunct Faculty Salary Schedule/Inst./Lab (HI)”. The Instructional Faculty Salary Schedule (HI) for special rates will not be converted to a step/column schedule.

The step and column schedules for Adjunct Faculty Salary Schedule Inst./Lecture (HI) and Adjunct Faculty Salary Schedule/Inst./Lab (HI) will be established and applied as follows:

1. The instructional adjunct lecture and lab schedules for the 2021-22 fiscal year shall become the Masters column (Column 2) of the new step/column lecture and lab schedules.
2. The compensation values at each step (1-11) of the new lecture and lab schedules will be created at 1 (Base) 3 (MA +45) 4 (MA +60) and 5(PhD) by applying the percentage differences between columns that exist at those steps on the full-time schedule.
3. The compensation values at steps past step 11 will be created by applying the percentage differences between the steps past 11 that exist at those steps and columns on the full-time schedule.

Office hours will continue to be paid separately following the same procedures currently in place including after-full pro-rata at 85% is achieved.

### 3.C PLACEMENT OF MEMBERS ON THE SALARY SCHEDULES

#### 1. Column Placement

Instructional adjunct faculty will have until September 30, 2021 to present documentation regarding their education, commensurate with the documentation required of regular faculty, so they may be placed on the appropriate column. If an instructional adjunct faculty doesn't



provide documentation by September 30, 2021, they will be placed on the column with the minimum qualification for that discipline. Instructional adjunct faculty can present documentation to be placed on the right column in future years, subject to the same deadlines and criteria as full-time faculty.

## 2. Initial Step Placement on the Step/Column Schedule

a. Starting with the Fall 2022 semester, each adjunct faculty member previously employed by the District shall be initially placed on the step that corresponds with their 2020-21 step plus one, except as follows:

i. Any instructional adjunct faculty who, as of Fall 2022, has been at step 11 for at least 3 years in which service was provided each year shall move to step 14.

ii. Any instructional adjunct faculty who has less than a Master's degree, and who is on a 2021-22 seniority list, shall not be moved to the new base column, but instead shall be placed on the masters column (column 2).

b. Starting with the Fall 2022 semester, newly hired adjuncts will be placed at their initial step using the same criteria as used for full-time faculty, as set forth in Article 8.3.6, with Step 5 being the highest step for initial placement. Article 8.9 does not apply.

## 3. Step Advancement

Adjunct faculty may advance no more than one step per 12-month contiguous period. After parity at 85% is reached, in order to advance one step, an instructional adjunct must serve within the District the equivalent of 18 instructional FLCs, which may be accrued indefinitely until step movement occurs, or four Spring and/or Fall semesters of service, whichever happens first. For the purposes of counting service credit for step movement, service in fall, spring and summer terms shall count. However, service in each term is not required to advance. Once the aggregate 18 FLCs is achieved, or four semesters whichever happens first, the adjunct faculty member is eligible to move one step in the next term (fall, spring or summer) that the member is hired. Once an adjunct faculty member advances, a new contiguous 12-month period starts.

## 4. On-going Step Advancement Implementation Process

Step advancement will be administered as follows: Each August 1, the District shall be responsible to review all adjuncts hired in the ensuing fall semester for step advancement eligibility. Any adjunct found to be eligible will be advanced one step, prospectively. There will be no retroactive step adjustments unless due to district error.

Faculty who believe that they will become eligible for step advancement in a spring or summer term, rather than the fall term, are responsible to provide notice to their Dean at least 90 calendar days before the start of the term in which the member believes they are eligible for advancement. Where such notice is provided, step advancement will be applied in the next term. The District

is not responsible to advance members at any time other than the fall semester without prior notice from the faculty member of their eligibility. Step advancements will be implemented at the beginning of each term only, unless failure to advance a member is due to District error.

The District will send an announcement to the instructional adjunct faculty three weeks before the deadline reminding them of the deadline and the requirements for step advancement in the Spring and the Summer.

#### 5. Timing

The District will place every instructional adjunct faculty on a step and column by February 28, 2022 in preparation for implementing the new schedules starting in the Fall 2022.

D. The District acknowledges that parity is not an abstract concept, but a clear goal that it is contractually obligated to achieve. To that end, the District further acknowledges that parity cannot be achieved without the district allocating funds to adjunct compensation over and above faculty raises. The district therefore commits to dedicating additional funding for instructional adjunct salary increases above and beyond salary increases for all faculty until parity is achieved. So long as the parties are operating under the compensation formula in effect in 2019-2022, total compensation funds shall not be unilaterally used by the district for parity.

E. The Parties will establish a joint study group to review possible transition to a load-based, step and column compensation model for adjunct faculty. It is understood that the study group does not engage in negotiations, but functions to provide information that the parties may utilize in negotiations.

# TENTATIVE AGREEMENT

between the

San Mateo County Community College District and  
San Mateo Community College Federation of Teachers, Local 1493, AFT AFL-CIO

*This tentative agreement is subject to Board approval after review for compliance with SMCCCD administrative policies and regulations. This tentative agreement is subject to ratification by AFT.*

## ARTICLE 8: PAY AND ALLOWANCES

**8.5.1** From Step 1 through Step 8, employees will advance at the rate of one step per year. Two years of service at Step 9 are required for advancement to Step 11. Three years of service at Step 11 are required for advancement to Step 14. Four years of service at Step 14 are required for advancement to Step 18. Five years of service at Step 18 are required for advancement to Step 23. **Two years of service at Step 23 are required for advancement to Step 25.**

For the District

*Mitchell Bailey*

Date

*5.16.19*

For the AFT

*Greg Quire*

Date

*5-16-19*

## TENETATIVE AGREEMENT

### ARTICLE 9: HEALTH AND WELFARE BENEFITS

9.1 PERS MEDICAL AND HOSPITAL PLAN: The District will provide the PERS Medical and Hospital Plan for employees and retirees in accordance with rules and regulations established by PERS.

9.1.1 Should a carrier withdraw from the PERS Umbrella plan, members of the unit will select from one of the remaining PERS options.

9.2 MEDICAL PREMIUM CAP AMOUNT: Effective January 1, 2017, the District will contribute up to the following amounts as appropriate towards PERS medical coverage premiums:

Employee only:	\$ 789.00 per month
Employee plus one dependent:	\$1,319.97 per month
Employee plus two or more dependents:	\$1,703.41 per month

Effective January 1, 2018, the District will contribute up to the following amounts as appropriate towards PERS medical coverage premiums:

Employee only:	\$825.00 per month
Employee plus one dependent:	\$1,394.97 per month
Employee plus two or more dependents:	\$1,828.41 per month

9.2.1 Deduction of Medical Benefit Premiums: Subject to and consistent with the requirements of federal and state law, when unit members are paid on an August through May schedule, those members shall have their portion of the medical coverage premiums for June and July deducted in equal installments from their January, February, March, April, and May paychecks. When unit members are paid on a September through June schedule, those members shall have their portion of the medical coverage premiums for July and August deducted in equal installments from their February, March, April, May and June paychecks.

9.2.2 There shall be an increase in the medical caps set forth in Article 9.2 as follows effective 1/1/2020, 1/1/21 and 1/1/22 on a one-time basis, expiring at end of this contract:

Single: \$50.00 per month

2 Party: \$50.00 per month

Family: \$50.00 per month

9.3 DISTRICT WILL PAY PREMIUM INCREASES FOR OTHER BENEFITS: The District will pay the increased costs of dental insurance, life insurance, salary continuation insurance, and Medicare Part B.

9.4 DENTAL INSURANCE: The District will provide each eligible employee and eligible dependents with Delta Dental Plan (DDP) or the coverage provided by Private Medical-Care Inc. (PMI). The plans are described in detail in the benefits handbook available in the Office of Human Resources. The maximum dental coverage in any one calendar year shall be \$2000.

9.5 LIFE INSURANCE: The District will provide each eligible employee with a term life insurance policy covering the employee and eligible dependents. The life insurance plan is described in detail in the benefits handbook available in the Office of Human Resources. Effective March 1, 2001, the term life insurance coverage shall equal one time the employee's annual base salary.

9.6 SALARY CONTINUATION INSURANCE: The District will provide each eligible employee with salary continuance insurance to cover disability after the employee's sick leave balance has been exhausted. The salary continuance insurance plan is described in detail in the benefits handbook available in the Office of Human Resources. The maximum monthly benefit for unit members shall be \$5,000 per month.

9.7 VISION INSURANCE: The District will provide each eligible employee and eligible dependents with Vision Service Plan (VSP) Plan C.

9.8 MEDICARE PART B COVERAGE: The District will pay the premiums for Medicare Part B coverage for an eligible retiree and/or spouse/eligible domestic partner over 65 years of age.

9.9 ELIGIBILITY RULES: To be eligible for the benefits described in this Article in any given semester or academic year, a full-time regular academic member of the unit must be employed at more than sixty percent (60%) of full time. A full-time regular academic employee may retain eligibility for the benefits described in this Article in the case of mutually agreed upon reduction of assignment, provided that the reduced assignment is at least fifty percent (50%) of full time.

9.10 ELIGIBLE DEPENDENTS/DOMESTIC PARTNERS: Eligible dependents/domestic partners are those specified in the contracts between the District and the insurance carriers.

9.10.1 The District agrees to include domestic partner benefits in the PERS Health Plans offered by the District. The definition of domestic partner shall be that used by PERS Health Plans. If the definition of a domestic partner used by PERS changes, the District shall implement the change on the effective date allowed by PERS. Domestic partners shall comply with all registration requirements required by state law or PERS, and shall complete all necessary declarations and statements of financial liability. Forms are available in the Office of Human Resources.

9.10.2 The District agrees to include domestic partner benefits in the dental and vision plans offered by the District. In order to be considered a domestic partner, the following criteria must be met:

1. The two individuals are each other's sole domestic partner and intend to remain so indefinitely.

2. Neither individual is married to, or legally separated from anyone else nor has had another domestic partner within the prior six (6) months (unless the relationship terminated due to death).

3. Both individuals are at least eighteen (18) years of age and mentally competent to consent to contract.

4. Neither individual is related by blood to a degree of closeness that would prohibit legal marriage in the state in which the individuals reside.

5. The individuals co-habit and reside together in the same residence and intend to do so indefinitely. The individuals have resided in the same household for at least six (6) months.

6. The individuals are not in the relationship solely for the purpose of obtaining benefits coverage.

7. The individuals have engaged in a committed relationship of mutual caring and support and are jointly responsible for each other's common welfare and living expenses. The individuals interdependence is demonstrated by at least two (2) of the following:

- Proof of domestic partnership from the California Secretary of State (required for domestic partnership medical coverage under the Public Employees' Retirement System).
- Common ownership of real property (joint deed or mortgage agreement) or a common leasehold interest in property.
- Common ownership of a motor vehicle.
- Driver's license listing a common address.
- Proof of joint bank accounts or credit accounts.
- Proof of designation as the primary beneficiary for life insurance or retirement, benefits, or primary beneficiary designation under a partner's will.
- Assignment of a durable property power of attorney or health care power of attorney.

9.10.3 Dependent children of domestic partners are eligible for coverage if they have been legally adopted by the District employee and are unmarried, primarily dependent on the employee for support, and meet the age, school, and all eligibility requirements of the various medical, dental and visions plans.

9.11 SURVIVOR BENEFITS: If a member of the unit meets the eligibility requirement for retiree medical benefits specified in Section 10.1 and dies before retirement, medical and dental benefits will be provided by the District for the unmarried surviving spouse/domestic partner as provided for the unmarried surviving spouse/domestic partner of an eligible retiree in Section 10.1.

9.12 MEDICAL STIPEND FOR PART-TIME FACULTY: As of Fall Semester 2015, the District will provide up to \$1000.00 per period and increased subsequently, if State funding fully covers the increased cost of providing this stipend for reimbursement of employee incurred

health benefit costs to all part-time employees who are employed in the District at 40% or more of a full-time load (6/15 FLC) and complete a 40% load. The reimbursement will be paid for the periods July through December and January through June.

9.12.1 The stipend shall be used to reimburse part-time faculty who qualify for reimbursement under these provisions for premium costs only from enrollment in any HMO, PPO, or indemnity health plan licensed and registered by either the California Department of Insurance or the California Department of Corporations.

9.12.2 Employees wishing to be reimbursed for medical expenses under this article must initiate the request on a District form. The employee must furnish documentation (cancelled check, paid statement) showing that the employee had been purchasing health insurance during the instructional period for which the employee was otherwise not eligible for reimbursement from any other source. This request is to be submitted only to the division dean at the College where the employee receives his/her paycheck. The division dean will forward the request to the Vice Chancellor of Human Resources for approval and processing of the reimbursement.

9.12.2.1 The reimbursement request must be submitted as follows: a) the 15th of November for the period covering July 1st through December 31st; b) the 15th of May for the period covering January 1st through June 30th.

9.12.3 There shall be an increase in the part-time faculty medical reimbursement of \$600 per semester effective January 1, 2020, January 1, 2021 and January 1, 2022.

9.13 IRC 125 PLAN: The District will maintain a program that implements the Internal Revenue Code Section 125 and provides for before tax employee contributions to non-District covered health and dependent care costs.

9.13.1 Part-time employees who are assigned at least one semester length course may participate in this plan during that semester. The limit for earnings to be set aside for an eligible part-time employee's medical benefits is \$400 per semester, \$1,200 per year. The limit for earnings to be set aside for an eligible part-time employee's dependent care benefits is \$1,666 per semester, \$5,000 per year. Part-time employees will enroll separately for each semester of participation.

9.14 Affordable Care Act Requirements and the District's Right to Modify Benefits: Both the AFT and the District have the right to reopen negotiations on the health insurance provisions of this Agreement in the event the District is subject to a penalty, tax, fine or increased costs as a result of requirements of the Affordable Care Act.

# TENTATIVE AGREEMENT

between the

**San Mateo County Community College District and  
San Mateo Community College Federation of Teachers, Local 1493, AFT AFL-CIO**

*This tentative agreement is subject to Board approval after review for compliance with SMCCCD administrative policies and regulations. This tentative agreement is subject to ratification by AFT.*

## ARTICLE 14: LAYOFFS

- 14.1 UNION WILL BE NOTIFIED OF POTENTIAL LAYOFFS:** When it is reasonably certain that faculty layoffs are to be recommended in specific areas, the Union will be notified of the contemplated action and the reasons therefore. It is understood that the Education Code prohibits the retention of a junior employee when a more senior employee who holds an FSA and **is** competent to perform the service is laid off.

**For the District**

*Mitchell Bailey*

**Date**

*5.16.19*

**For the AFT**

*Ray Rivera*

**Date**

*5-16-19*



TENTATIVE AGREEMENT  
BINDING ARBITRATION PILOT  
Article 17  
(SUBJECT TO AGREEMENT ON ALL ARTICLES)

**17.8 Binding Arbitration Pilot**

The District and the Union Agree to a pilot of three years (3) of binding arbitration to replace advisory arbitration in Article-17, which shall begin the first business day after adoption of the successor Agreement by the Governing Board,. Immediately upon expiration of the three-year period, the Binding Arbitration Pilot will automatically sunset and the award of arbitration will again be advisory unless the parties mutually agree through negotiations to continue binding arbitration. “Year” for the purposes of this Article means 365 calendar days.

Binding Arbitration shall be available only with regard to disputes that are otherwise subject to grievance through Level III (Arbitration) pursuant to Article 17 (Grievances) and Article 25 (Discipline). Access to binding arbitration shall be further limited as follows:

- a. Tenure-track and tenured faculty. For the purposes of the Binding Arbitration Pilot issues relating to permanent (i.e. tenure-track and tenured) faculty will be eligible for binding arbitration, except that nothing related to the Tenure Review process shall be subject to binding arbitration.
- b. Temporary faculty. For the purposes of the Binding Arbitration Pilot
  1. All contract disputes pertaining to Article 19.2 shall be subject to advisory arbitration only.
  2. All other matters pertaining to non-permanent employees under Article 19 will be eligible for binding arbitration for part-time faculty members, only if the temporary faculty member has received two (2) consecutive satisfactory evaluations or has been given an assignment for eight (8) semesters with no negative evaluations.
- c. The number of grievances eligible for binding arbitration shall be capped at three per year during this pilot period.

**TENTATIVE AGREEMENT**  
**ARTICLE 24**  
**HANDLING OF INFORMAL COMPLAINTS AND FORMAL MISCONDUCT**  
**INVESTIGATIONS OF UNIT MEMBERS**

**24.1 Definitions**

**24.1.1 Complaint**

A complaint is any potentially credible verbal or written allegation by an identifiable author that a unit member has violated District policy to the complainant's detriment, for which the complainant seeks a remedy. A non-credible complaint is one which the receiving administrator determines does not require further inquiry because the administrator found the complainant not credible, or that the allegations are frivolous or too trivial or minor to merit District inquiry, such that there is no need to address the allegations with the accused faculty member.

**24.1.2 Informal Complaint**

An informal complaint under this Article is a complaint where all of the following apply:

- (a) The Complaint does not allege unlawful harassment,
- (b) The Complaint is not a grade grievance, and
- (c) The District has not initiated a formal investigation.

Informal harassment complaints and informal resolution of harassment complaints shall be handled in conformance with the San Mateo County Community College District Discrimination and Harassment Investigations Procedures, Section VII.

Student grade grievances shall be handled in conformance with the grade grievance procedures at each college.

**24.1.3 Formal Misconduct Investigation**

A formal misconduct investigation is a District-led investigation of a unit member into allegations that the unit member has violated District policy and/or law, based on information received from a formal or informal complaint made by an identifiable author; a report of misconduct; manager observations; or other potentially credible sources of information. A formal misconduct investigation is initiated at the point that the District determines there is sufficient information to proceed with an investigation.

**24.2 Informal Complaint Notice and Resolution**

**24.2.1 Initial Review and Routing of Complaints**

Complaints shall be reviewed by Administration to determine:

1. Whether the complaint warrants formal investigation. If the District determines to initiate a formal investigation at any point, the notices, protections, and procedures set forth in Section 24.3 “Formal Misconduct Investigations” shall apply and any informal process shall end. Whether or not to initiate a formal investigation shall be within the sole discretion of the District.
2. Whether the complaint constitutes an informal complaint of harassment or discrimination. In such case, the Administrator shall proceed in conformance with the District’s Harassment Investigation informal resolution procedure and this Article shall not apply.
3. Whether the complaint constitutes a grade grievance, in which case the complaint will be handled in conformance with the applicable college’s grade grievance procedure—including the rights of faculty as summarized in those procedures.
4. Whether the complaint is an informal student grievance that does not involve grades. In such case, the faculty member shall be entitled to the notice as set forth below in section 24.2.b. However, the Section 24.2.3 informal resolution process of this Article shall not apply. Rather, the informal student grievance process established at each college shall apply.
5. Whether the complaint is an informal complaint by a nonstudent, other than a complaint alleging harassment or discrimination, in which case the informal resolution process set forth in Section 24.2.3 shall apply.

#### **24.2.2 Notice of Informal Complaints**

After its initial review of the Complaint, if Administration determines that the notice provisions of this Article apply, it shall provide notice of the informal complaint to the affected employee as follows:

##### **a. Nonstudent informal complainant:**

If a person files a complaint about a unit member, the complaint shall be presented to the Faculty member by the Administrator receiving the complaint as soon as possible but no later than ten (10) instructional days after it was received. If the Faculty member is not available within this timeframe, the complaint shall be presented upon the Faculty member’s return to work.

##### **b. Student informal complainant:**

If a student files a complaint about a unit member (other than a grade grievance), it shall be provided to the unit member within ten (10) instructional days of when it is received, unless the

information pertains to a class that is currently in session, and in which the student complainant is enrolled. If the complaint relates to a class where the student is currently enrolled, at the student's request, the complaint shall be provided to the affected unit member no later than ten (10) workdays after the grades for the class are filed at the completion of the Academic Term. As noted above in Section 24.2.1(3), grade grievances shall be handled in conformance with each college's grade grievance procedure.

#### **24.2.3 Review and Resolution of Informal Non-Student Complaints**

The appropriate Dean/Immediate Supervisor may call a meeting with the affected Faculty member to review the complaint. At the request of the Faculty member, an AFT representative may accompany the Faculty member to the meeting. The appropriate Administrator may also call a meeting with the complainant to clarify the issue.

If the appropriate Dean/Immediate Supervisor determines that a meeting between the complainant and affected unit member is appropriate, the Dean/Immediate Supervisor will call the meeting and the affected member shall attend.

Further, the affected unit member may meet with the member's Dean/Immediate Supervisor and other affected parties to attempt to settle the allegations informally if the other party agrees to an informal resolution.

#### **24.2.4 Limitation on Use of Information from Informal Complaint Resolutions**

No investigatory interview shall take place at any resolution meeting held pursuant to Section 24.2.3 of this Article, with the understanding that such meetings are designed to resolve or mediate matters where the District has already concluded the fact-finding process.

Further, to foster and encourage the resolution of informal complaints, the parties agree that any faculty-respondent statements made during such resolution meetings may not be used by the District in any subsequent investigation, evaluation, discipline, or other employment decision, such as a decision regarding assignment, workload, or leave.

If, during such a meeting, a supervisor believes further inquiry and an investigatory process becomes necessary based on new statements made or information presented, the supervisor will immediately conclude the meeting and the District shall begin the Article 24.3 formal investigation process.

#### **24.2.5 Complaints that Are Withdrawn, Not Sustained, or Not Presented to the Member**

Regardless of whether a formal investigation was initiated, any complaint that is withdrawn, was not sustained, or not called to the attention of the employee may not be used as the basis for any evaluation, reprimand, discipline or discharge. Nor shall it be placed in the Faculty member's personnel file. Such documents may only be retained in a separate and secure file within the Office of Human Resources to the extent required by the laws regulating the retention of public

records. Further, access to these documents shall be on a “needs to know” basis only, as determined by the Head of Human Resources.

## **24.3 Formal Misconduct Investigations**

### **24.3.1 Mutual Respect for a Fair Investigative Process**

The parties understand and agree that the District has the authority and obligation to investigate non-frivolous complaints, reports and/or other potentially credible information that a unit member has engaged in misconduct. The parties further understand and agree that unit members are entitled to be presumed innocent of wrongdoing during the investigation process, and shall be treated with the same dignity and respect as alleged victims and complainants. They are entitled to a fair investigation process, including certain protections during the investigation process.

While individuals have the right to bring forth complaints, faculty have the right to expect that complaints shall be handled fairly. Consistent with these principles, this procedure provides faculty members that are the subject of a District-initiated misconduct investigation, with the opportunity to respond to any allegations. A misconduct investigation will not be arbitrary or capricious. In entering into this Agreement, the Union does not waive any of its rights to information as allowed by the EERA, the California Public Records Act, or which it is otherwise entitled by law to receive.

### **24.3.2 Non-Investigatory Interviews**

The parties understand and agree that in the day-to-day operation of the District, managers and unit members meet regularly to share information. These are not investigatory interviews. However, the parties further understand and agree that, if a manager reasonably expects that such a meeting may elicit information that warrants discipline, the manager shall notify the unit member in advance. The unit member so notified shall have the right to bring the AFT Grievance Officer or his/her designee to the meeting.

### **24.3.3 Initiation of a Formal Misconduct Investigation**

Whether or not to initiate a formal investigation shall be within the sole discretion of the District. The District is not obligated to investigate anonymous accusations. However, it is understood that, where the District does investigate an anonymous complaint, an employee may not be charged based solely on anonymous claims.

### **24.3.4 Preponderance of Evidence Standard**

In determining whether or not an allegation is sustained, the District shall use the preponderance of evidence standard for misconduct investigations.

### 24.3.5 Employee Notification Packet

An employee who is under investigation shall be sent an Employee Notification Packet no later than ten (10) business days before the employee's appointment for an investigatory interview. The Notification shall include the *AFT Members Benefits of Representation Letter*, *Acknowledgement of Rights Form*, *Employee Notification Form*, and *Summary of Interview Subject Matter*. The forms are Appendix ZZ to the Contract, and consistent with this section as follows:

**a. Employee Notification Form:**

The faculty member shall be provided a Notification Form with the following information:

1. The District takes a neutral stance when investigating possible misconduct and no findings of wrong-doing have been made;
2. The District maintains the confidentiality of the investigation to the fullest extent possible;
3. No findings will be made prior to completion of the investigation, and the investigation will not be closed until after the scheduled date of the employee's interview;
4. The information received could lead to discipline and the employee is entitled to have union representation at the meeting;
5. The investigation is confidential and the employee should refrain from discussing it with other members of the campus community while the investigation is pending (except for the purpose of receiving representation during the investigation or exercising other rights as recognized under the Educational Employment Relations Act (EERA));
6. Every effort will be made to complete the investigation within ninety (90) days of when the District first received the complaint or information triggering the investigation (or sooner if required pursuant to Title IX or other applicable law that regulates the conduct of investigations.) Where this is not possible two things will occur: (1) the employee will receive a status update on where the District is in its investigation and when it expects to be completed; and (2) when AFT is representing the employee, the District and AFT will have a check-in via email regarding a status update and a follow up telephone call for questions or points of clarification if necessary;
7. The employee will receive notice of the findings of the investigation, and whether the allegations investigated were or were not sustained;
8. In the event the investigation leads to disciplinary action, the employee will be afforded all of the pre-discipline due process rights to which the employee is entitled. This includes providing the employee, and AFT with the employee's consent, with a copy of the information relied upon to issue the charges; and

9. District policy and law prohibit retaliation of any kind against anyone the employee believes to have provided information or otherwise cooperated in the investigation, and that such conduct constitutes an independent basis for serious discipline up to and including termination.

**b. *Summary of Interview Subject Matter***

A summary of the subject matter of the interview including:

1. If appropriate, and at the discretion of the Head of Human Resources or designee, the name of the complainant(s), or individual(s) whose concerns caused the District to initiate an investigation.
2. What allegedly occurred. The employee shall be entitled to a description of the subject matter or allegations of the investigation and alleged conduct, actions or omissions at issue in the investigation;
3. When the incident(s) allegedly occurred. The notice will be as specific as possible, based on the information available at the time the Notice is given, including dates and times; and
4. Where the incident(s) allegedly occurred. The notice will be as specific as possible, based on the information available at the time the Notice is given.

Further, this information shall be current and accurate at the time of interview. If, after interviewing the member, the District learns of other allegations during the investigation and seeks to re-interview the member, the member shall be provided with a new statement of the subject matter of the interview a reasonable amount of time prior to the interview.

Similarly, if prior to interviewing the member, the District learns of other allegations it wishes to cover during the interview, the member shall receive an updated summary a reasonable amount of time prior to the interview. Reasonableness shall necessarily depend on the complexity of the matter and the parties are expected to cooperate in expediting the process to the fullest extent possible.

**c. *AFT Members Benefits of Representation Letter and Acknowledgement of Rights Form:***

The faculty member shall be provided with notice of the right to representation, which shall include:

1. A copy of the *AFT Members Benefits of Representation Letter* informing faculty of the benefits of union representation during the investigation process.
2. A copy of the *Acknowledgement of Rights Form* which: (a) includes a space

for the faculty member to sign and date acknowledgment of receipt of the above-referenced AFT letter; and (b) indicates whether the faculty member is authorizing disclosure of the investigation to AFT.

- i. If the faculty member authorizes disclosure, all communications to the faculty member regarding the investigation shall be copied to AFT.
- ii. If the faculty member does not authorize disclosure, AFT shall be provided with a copy of the faculty member's signed *Acknowledgement of Rights Form* upon demand.

#### **24.3.6 Placement on Paid Administrative Leave of Absence While an Investigation is Pending**

Placement of a member on Paid Administrative Leave of Absence while an investigation into alleged misconduct is pending shall conform to the following standards and procedures:

- a. Placement on Paid Administrative Leave of Absence while an investigation is pending constitutes a non-disciplinary action;
- b. Placement on Paid Administrative Leave of Absence shall not be automatic and it is not an action that the District takes lightly. It is understood that it is within the District's discretion to place a member on a non-disciplinary, paid administrative leave during the pendency of a misconduct investigation. However, in exercising this discretion, the District acknowledges that even a nondisciplinary, paid leave can be disruptive and upsetting to an employee who is under investigation. As such, leave shall be imposed only where the District concludes that the alleged conduct includes: (a) acts of retaliation or intimidation; (b) acts of serious dishonesty or the destruction of property; (c) allegations which, if true, present a reasonable concern for the health or safety of others; (d) allegations which, if true, present a reasonable concern that the member's students are suffering educational harm; (e) allegations the nature of which require the immediate preservation of physical evidence which may be compromised if the member is not placed on leave; or other matters deemed necessary.
- c. Notice of Paid Administrative Leave
  1. **Nonemergency Situation:** At least two business days prior to placing a member on a non-disciplinary, paid administrative leave, the District shall provide the member with written notification of the general nature of the allegations of misconduct upon which the decision to place the employee on leave is based. The Notice shall also include an explanation that while paid administrative leave constitutes a directive to stay away from the workplace, it does not apply to the AFT office or areas and events that are open to the public. The Notice may also instruct the member to remain available to the District for questioning during the employee's regular hours of work.



2. **Emergency Situation:** Where the District concludes that the specific allegations, if true, present a serious or imminent risk of physical danger or other necessity, the District may place the member on an immediate, non-disciplinary paid administrative leave without prior notice. In such instance, the notice described in subsection “c.1” shall be provided within five business days of the employee being placed on the leave.
- d. **Status Reporting and Time of Paid Administrative Leave.** The District will provide the member with a monthly status report on the progress of the investigation and estimated date of completion. This is a report on timing only and shall not provide details regarding the investigator’s activities, witnesses, findings, etc.
- e. The District should complete the investigation within 90 days of placing the member on leave. Where this is not possible, the District shall provide the member with a written explanation as to the reason why, and a reasonable estimate of when the investigation will be completed.
- f. **Definition of Non-disciplinary Paid Administrative Leave.** Non-disciplinary paid administrative leave includes all compensation and benefits to which the member would have been entitled or would have received but for placement on paid administrative leave.

#### **24.3.7 Investigations Subject to Statutory Deadlines**

The parties recognize that various laws and regulations create deadlines by which certain investigations must be completed. The parties acknowledge that such deadlines place additional responsibilities on the parties. The District is responsible for conducting the investigation as promptly as reasonably possible, and not unnecessarily delay completion on the basis that the statutory or regulatory deadlines are being met. The member and AFT have a heightened responsibility to cooperate in making the member and a representative available for the member’s interview.

#### **24.3.8 Closure of Investigation**

##### **a. Investigations Where Allegations are Not Sustained**

The member shall be provided with written notice that the allegations have not been sustained and confirmation that nothing related to the allegations or investigation will be placed in the employee’s personnel file. The notice will not include a copy of the investigation report, except where expressly required under the District’s Harassment Investigation Procedure.

Records related to unsubstantiated allegations, including the investigation report, shall be maintained in a separate investigation file in a secure location by the Office of Human Resources and apart from the employee’s personnel file for the period required by law.

##### **b. Investigations Where Some or All of the Allegations are Sustained**

The member shall be provided with written notice stating the findings as to each allegation and whether or not it was sustained. The member shall also be provided with a copy of the complaint or other documents initiating the investigation, and the investigation report, under the following circumstances:

1. If the employee is issued a Notice of Charges in connection with a dismissal or suspension, the investigation report shall be attached to the Notice. In extenuating circumstances, the District may redact portions of the Report so long as it provides notice of redaction to AFT and meets and confers on request.
2. If the District does not seek dismissal or suspension, but nevertheless intends to place the report in the member's personnel file or rely on it for a written reprimand or other discipline, it shall provide the member with a copy of the report and/or notice of placement of derogatory information in the personnel file. In such case, the member may attach a response.
3. If provision of the investigative report is otherwise expressly required pursuant to the District Harassment Investigation Procedure.

## **24.4 Investigations of Allegations Posted to Social Media**

**24.4.1 Introduction.** The parties recognize that unique challenges, rights and obligations may arise where members are made the subject of accusations on social media, in particular sexual misconduct allegations. The parties have a mutual interest in fostering an environment where members of the college community feel empowered and unafraid to report sexual misconduct and the abuse of power. However, the parties also share a mutual interest in fostering an environment that values due process and the presumption of innocence. In recognition of these dual interests, investigations of social media accusations made against members shall be regulated by this section.

**24.4.2 Application.** This provision only applies to allegations of sexual misconduct, abuses of power and/or unlawful harassment or discrimination made directly by alleged victims (i.e. not by a third party), against faculty who, at the time the social media accusation is made, are employed as contract or adjunct faculty or are in the District's adjunct pool.

**24.4.3 Social Media Defined.** "Social media" refers to forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content (such as videos.) Current examples of social media include Facebook, Twitter, YouTube, Instagram, and similar sites. Social media does not include third-party dissemination of allegations by others, including news outlets.

**24.4.4 Member Privacy.** The posting of an accusation to social media does not erode the confidential nature of any District response, investigation or action taken in connection with the allegations, except that AFT shall receive the notice, described below, whether or not the faculty member has requested AFT representation.

**24.4.5 Notice to AFT.** The District shall provide AFT with notice within three business days of it becoming aware of social media allegations against a member involving sexual misconduct, abuse of power and/or unlawful harassment or discrimination. No prior consent of the member who is the subject of the allegation is required. The notice to AFT will also be provided to the member who is the subject of the allegations. The Notice shall include:

1. The social media platform(s) where the accusation was made;
2. When the District learned of the accusation; and
3. Whether the District has received a formal complaint in connection with the allegations. If so, the complaint will also be provided to AFT, to the extent that it covers the same subject matter as the allegations posted to social media.
4. Timeline for completion of the initial inquiry.

**24.4.6 The Initial Inquiry.** Prior to opening an investigation based on allegations posted to social media, the District will conduct an initial inquiry, the conclusions of which control whether an investigation may be initiated. An investigation may be initiated where the initial inquiry determines that:

1. The allegations pertain to conduct occurring within the last 4 years that—if true—have a sufficient nexus to the workplace to warrant investigation. Sufficient nexus is determined by presuming the allegations to be true for the purposes of the nexus test and applying the Morrison factors to the allegations. *Morrison v. State Board of Education* (1969) 1 Cal. 3d 214.
2. The alleged conduct is more than 4 years old, but:
  - a. The complainant(s) are current students or employees who would be entitled to a remedy if the allegations are true, even if discipline is not available to the District;
  - b. The alleged conduct describes conduct that is similar in nature to a complaint(s) that was investigated and sustained by the District within the last 4 years;
  - c. The alleged conduct, if true, indicates that the faculty member was not truthful in the application process or otherwise actively concealed material facts that, if known, would have caused the District not to hire the faculty member.
  - d. The allegations include a claim that the faculty member was convicted of an offense for which termination is mandatory.

**24.4.7 Initiation of Investigation.** If the District determines that an investigation is warranted, it shall provide notice to the affected employee and AFT that it is opening an investigation, the basis for opening the investigation under subsection 24.4.6 (above); and timeline for completion. The procedures and respective rights of the Union, member and District during the investigation are otherwise controlled by the general provisions in Article 24.

**24.4.8 Closure of Investigation.** The general notices and rights regarding closure of investigations set forth in Article 24 apply equally to investigations triggered by social media accusations. In addition, given the highly unique circumstances surrounding an accusation made through social media, if the allegations are investigated and determined to be not sustained, AFT, with the affected member's written consent, may request a public letter informing the public that the allegations were not sustained and the investigation closed.

**24.4.9 Public statements by the District.** Statements made by District officials, including in response to inquiries from the press and the public, shall not state the name or other identifying information of the complainant or accused without their written consent. Public comment shall include a statement of the District's neutrality while the matter is under review, and that members are presumed innocent until and unless the evidence shows otherwise. However, nothing in this section affects the District's duties under The CLERY Act to issue a Timely Warning, if legally required.

**TENTATIVE AGREEMENT  
ARTICLE 25  
DISCIPLINE**

**ARTICLE 25: DISCIPLINE**

**25.1 Introduction**

This Article is grounded in the parties' mutual respect for the professionalism and dedication of the SMCCCD faculty to the tenets of their profession and role as educators. The parties recognize the primary function of discipline is to provide employees with the opportunity to improve and be effective in their positions.

To that end, District administrators and representatives who have a role in this process will use the principles of progressive discipline as described in this Article and demonstrate fairness, objectivity, and reasonableness in the administration of discipline, with the goal of supporting and preserving the healthy academic culture of the District. All parties to a disciplinary process will adhere to the highest standards of integrity, preserve confidentiality as required, and respect defined processes.

**25.2 Employment Actions Not Covered Under Article 25**

**25.2.1 Authority to Give Feedback, Guidance and Direction**

Nothing in this Article shall impede the existing authority of the District to provide direction, feedback or guidance to the member in the performance of the member's duties.

**25.2.2 Dismissal or Suspension of Probationary or Regular Faculty: Statutory Authority**

The dismissal or suspension of probationary or regular faculty shall be administered in conformance with the applicable provisions of the California Education and Government Codes, and the procedures and protections provided for in those sections. Such a dismissal or suspension shall not be subject to the procedures set forth in this Article or the Article 17 grievance procedure. This Section does not apply to part-time or to temporary faculty.

**25.2.3 Dismissal of Part-time faculty not covered by Article 19.2.4**

Part-time faculty who have not met the criteria for load assignment under Article 19.2.4 shall be subject to termination pursuant to Education Code section 87665, which provides that the governing board may terminate the employment of a part-time academic employee at its discretion, at the end of a day or week, whichever is appropriate. The decision to terminate the employment is not subject to judicial review except as to the time of termination. It is understood

that this right to terminate a member without cause does not permit termination based on an unlawful reason, including but not limited to unlawful discrimination or retaliation.

#### **25.2.4 Nonrenewal of Probationary Faculty**

This Article does not apply to a District decision to deny tenure or non-renew a probationary faculty member's contract. The procedures and rights governing these decisions are set forth in the Education Code and Article 15 and Appendix G of the CBA.

#### **25.2.5 90-Day Notice and Opportunity to Improve**

It is understood that issuance of a 90-Day Notice pursuant to Education Code section 87734 does not constitute discipline. As such, a 90-Day Notice is not subject to the procedures set forth in this Article, except for section 25.4 notice requirements to AFT, and is not subject to grievance under Article 17 of this Agreement. Rather, a 90-Day Notice constitutes a right to receive notice and opportunity to improve to which a member is entitled before the member may be charged with unprofessional conduct or unsatisfactory performance.

Notwithstanding the above, the parties recognize that:

- A 90-Day Notice must be designed to provide the member with a meaningful opportunity to improve, and thus must specify the nature of the unprofessional conduct and/or unsatisfactory performance with specific instances of the behavior and with particularity to furnish the employee an opportunity to correct the conduct giving rise to the 90-Day Notice.
- The District may not file any charges of unprofessional conduct or unsatisfactory performance against a member any sooner than 91 days after the issuance of a 90-Day Notice, or any later than the term or half college year following the term or half college year during which the member received the 90-Day Notice.
- The member's statutory rights, referenced above in Article 25.2.2, include the right to an evidentiary hearing on the charges, including matters alleged in the 90-Day Notice. The District bears the burden of proof in any such hearing.
- A 90-Day Notice shall include notice that it will be placed in the faculty member's personnel file in ten (10) business days, and that the faculty member may submit a written response which will be attached to the Notice once the response is received by the District. A faculty member may submit or revise the response to a Notice in their personnel file at any time.

### **25.3 Employment Actions Covered Under Article 25**

Article 25 regulates the administration of all discipline other than dismissal and suspension of probationary or regular faculty under the Education Code. For the purposes of this Article “discipline” means, and is limited to, the following:

#### **25.3.1 Informal discipline**

Informal discipline includes verbal counseling, written warnings, and other lower-level admonitions that are kept in the immediate administrator's office and not placed in the faculty member's personnel file.

#### **25.3.2 Formal discipline**

Formal discipline means, and is limited to, the following:

A. **Written reprimand:** A written reprimand is a formal written communication informing a faculty member of a conduct or performance concern. A written reprimand shall include clear notice that it will be placed in the faculty member's personnel file in ten (10) business days, and that the faculty member may submit a written response which will be attached to the reprimand once the response is received by the District. A faculty member may submit or revise a response to a reprimand in their personnel file at any time.

B. **Disciplinary training:** Disciplinary training is training that a member is mandated to attend on the basis that the member has engaged in conduct subject to discipline. Disciplinary training may be imposed as the sole disciplinary action, or in conjunction with other disciplinary action.

C. **Involuntary modification of duties:** Involuntary modification of duties: For the purposes of this Article, an involuntary modification of duties is a modification to the duties, assignment or location of an employee's work for the purpose of addressing a disciplinary matter. It is understood that nothing in this provision prohibits the District from implementing a nondisciplinary modification of duties, when it is required to do so to remediate a hostile or abusive work or education environment.

D. **Suspension or Dismissal of Part-Time Faculty Covered by Article 19.2.4.**

### **25.4 Notice of Right of Representation**

If a faculty member receives a 90-day Notice or notice of any formal discipline under section 25.3, the District shall include in that notice the faculty member's right to request AFT representation regarding the issue.

## 25.5 Just Cause

Just cause is required for discipline. Cause for discipline means any of the causes for discipline set forth in California Education Code Section 87732.

Notwithstanding the above, unsatisfactory performance shall only constitute cause for discipline where the employee has been informed of the performance issues through the contractual evaluative process and failed to improve in any follow-up evaluation or Performance Improvement Plan set forth in Appendix G, or through the improvement plan included in a 90 day notice, and failed to show the requisite improvement. Members shall not receive first notice of a performance concern through discipline.

The following are general “just cause” guidelines to be considered:

- a. The faculty member shall be adequately informed of the potential consequences of his/her conduct.
- b. A fair and objective review should reveal the necessity for any disciplinary action.
- c. Penalties should be applied fairly, equitably and in a timely fashion.
- d. Disciplinary action should be appropriate and reasonably related to the nature of the offense.

## 25.6 Definition of Progressive Discipline

“Progressive Discipline” means that the District will impose the lowest level of discipline reasonably calculated to bring about the desired result. Implementation of progressive discipline does not require a specific order, or lock-step adherence to the disciplinary steps identified in Article 25.3. It is understood that the appropriate level of discipline depends upon numerous factors such as the seriousness of the conduct at issue, the history of prior discipline, and possible extenuating or mitigating factors, all of which the District may consider in determining the appropriate level of discipline.

When problems arise in the performance of assigned duties, responsibilities, and/or professional conduct expected of a faculty member covered by Article 25, the District will make reasonable attempts to assist the faculty member in correcting those problems through the application of progressive discipline. Discipline can be informal or formal.

## 25.7 Rights Regarding Discipline

Members or their AFT representative on their behalf shall have the following rights regarding discipline.

- a. **Written Reprimand:** In addition to the right to attach a response to a written reprimand, a member also has the right to grieve the written reprimand through



Level I of the grievance process set forth in Article 17. If the member files a grievance within 10 business days of receiving the written reprimand, the District shall not place the reprimand in the personnel file until the conclusion of the Level I grievance process.

- b. **Disciplinary Training:** Disciplinary training of three hours or less that is scheduled during the member's regular work hours, and located at the District Office, the member's college, or online, is not subject to challenge. All other disciplinary training may be grieved through Level I of the grievance process.
- c. **Disciplinary Modification of Duties:** A member who receives a disciplinary modification of duties shall receive a written, pre-disciplinary notice informing the member of the basis for the modification with sufficient specificity that the member is able to respond to the charges and basis for modification; the right to a pre-disciplinary opportunity to be heard orally or in writing; and a post-disciplinary right to grieve the transfer through Level II of the grievance process.
- d. **Suspension or Dismissal of Part-Time Faculty Covered by Article 19.2.4:** Part-time faculty members who have met the load assignment criteria set forth in Article 19.2.4 (i.e. have received two (2) consecutive satisfactory evaluations, or been given an assignment for six (6) semesters with no negative evaluations) shall only be suspended or dismissed for cause and pursuant to the following process:
  - a. The member shall receive a pre-discipline *Skelly* Notice and opportunity to respond orally or in writing to the charges to a reasonably impartial *Skelly* officer designated by the District.
  - b. If the District proceeds with the dismissal, the member or AFT on the member's behalf may utilize the grievance process, post-discipline, through step II.

## D2—DUTIES AND RESPONSIBILITIES OF COUNSELORS

### Definitions:

Outside of peak times, other than by mutual agreement, no more than 10% of total counseling faculty will have drop-in as their primary assignment. As different programs have different needs and requirements, and as counseling operates on both student contact and caseload models, student meeting times may vary.

### A. Required of all counselors:

#### A1. Scheduled counselor duties are to be used for the following:

- provide counseling services to students at assigned times and locations.
- Scheduled or drop-in counseling appointments with student;
- Group appointments with students;
- Working with students in class, in collaborations with instructional faculty;
- Program coordination, student workshops, or case management activities, so long as they are approved or assigned by the dean.
- Counselor observations for evaluations.
- Additional duties as approved or assigned by the dean that directly supports students

#### A2. The following activities, if counselors engage in them, should be blocked on the counseling grid to take place during other “on campus” professional duties time:

- submit timely and accurate reports as required;
- Maintaining necessary counseling records;
- Prepare for student appointments by reviewing student information prior to meeting with students;
- Provide follow up services to students, including responding to student emails and questions in a timely manner;
- Perform appropriate research and consultation to provide students with correct and updated information;
- **Meetings not part of the professional plan.**

### B. Additional professional responsibilities, not subject to additional compensation for counselors on regular academic year contract are those engaged in consistent with the counselor professional plan point requirements set forth in Article 6: (See Note 1)

### C. Voluntary activities performed without additional District compensation:

- participate in co-curricular activities (e.g., student club advising);
- participate in college-community relations activities (e.g., public speaking engagements); and
- participate in articulation with business and industry.

Note 1: It is not the intention of the parties to this Agreement to imply that all unit members will be assigned all of the responsibilities listed under B. Certain of these responsibilities may be appropriate for assignment to a given unit member who would not be paid additional District compensation for discharging them.

~~Note 2: A maximum of one half of the contract and regular faculty will be expected to participate each year. No individual will be required to participate more frequently than once in each two-year period.~~

## TENTATIVE AGREEMENT

### APPENDIX F: FACULTY LOAD CREDIT (FLC) ALLOCATION

#### SUBJECT TO AGREEMENT ON ALL ARTICLES

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#### LABORATORY ASSIGNMENT SCHEDULE

Biological Sciences, <del>Ophthalmic Dispensing</del> , Physical Sciences, and Nursing laboratory, <u>clinical and skills</u> assignments	.80 FLC per hour
<u>Art and Music laboratory classes</u>	<u>.80 FLC per hour</u>
Physical Education, <u>Kinesiology, Athletics and Dance</u> activity classes	<del>.75</del> <u>.80</u> FLC per hour
Skills Development laboratory (skill-development; generally no demonstration or evaluation)	.55 FLC per hour
Cosmetology laboratory classes	.70 FLC per hour
Business laboratory classes	.75 FLC per hour
Emergency Medical Technician	.75 FLC per hour
Radiologic Technology, Respiratory Therapy, Surgical Technology, Central Service Technology/Sterile Processing Laboratory	.80 FLC per hour
Clinic	.70 FLC per hour
Automotive Mechanic Technology (lecture/laboratory combination)	.70 FLC per hour
All other laboratory assignments	.70 FLC per hour

Although 30 FLC is considered a full-time assignment, ~~29 28~~– 31 FLCs is acceptable as a full-year assignment with a three-year maximum of 91 FLCs. ~~For faculty members with a majority of their teaching load in laboratory assignments, 28–32 FLCs is acceptable as a full-year assignment with a three-year maximum of 92 FLCs.~~ Exceptions to these limitations can be made only upon mutual agreement of the faculty member and the District.

Members of the unit who are compensated according to the hourly academic salary schedule are paid by the hour, not by FLCs.

Each course has a nominal load credit associated with it based on the typical number of contract hours for which it is scheduled. No adjustment is made in the nominal load credit for routinely expected variations in the actual total contract hours per semester. The typical range for one FLC is 16 to ~~19~~ 18 contact hours per semester for lecture. A corresponding range of contact hours for other types of classroom assignments is based on equivalence factors spelled out in this appendix.

## **Appendix F**

### Counselor load

#### Counselor load to FLC conversion:

Every 6 hours of counselor load time per week equals 3 FLC. Every 2 hours of counselor load time per week equals 1 FLC.

For further information, please see Appendix D

Counseling 33 students per FLC; ~~.50 FLC per hour.~~

## **EMPLOYEE NOTIFICATION PACKET COVER SHEET**

Pursuant to Article XX.5.3 of the AFT 1493-SMCCCD Collective Bargaining Agreement, a faculty member under investigation by the District for alleged misconduct shall be provided an Employee Notification Packet. This Notification Packet includes the following forms and documents, which are contained within:

1. AFT 1493 Members Benefits Letter
2. Acknowledgement of Rights Form
3. Employee Notification Form
4. Summary of Interview Subject Matter

Per Article XX.5.4, the Notification Packet may also include the following:

5. Notice of Placement on Paid Administrative Leave

**[AFT 1493 LETTERHEAD]**

## **AFT 1493 BENEFITS OF REPRESENTATION LETTER**

Dear Colleague,

As a faculty member, you have the right to union representation during any District investigation of alleged misconduct. AFT 1493 offers all faculty the opportunity to seek union assistance and representation when going through an investigation.

The benefits of such assistance and representation include protecting your procedural rights, ensuring the District conducts the investigation in a timely manner, preparation for and representation during any investigatory interview, securing information to which you are entitled, and ensuring your fair and respectful treatment.

As you can see, there are several benefits of union representation during an investigation. If you wish to have AFT 1493 representation please indicate your choice on the Acknowledgement of Rights Form, included in this packet.

Please know that AFT 1493 honors the confidentiality and privacy of all faculty who participate in this process. If you have any questions, please call us at **INSERT** or email us at **INSERT**.

Thank you.

**ACKNOWLEDGEMENT OF RIGHTS FORM  
(Pursuant to Article XX.5.3.c)**

I, (name) \_\_\_\_\_, hereby acknowledge that on (date) \_\_\_\_\_, the District provided me with a letter from AFT 1493, subject line "AFT 1493 Benefits of Representation Letter." The letter informs me of the benefits of union representation during the District investigation that is currently being conducted into allegations that I have engaged in misconduct.

Therefore, I hereby:

- ☐ **DO** authorize AFT 1493 representation and disclosure of the investigation to AFT 1493
  
- ☐ **DO NOT** authorize AFT 1493 representation or disclosure of the investigation to AFT 1493.

If you authorize disclosure, all communications to you regarding the investigation shall be copied to AFT 1493.

If you do not authorize disclosure, the District shall not copy AFT 1493 and will only provide it with this signed Acknowledgement of Rights Form upon demand.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## **EMPLOYEE NOTIFICATION FORM (Pursuant to Article XX.5.3.a)**

This Notice is to advise you that the District has initiated an investigation into allegations that you engaged in employee misconduct. **Please read this Notice carefully, as it gives you information about the investigation process and your rights during this process.**

First, please note that the District takes a neutral stance when investigating possible misconduct and maintains the confidentiality of employee investigations to the fullest extent possible. No findings of wrong-doing have been made, and no findings will be made prior to completion of the investigation. Further, the investigation will not be closed until after the scheduled date for your interview.

Please be further advised that:

- The information received in your interview could lead to discipline. Therefore, you are entitled to have representation during the investigation and your interview with the investigator.
- The investigation is confidential to the fullest extent possible.
- You should refrain from discussing the investigation with other members of the campus community while the investigation is pending (except for the purpose of receiving representation during the investigation or exercising other rights as recognized under the Educational Employment Relations Act (EERA)).
- Every effort will be made to complete the investigation within ninety (90) days of when the District first received the complaint or information triggering the investigation (or sooner if required pursuant to Title IX or other applicable law that regulates the conduct of investigations.) Where this is not possible two things will occur: (1) the employee will receive a status update on where the District is in its investigation and when it expects to be completed; and (2) when AFT is representing the employee, the District and AFT will have a check-in via an email regarding a status update and a follow up telephone call for questions or points of clarification if necessary.
- Once the investigation is complete, you will receive notice of the findings of the investigation, and whether the allegations investigated were or were not sustained.

- In the event the investigation leads to disciplinary action, you will be afforded all the pre-discipline due process rights to which you are entitled. This includes providing you, and AFT 1493 with your consent, with a copy of the information relied upon to issue any charges.
- We also are required to remind you that District policy and law prohibit retaliation of any kind against anyone involved in the investigation, against anyone whom you believe to have provided information or otherwise cooperated in the investigation, and that such conduct constitutes an independent basis for serious discipline up to and including termination.

You will be contacted by \_\_\_\_\_ to schedule an appointment for your investigative interview. The interview will not be scheduled any sooner than ten (10) business days from receipt of this Notice. A summary of the subject matter of your interview is also being provided to you.

If you have questions for the District you may contact \_\_\_\_\_ at \_\_\_\_\_

If you have any for AFT 1493, you may contact it at: [AFT 1493 email and phone]

**SUMMARY OF INTERVIEW SUBJECT MATTER  
(Pursuant to Article XX.5.3.b)**

1. Names of complainant(s), or individual(s) whose concerns caused the District to initiate an investigation, if appropriate, at the discretion of the Head of Human Resources or designee.
  
2. What allegedly occurred. The employee shall be entitled to a **specific** description of the subject matter or allegations of the investigation and alleged conduct, actions or omissions at issue in the investigation. (This may be continued on the next page as space requires):
  
3. When the incident(s) allegedly occurred. The notice will be as specific as possible, based on the information available at the time the Notice is given, including dates and times:
  
4. Where the alleged misconduct occurred. The notice shall be as specific as possible, based on the information available at the time the Notice is given:

**SUMMARY OF INTERVIEW SUBJECT MATTER**  
**(Pursuant to Article XX.5.3.b)**  
-Continued-

The information in the Summary of Interview Subject Matter shall be current and accurate at the time of interview. If, after interviewing the member, the District learns of other allegations during the investigation and seeks to re-interview the member, the member shall be provided with a new summary a reasonable amount of time prior to the interview.

Similarly, if prior to interviewing the member, the District learns of other allegations it wishes to cover during the interview, the member shall receive an updated summary a reasonable amount of time prior to the interview. Reasonableness shall necessarily depend on the complexity of the matter and the parties are expected to cooperate in expediting the process to the fullest extent possible.

**NOTICE OF PLACEMENT ON PAID ADMINISTRATIVE LEAVE**  
**(Pursuant to Article XX.5.4.b)**

You have been advised that you are the subject of an investigation into possible misconduct. Pursuant to Article XX.5.4.b, you are being provided Notice that you are being placed on a non-disciplinary, involuntary, paid administrative leave during the pendency of the investigation.

Your administrative leave:

- ☐ Nonemergency situation: at least 2 business days prior to your placement on administrative leave. (Article 23.02.F.2.a)

Begins on [date]

- ☐ Emergency situation: Within five business days of your having been placed on administrative leave. (Article 23.02.F.2.b)

Began on [date]

Paid administrative leave is only authorized where the alleged conduct includes: (a) acts of retaliation or intimidation; (b) acts of serious dishonesty or the destruction of property; (c) allegations which, if true, present a reasonable concern for the health or safety of others; (d) allegations which, if true, present a reasonable concern that the member's students are suffering educational harm; or (e) allegations the nature of which require the immediate preservation of physical evidence which may be compromised if the member is not placed on leave.

The general nature of the allegations that form the basis of the District's decision to place you on paid administrative leave during the investigation are as follows: