

Key goal for negotiations: binding arbitration

One of the top priorities for AFT 1493 in this round of contract negotiations is to make a key change in the contract language regarding arbitrations of faculty grievances. To assure that arbitrators' decisions are actually implemented by the District administration, our contract needs language that explicitly states that arbitrators' decisions are "binding." In the current contract, decisions made by arbitrators are only "advisory" and, ultimately, our own Board of Trustees can decide whether or not to accept a decision of a professional arbitrator. In other words, the Board gets to decide if its own conduct violated the contract.

Our current contract lets the District reject any arbitrators' decisions they don't like

The inherent unfairness of this "advisory arbitration" language was clearly demonstrated in an arbitration case that concluded last spring. In that case, the arbitrator found that our District had violated the AFT contract by failing to pay a faculty member for all of the hours they worked and by denying the faculty member reemployment. The arbitrator awarded the faculty member back pay and reemployment.

At that point, the Trustees unanimously decided to overturn the ruling of the arbitrator, who had been mutually agreed-upon by the District and the union. (This was the second time the District had visited this case, since it made the original decision to deny the grievance and dismiss the faculty member.)

What is the point of contract language (see Article 17.6 below)

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COLA and parity needed in tough economic times

AFT opens contract negotiations with District

by AFT 1493's Negotiating Team: Joaquin Rivera, Katharine Harer, Victoria Clinton, and Sandi Raeber

We have just begun a new round of contract negotiations. Based on faculty survey responses, the AFT negotiating team: Joaquin Rivera, Chief Negotiator and team members Katharine Harer, Victoria Clinton and Sandy Raeber, worked with the Executive Committee of the union to write an initial proposal to the District. We also consulted with AFT lawyer, Bob Bezemek. You can read the proposal on the union website: **AFT1493.org**. Note that in some sections the language is somewhat general as we are still working out the details in certain areas.

Why we've proposed an 11% increase

In this initial proposal, we proposed an 11% salary increase for ALL faculty. The reasoning behind this number is as follows: the state COLA (cost of living allowance) for 2008-2009 combined with the figure projected for COLA in 2009-2010 equals approximately 10-11%. In addition, we believe there should be parity in terms of salary increases with the other employee groups in the district.

To give you some background, let's look at our last contract, in which we negotiated our salaries and benefits for four years. In that contract, we received a set 3.23% increase in 2005-06, 4.92% in 2006-07 and, for the final two years of

the contract (2007-08 and 2008-09), AFT's Executive Committee made the decision to choose the funded state COLA over a specific percentage amount. It was a difficult choice to make, attempting to see four years down the road; however, after very thorough discussions and evaluations of projected state COLA, the union determined that it would likely be higher than the 4% that the other two units, CSEA and AFSCME, had settled on. In fact, the figure for COLA for 2007-08 was 4.53%, which was fully funded by the state. In 2008-09, however, the statutory (actual) COLA was 5.66%, but as the state budget began to tank, COLA wasn't funded -- period. This was not something that we could have predicted.

Faculty are the only group that did not get a raise last year

Another aspect of this complex scenario is that CSEA used the "Me Too" clause in their contract (which allowed them to match the increase of other employee groups) and switched from the percentage amount they had negotiated in the third year of the contract to the higher COLA that AFT negotiated, and they were able to improve their salary increases as a result. However, seeing that COLA had vanished in the fourth year of the contract, they switched back and used their "Me Too" clause again, this time with

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PRESIDENT'S LETTER

What are reasonable goals for faculty in an economic crisis?

by Monica Malamud, AFT 1493 President

I hope your summer was all that you wanted it to be! I had a nice break and caught up with family and friends. But no matter how much I enjoy my summer



break, year after year it continues to amaze me that I always look forward to starting another academic year. Learning and

helping others learn is what I love to do. In the past year as AFT president I have learned a lot, but I still have a lot more to learn. And this is what makes the task so enjoyable for me, despite the challenges along the way.

In crisis, all constituencies should share the pain equally

Right now we are in the very early stages of the negotiations process. We know that we're embarking on negotiations at a time when our country, and our state in particular, are in a deep economic

crisis. We know that this economic crisis is already having a very significant effect on our district, and that it will continue to affect our district's finances for some time. This economic environment obviously makes negotiations very challenging for all involved. The AFT is cognizant of this difficult situation and will be as sensitive and reasonable as possible, with the understanding that, if there are going to be sacrifices, then all district constituencies should equally share the pain.

And what's reasonable for faculty? That's exactly what we'll be asking you in the forums that we're planning to hold on all three campuses. Remember the negotiations survey that faculty participated in towards the end of last semester? Your feedback was very valuable to us, and your suggestions were seriously considered when drafting the initial negotiations proposal that the AFT submitted to the district (the article on page 1 gives you an update on negotiations). In the next few weeks we will be seeking feedback from you regarding how to best deal with this economic crisis and its impact on our district, so that we can continue to deliver the outstanding education that our students deserve.

AFT leaders discuss budget and bargaining at lengthy "retreat"

Towards the end of spring semester and throughout the summer months, it was obvious that contract negotiations and the budget were two very important issues that the AFT Executive Committee needed to consider right at the beginning of the school year. So we met on Friday August 21st to have an in-depth conversation about these and some other topics. Although we called it our "retreat", I would more accurately describe it as a five hour long meeting with just a ten minute break. It was a very productive meeting, (in spite of temperature being over 90 degrees!) and I am thankful to all

The Advocate

The Advocate provides a forum for faculty to express their views, opinions and analyses on topics and issues related to faculty rights and working conditions, as well as education theory and practice, and the impact of contemporary political and social issues on higher education.

Some entries are written and submitted individually while others are collaborative efforts. All faculty are encouraged to contribute.

The Advocate's editorial staff, along with the entire AFT 1493 Executive Committee, works to ensure that statements of fact are accurate. We recognize, respect, and support the right of faculty to freely and openly share their views without the threat of censorship.

AFT 1493 to hold campus budget forums

AFT 1493 will be holding budget forums at Cañada, CSM and Skyline in order to discuss:

- how the state budget and education funding affect us all-- our district, our colleges, our programs and faculty;
- what you can do about all this in these difficult budget times.

The forums will be held Tuesday, September 29 at Cañada, Wednesday, October 7, at CSM and Friday, October 30, at Skyline.

AFT strongly supports open, transparent decision-making regarding planning for budget cuts. Even at a time of financial exigency, it is important that decisions be made using the shared governance structures and agreed upon procedures. The AFT urges all faculty to participate in the processes that will lead to budget reductions at the District and college levels.

AFT 1493 budget forums:

Cañada: Tuesday, September 29, 2-4

CSM: Wednesday, October 7, 2:15-3:30

Skyline: Friday, October 30, 1-2:30



AFT 1493 Executive Committee members at the August 21 "retreat" are (standing in the back row, left to right) Teeka James, Yaping Li, Sandi Raeber, Katharine Harer, Eric Brenner, Joaquin Rivera, Karen Olesen, Elizabeth Terzakis, Lezlee Ware, (seated, left to right) Monica Malamud, Anne Stafford, Alma Cervantes (in front), Nina Floro, Dan Kaplan, Victoria Clinton, and Chip Chandler. Ron Brown, Dietra Prater Slack and Dave Danielson were not present for the photo.

President's Letter

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the AFT Executive Committee members for their participation.

I hope you're as excited as I am about the new school year. I love teaching because I enjoy helping stu-

dents learn. This year our students need us more than ever, given the state of the economy and the fewer options available to them in higher education. We are being asked to do more with fewer resources. Many courses are at their maximum enrollment, and that means more papers and tests to grade,

more questions and e-mails to respond to, more students coming for help during office hours. If we all focus on giving our students the very best education we can offer, I believe we'll find a way to work together through these very hard times. I wish you a very fun and productive fall semester. □

No Trust Committee; No Revising of Faculty Evaluation Procedures

by Teeka James, AFT 1493 Co-Vice President

After twenty-four months of patient back-and-forth with the District, our quest to reconstitute the Trust Committee has come to an end. On May 28, 2009, the District finally told AFT that it will not fund release time for the revision of the District's faculty evaluation instruments and procedures. So, even though no one likes the current forms and everyone bemoans their inconsistencies, the evaluation documents last passed by the Board of Trustees will remain in use until further notice. The documents that have been in use since fall 2007 are those that the District administration unilaterally edited without contacting AFT; those instruments and forms are no longer compliant with the collective bargaining agreement.

District not willing to fund faculty release time

A careful reader of the *Advocate* will already know that in response to faculty requests to reconstitute the Trust Committee, the District dragged its feet from February 2008 until September 2008, unable to make a decision when it could have afforded to start this process. When the economy sank in mid-fall 2008, AFT suggested an alternative revision process, cutting the projected costs of the revision work by two thirds. (AFT requested funding for release time because full-time faculty simply do not have the time to take on such a project.) Though both AFT and the Academic Senate were eager to get going, and though previously, after AFT caught its secret editing of the evaluation documents, the District was adamant about the importance of "cleaning up" this most important section of the contract, by May 2009, the District could not "see how we can justify that expense."¹

Accreditation may be impacted

This failure to comprehend the importance of using current, relevant evaluation instruments that are clear and consistent across all iterations of faculty review (tenure, peer, adjunct) boggles the mind. Even more surprising is the District's apparently short memory of the 2007 Accreditation visits, for the accreditation of two colleges may, in part, hang in the balance of a reconstituted Trust Committee. In fact, in College of San Mateo's Institutional Self Study for Reaffirmation of Accreditation (2007), plans for improvement for Standard II.A.2.c (high-quality distance education) include the creation of "evaluation instruments for distance learning that parallels the existing evaluation instrument for classroom teaching" (144) while plans for Standard III.A.1.c, which link faculty evaluation and SLOs, clearly cannot move forward without exhaustive conversation and consultation, something a Trust Committee would be well suited to consider.

At this point, faculty have spent too much time and energy trying to get this project off the ground. So, though we still believe this work is urgent, we need to put our energies into other projects. AFT wishes to publicly thank the Academic Senate leaders across the district for their support and partnership in this important effort; we look forward to our collaboration on future joint Senate-union projects.

On Monday, August 24, 2009, AFT sent the below email to Chancellor Galatolo and Vice-Chancellor Harry Joel. As of September 28, neither the Chancellor nor the Vice-Chancellor has responded.

Dear Ron and Harry,

On behalf of AFT, I want to thank you for your suggestion of using \$10,000 in stipend funding to get started on the revision of the faculty evaluation procedures and documents. After thorough discussion and careful consideration, the Executive Committee respectfully declines the offer. Furthermore, AFT withdraws its second proposal of a four-person committee and no longer supports the district's use of the revised evaluation documents in current use.

Although AFT had suggested a smaller, four-person committee, after additional consideration, the Executive Committee firmly believes this project will take more than one semester and should be done by a body as similar in composition to the original Trust Committee as is feasible. In fact, our original proposal of January 2007 was just that: a reconstitution of the Trust Committee, comprised of faculty and administrators from across the district. For all the reasons I have relayed in the past, to complete this project, faculty need release time, a requirement for which clerical assistance will not compensate. We also firmly believe in employing a transparent process that includes frequent consultation with faculty and administrators, so a one-semester start on a project that will take at least a year, if not two, to complete does not seem prudent. AFT still believes this is an essential project, and we will gladly reopen the process when the district has the necessary resources.

In the meantime, the district must resume use of the evaluation documents included in the contract passed by the Board of Trustees. Over the summer of 2007, the district administration made revisions and changes to these documents, neither consulting nor notifying AFT. When we discovered these changes, I made clear to Harry Joel that AFT would allow the revised documents to be used as a stopgap while the Trust Committee was being formed and completing its work. Because the Trust Committee will not be reconstituted at this time, the district must resume use of the original documents and procedures as they are printed in the faculty contract.

Joaquin Rivera will work with Harry Joel to ensure that the correct documents and instructions are distributed to deans, administrators, and faculty across the district as soon as possible. If you have other questions or concerns, you may contact me or Joaquin.

Best regards,
Teeka

Teeka James
Co-Vice President
San Mateo Community College Federation of Teachers, AFT 1493

¹ Email from Harry Joel to Teeka James, May 28, 2009.

DART retirees group has July meeting, December gathering being planned

by John Searle, DART President

In July, a group of retired faculty from DART (District Association of Retired Teachers) met to socialize, and learn aspects of the world of financial planning focused on maintaining living standards for the retired: the featured speaker was Nathan Ladyzthensky from the Mosher financial group (see photo) who spoke and took questions over an hour period. As has been customary, there was conversation, food and drinks both before and after the talk.

In the mailing that preceded the afternoon, the orga-

nizers (Elaine Burns and John Searle) indicated that future events would be advertised directly to retired individuals by email to save the planet; if interested retired faculty have not listed their email with the DART organization, but wish to receive news of future events, please contact either EB or JBS. Both of us are interested in your ideas for our next meeting, in the College Vista Clubhouse scheduled for **Friday afternoon, December 4**. Suggestions might include ideas for speakers, or topics to be dealt with, or simply an old fashioned Christmas bash. Email us at: searle@smccd.edu or burnse@smccd.edu.



Some of the conversation, food and drinks at the July 2009 DART meeting

In Memorium: Walter Leach, Jr. - second President of AFT 1493

On June 2, Walter Leach, Jr., professor emeritus of sociology and psychology, passed away following a lengthy illness. He retired in 1985 after 29 years of service to the college district.

Walter Leach was the second President of AFT Local 1493, and one of the 10 charter members of AFT Local 1493.

AFT Local 1493 would like to send our condolences to his family, and to acknowledge the important role that Walter Leach played in bringing a union to the faculty in the San Mateo County Community College District.

Pocket calendars still available

If you have not yet received your 2009-2010 CFT pocket calendar, please call the AFT office (x6491) or get in touch with your AFT Chapter Chair on your campus and ask for one.

Binding arbitration is key goal for negotiations

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that makes the arbitrator's decision "advisory", i.e. moot, and gives the final binding decision to the Board of Trustees? This language suggests that the Board is somehow a more unbiased body in deciding disagreements between the AFT and the District administration than an outside arbitrator.

17.6 LEVEL IV: Either the grievant or the responding party may appeal the advisory award of the arbitrator to the Board of Trustees within ten (10) working days after the receipt of such advisory award.

17.6.1 The Board of Trustees shall render its decision within twenty (20) working days after receipt of the appeal at this level, or twenty (20) working days after receipt of the transcript of the arbitration hearing, whichever comes later. The decision of the Board of Trustees shall be final and binding on all parties, except that no rights of the grievant to further legal action shall be abrogated.

If a district Board of Trustees is able to overturn a case its administration has already lost in arbitration, the arbitration process is totally undermined. The recent Board decision illustrates the obvious weakness of advisory arbitration.

Binding arbitration is an accepted standard

In fact, binding arbitration is standard contract language in the overwhelming majority of California community college districts that are represented by AFT. Approximately 75% of these contracts currently include binding arbitration. Our neighboring districts Foothill-DeAnza, San Francisco, Marin, Peralta, Chabot-Las Positas, San Jose-Evergreen and Contra Costa all have binding arbitration.

Some historical background

In the past, unions traded the right to strike over grievances for binding arbitration, which is now a basic element in labor contracts across the country. The quid pro quo for a no-strike clause is binding arbitration. This is one of the core principles of American labor law. Unfortunately, this tradeoff was not made by AFT Local 1493's predecessor, the California Teachers Association, and AFT 1493 inherited the no strike clause and advisory arbitration.

When AFT 1493 has attempted to negotiate binding arbitration in the past, the District has said many times that the faculty union doesn't need it because the Board had always followed an arbitrator's decision in the past (with only one partial exception.) But now that the Board has repudiated this arbitration decision, it is quite clear that binding arbitration is, in fact, absolutely essential.

Why the Board's decision impacts all faculty

If a union does not have a binding arbitration clause in its contract but also does have a "no strike" clause, as is the case with our local, the sad truth is faculty are only protected by the good will of the administration because our contract allows the Board of Trustees to disregard rulings from arbitrators without consequence. We may as well not have a contract. And, honestly, no one wants that, no one. As the American poet Robert Frost writes in his famous poem "Mending Wall," "Good fences make good neighbors." In our case, good contracts make good relationships between faculty and administrators.

A new AFT contract is now being negotiated with the District, and one new item that must become part of the new agreement is obvious: faculty must be able to obtain **binding arbitration**. □

Contract negotiations begin

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AFSCME, and as a result, after going to arbitration, both units received salary increases of 4%. As we know, AFT did not receive COLA because the state did not fund it. Although our district has not received the funding for last year's COLA, the state has promised that it will be funded in the future.

Administrators continue to get nice annual raises

The final piece of this story is the increase administrators have received. District administrators, including deans, had their salary schedule raised significantly beginning in 2007-08, giving them regular annual step increases for five years, resulting in salary increases of 4.7-5.4% per year on top of any negotiated salary increases. (Meanwhile, faculty don't regularly get annual step increases due to the numerous "plateaus" in our salary schedule.)

The result of this tangled web is that faculty is the **ONLY** employee group in the district that did not receive a salary increase last year. You can be sure that the AFT negotiating team and the Executive Committee is less than happy with this situation, and this helps to explain our initial salary proposal of 11% in this new round of negotiations.

We are scheduling bargaining sessions to run throughout the fall semester, and we will keep you informed about what takes place. Everyone knows how dire the budget situation is in California; at the same time, it is the union's job to represent the needs of faculty in our district, to protect working conditions and the quality of our lives. We'll keep you posted! □

Upcoming AFT 1493 Executive Committee/ General Membership Meetings

**October 14, Cañada, 2-10
Nov. 18, Skyline, 5131
Dec. 9, CSM, 18-203**