

Arbitrator reinstates probationary faculty member with back pay

by John Kirk, Former AFT 1493 Chief
Grievance Officer

On January 31, 2008, AFT filed a grievance on behalf of a second year probationary faculty member who was not rehired for the last two years of probationary service. The union argued that she was denied the full four-year period of probationary service to meet the college's expectations for tenure. The key issue in the case was the fact that the committee, on the advice of the administration, kept secret memos of her alleged deficiencies. These memos were the determinative factor in the decision to dismiss her. Thus, the faculty member was not allowed an opportunity to rebut these criticisms, or to rectify the alleged deficiencies, before her Tenure Review Committee effectively recommended her dismissal.

The case went to arbitration and four days of hearings were held (Oct. 28, 29 and Nov. 24, 25, 2008). In his decision dated March 2, 2009, the arbitrator wrote: *"...the evidence presented by the Union on behalf of the Grievant is persuasive, and the recommendation of the Tenure Review Committee to deny tenure was found to be inconsistent with the Tenure Review Policy and is therefore premature. It is the arbitrator's determination that the totality of the action taken to deny (the grievant) the opportunity to enter Contract III/IV was a misinterpretation and/or misapplication of the Evaluation Procedure."*

As a remedy, the arbitrator ordered the District to reinstate the faculty member to a probationary position-Contract III/IV (a two year contract), to give her back pay for the 2008-09 year until reinstatement, to pay all medical expenses which would not have been in-

curred but for her dismissal, to remove from her personnel file all derogatory materials commencing the second year of her employment and thereafter, including but not limited to the six secret memos, and back pay for overload work during the 2006-07 year.

Hours increased illegally

During the spring semester 2007, a Contract I probationary faculty member came to the union and asked if the hours of her assignment were consistent with the contract. After investigating the issue, the union found that the instructor had been hired for 37.5 hours per week for a posi-

tion that was supposed to be only 27 hours per week. The position was opened because of a retirement and the person retiring had worked 27 hours per week. Under state law, the administration cannot change the hours of any faculty member without negotiating with the union.

The union went to the administration with proof that the hours had been increased illegally. The union insisted that her hours be reduced and that she be given back pay for the entire academic year 2006-07 for the extra 10 hours per week of overload (about \$22,600). The faculty member had received excellent evaluations

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Thousands protest higher education cuts



Thousands of UC, CSU and community college students, faculty, and staff marched to the State Capitol on March 16 to protest budget cutbacks, fee increases and layoffs. All segments of the higher education community joined in protesting the harm from hundreds of millions of dollars in cuts at the state's higher educational institutions.

Photo by George Wright

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PRESIDENT'S LETTER

How do rights for California faculty compare to others around the country?

by Monica Malamud, AFT 1493 President

I just returned from the AFT National Higher Education Issues Conference, which was held between March 5th and



8th in Miami, Florida. In the last few years, I attended conventions and conferences of the California Federation of Teachers (CFT). The

CFT includes all levels of education, from pre-K to higher education.

This time, I was really looking forward to the opportunity to focus on the matters that are specific to higher education. I expected that since we were all in higher education, I would find that we represented a homogeneous group of AFT locals, with similar issues and needs. But I soon realized that this was not the case.

State laws impact faculty rights

I was surprised at the range of differences that stem from the laws not being the same in every state. For example, in the California Community Colleges, grades can be assigned (and changed under limited circumstances) only by the instructor of the course; in other states, the instructor is not the only one who can do this. Another example: while in California the Education Code states that community colleges should establish procedures that ensure that faculty, staff and students can effectively participate in governance, shared governance is not the norm everywhere. And the most significant difference: faculty in some states do not have collective bargaining rights! As I attended workshops and plenary sessions over the days and listened to the different issues and needs of faculty in other states, I alternated between feeling really lucky or quite miserable, depending on how we fared in the comparison.

I was impressed by the variety of topics that were presented at the conference: academic freedom, education policy (including accountability and assessment), healthcare, emergency preparedness, political action, access and use of electronic resources, strengthening ties with other groups in education, diversity, environmental sustainability. But despite the variety of topics presented and the concerns that were relevant to some states and not others, I found that there are also some key issues that affect us all in higher education: staffing, funding and the current financial crisis. In addition to specific workshops and presentations on these issues, these themes kept coming up in many other sessions.

Fewer tenured, more part-timers

In terms of staffing, the following national trends have been observed in higher education: reduced numbers of tenured faculty, increased reliance on contingent faculty, lower pay for part-timers, and colleges and universities with more administrators and organizational structures that increasingly resemble the corporate world. Nationwide, there has been, on average, a decrease of state funding for public higher education and an increase in tuition rates. However, the loss of state revenues is not fully compensated by tuition increases, resulting in a net loss to the budget for institutions and no value added to students from this increase in tuition. So how can a college or university continue to serve students at a lower cost? By eliminating tenure positions and hiring part-time instructors. According to data from the US Department of Education (IPEDS staff surveys), 72.7% of the faculty in U.S. higher education were contingent faculty in 2007, up from 66.9% in 1997. In public two-year institutions we fare even worse: only 17.5% of faculty are tenured or on tenure-track (2007). These are very alarming statistics.

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Committee to revise faculty evaluation process still not set up

District has not yet OKed release time for committee members

After presenting the District with a scaled down version of its original proposal to revise our faculty evaluation procedures about one year ago, AFT is still waiting for the District to decide if it will adequately compensate faculty to do this work. The District has offered stipends of \$1500 for the Trust Committee members for their serving on the committee, but the time and effort needed to revise a set of documents such as this one—with its interrelated sections, tremendous import, and diverse application—is well beyond a job for which \$1500 could be considered compensation.

The evaluation language in the contract runs over sixty pages and is rife with inconsistencies and ambiguous passages; the student/teacher evaluation instrument remains unworkable for many teaching and learning situations (e.g. counselors, librarians, program coordinators, and distance education faculty) and is outdated in

Compressed Calendar Task Force Update

by Patty Dilko, District Academic Senate President

The work of the District-wide Compressed Calendar Taskforce is moving slowly forward. Since the November *Advocate* article, college-level groups have been gathering the issues and concerns of various campus

its approach to measuring effective teaching; and the contract is silent on many critical issues, for example, the number of semesters faculty have to make improvements after receiving an unsatisfactory evaluation. Besides, with teaching, SLO development and assessment, program review, and more, faculty simply do not have time to do this work. Release from other duties—the gift of time, in other words—is the only way to truly ensure this important work is completed.

AFT remains hopeful that we will be able to reach an agreement soon to start working on a significant revision of faculty evaluation procedures in the beginning of the fall semester.

constituents.

The Task Force decided that it is time to finish gathering concerns from the constituents and begin work on drafting a feasibility study. This comprehensive study will address the concerns that have been raised thus far, as well as provide a model for implementation. It will include external data gathered from colleges and districts who have implemented compressed calendars, and internal data such as the results from a student survey, mock class schedules, effect of compressed calendar on workload, and an analysis of the block scheduling recently implemented at Cañada College. If you would like to participate, please contact Ray Hernandez, Skyline; Diana Bennett, CSM; or Martin Partlan, Cañada.

Ed. Note: *The Compressed Calendar Taskforce project was initiated by the District administration and the three Academic Senates in the District. Any proposal that might be developed by this Taskforce must be approved by AFT 1493, which would want to know that a clear majority of faculty supported the proposal before approving it.* □

President's Letter

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Federal stimulus package offers some budgetary hope

As if it weren't bad enough that staffing and funding have been moving in the wrong direction, we now have the financial crisis. In the plenary "The national financial crisis and public higher education", union reps from all over the country gave examples of how the crisis is affecting them: cuts in programs, people losing their jobs, students going deeper into debt to fund their education. To be honest, this was not the most uplifting plenary I attended. I was more encouraged by AFT president Randi Weingarten's words: she said that the education funding in-

cluded in the federal stimulus package constituted an unprecedented intervention from the federal government, and the next step is to make sure this money is well spent at the state level.

In his talk, Dean Baker, co-director of the Center for Economic and Policy Research, explained that although the stimulus package was designed to help the country in this economic crisis, the stimulus package itself does not make up for the deficit we have. So how do we fill the gap? We need an educated workforce to generate the difference. And this is why, in times of economic crisis, higher education is a key to the recovery, both for individuals and for the country.

To conclude, I'd like to share an example of what access and affordability to public education can accomplish.

On Saturday night I attended an event which was held in the Freedom Tower. The beautiful building was built in 1925 for the Miami News and is now used as an Art Gallery, currently featuring photographs from different countries portraying the concepts of identity, borders and immigration. At this event, we were welcomed by the Mayor of the City of Miami, Manuel Díaz. Cuban-born Díaz immigrated to the United States in 1961, and credited the opportunity and access to quality public higher education as a key factor in helping him realize his American Dream. Mayor Díaz shared with us his success story in the U.S. in exactly the place where it all began for him: the Freedom Tower, which in the 60's was used to process the immigration of 250,000 Cubans, including the Mayor himself. □

Conference focuses on how to defend public workers, social services in wake of economic crisis in California

by George Wright, Skyline College, History Department

In response to the current historic economic/financial crisis of capitalism and its budgetary implications in California, a conference of statewide public workers was held on March 15, 2009 at Sacramento City College. The conference was organized by the United Public Workers for Action (UPWA.) The UPWA is an organizing committee and network, formed in 2008 by San Francisco Bay Area union members and activists committed to bring all affected public workers in the state together to address the current crisis.

The intent of the organizers was to develop a unified-statewide coalition and agenda to confront the crisis in California in the defense of public workers and the recipients of public services. The conference was endorsed by the San Francisco Labor Council; the San Mateo Labor Council; AFT Local 2121 (City College of San Francisco); and our own AFT Local 1493.

The overarching concern of the UPWA is to address the effects of the deteriorating economic setbacks that workers, students, and the poor in California will continue to be subjected to as the economic crisis deepens. These setbacks are reflected in the preliminary state budget, passed on February 19, 2009. In the wake of that budget, California workers, students, and the poor are facing:

- wage reductions in the public service sector;
- potential cuts of tens of thousands of public service jobs;
- erosion of quality education for millions of students;
- radical reductions of public services, including health care, social welfare, housing, environmental protection, and local services.

California's budget also includes regressive tax increases that will impact workers, students, and the poor. At the same time, over a billion dollars in tax handouts to the wealthy and corporations are included.

Importantly, the budget is not final. The final version is contingent on one, or more, of the following: 1) the voters passing eight budget-related compromised concessions, including establishing a permanent "spending cap", in a May 19 special election; 2) the amount California receives in the Federal stimulus program; and 3) the discretionary line-item veto power Schwarzenegger has wrestled from the legislature.

Moreover, owing to the accelerating crisis, California's economic future does not look promising. For example, two days before the conference the non-partisan legislative analyst announced that the state faced an additional \$8 billion deficit. Therefore, the budget cuts will probably be even deeper before the summer of 2009. Furthermore, the state's structural and constitutional procedural problems, such as the state legislature's 2/3rds requirement to pass a budget and raise taxes, amplified by the deepening global structural crisis, portend an even graver situation in the next budget cycle.

The UPWA conferees agreed that the accelerating economic crisis and its political ramifications in California requires the formulation of new strategies and agendas based on a collective response. This view is based on the belief that only a unified organized labor can build a broad movement to achieve those ends. This includes putting the "house in order" for organized labor and participating actively in coalitions with unions in the private sector, student groups, housing activists, environmentalists, immigrant rights organizations, civil rights organizations, etc.

Furthermore, the UPWA conferees concluded that the economic/budget crisis is not being solved within the parameters of the established political system. UPWA organizing committee member Steve Zeltzer, stated "The policies that come out of the Governor's office and the state legislature have avoided confronting the underlying structural (and ideological) realities, and are inadequate short-term responses which fundamentally benefit the wealthy and corporations at the expense of workers, students, and the poor."

Specific areas that were discussed in workshops at the UPWA conference were:

- Revenue generation and the political process;
- The 2/3 requirement and strategies to change it;
- The crisis of the public service sector;
- The health care crisis and the viability of single-payer;
- The state's public education system, its funding, and its future;
- The housing crisis;
- Impact of the crisis on services for immigrants;

The conference delegates in attendance initiated the following tasks:

- Outline and define the effects of the economic/budget crisis on public services and workers, and identify potential allies;
- Examine the reasons for the current political and policy impasse and the recent succession of band-aid budget measures;
- Develop a common agenda to confront the ongoing crisis in the interest of the public, and rebuild viable public services and funding sources responsive to changing needs of Californians during both good and bad economic times;
- Develop strategies and organizations to address the systemic crisis over a sustained period of time.

The UPWA will continue to work to implement its agenda into the future. The UPWA will also develop plans to participate in the statewide Day of Action for immigrant rights and public services to be held on May 1, 2009 in Sacramento. To find out more about the United Public Workers for Action go to: www.UPWA.info. ■

Flex days, flex time: What are full-time and part-time faculty's rights and responsibilities?

by Monica Malamud, AFT 1493 President

In our district, we are used to flex days at the beginning of the semester. However, there is no reason why all flex days need to be scheduled at that time. Last year, a group of faculty from the three colleges came to an AFT meeting to request that we consider having an additional flex day sometime in the middle of the semester. We are all aware of the increasing number of non-instructional duties that faculty need to complete. The addition of a flex day in the middle of the semester was seen as one way to give faculty some time to complete these non-instructional tasks, in collaboration with their colleagues.

Before negotiating the academic calendar for 08-09, the AFT Executive Committee thought it prudent to poll all faculty about this idea. The results of the poll indicated that faculty overwhelmingly favored the addition of a flex day in the middle of the semester. Not everyone liked the idea, and some of those who supported it had reservations. But considering that 75% of the faculty who participated in the survey voted "yes" to the additional flex day, the union and the District agreed to designate March 11, 2009 as a flex day.

Evening faculty qualify for flex pay

The fact that the March 11 flex day was not at the beginning of the semester caused some confusion, especially about what evening faculty should do (to teach or not to teach, that was the question), and whether they could get paid for the equivalent of their work hours on Wednesday evening, if they participated in flex activities.

But when a flex day is scheduled does not really matter at all. Days on the academic calendar can be either instructional or flex. All flex days, regardless of when they happen, are the same: no classes are held. The academic calendar is the same for all faculty, full-time and part-time so flex days are part of the academic calendar for both full- and part-time faculty. And since a flex day is a calendar day (for example, Wednesday, March 11) this applies to all hours of that day – morning, afternoon and evening.

Then there was the question of pay to adjuncts for a flex day. To answer this question we have to look at both our contract and Title 5 (aka the Education Code.) Based solely on our contract (article 7.11.2), adjuncts who have a Wednesday teaching assignment this semester would get paid for the same number of hours they normally teach on Wednesdays as long as they participated in the flex activities offered by the college on that day, but there would be no other option to be paid for

that day.¹ Also judging only by the same article of our contract, part-timers who do not teach on Wednesday would not be paid for participating in the flex activities of March 11.

But our contract is far more restrictive than it should be, and it prevents faculty (both part-time and full-time) from collecting pay for flex activities that they are entitled to by Title 5 (section 55720), since, per Title 5, flex activities can be performed any time during the year, outside of regularly scheduled work hours, and they can be any qualified flex activities (not just those that our district offers on a given flex day).²



Flex activities not limited to flex days

According to Title 5, for any designated flex day in the academic calendar, a faculty member may complete flex activities on that flex day itself, or on any other day in the academic year (semester for part-time faculty). So part-time faculty who normally teach on Wednesday evenings this semester and did not participate in flex activities on March 11 can still complete activities that qualify for flex time on any other day of the semester and get paid for the number of hours they normally teach this semester on Wednesday evenings.

And a part-timer who normally teaches on another day (e.g. Thursdays) this semester, can be paid for participating on March 11 too. This is not what our contract says, but the Education Code is above our contract, so our contract cannot take away rights that faculty are granted by Title 5.

¹ Article 7.11.2 of our contract states:

"Part-time faculty members shall 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) are not held, the part-time faculty member shall participate in the flex activities and shall receive regular pay for the normal student contact hours that would have been worked that day. Other part-time faculty members may voluntarily participate in flex activities, but shall not receive pay for such activity."

² The California Code of Regulations, Title 5. Education, Division 6. California Community Colleges, Chapter 6. Curriculum and Instruction, Subchapter 8. Academic Calendar, Article 2. Flexible Calendar Operations, section 55720. Operating Under Flexible Calendar; Accountability of Employees; Activities, subdivision (a), states that (underline added):

"Subject to the approval of the Chancellor pursuant to section 55724, a community college district may designate an amount of time in each fiscal year for employees to conduct staff, student, and instructional improvement activities. These activities may be conducted at any time during the fiscal year. The time designated for these activities shall be known as 'flexible time.'" □

PEDAGOGICAL ISSUES

Cal-PASS: High school, college and university faculty communicate about common discipline issues

by Lucia Lachmayr, Skyline College, English Dept.

I began my teaching career thrilled by the prospect of students using their newfound knowledge to plumb their intellectual depths through a deeper appreciation of their readings and a heightened mastery over their writing skills. But the reality of teaching English and reading on a full time basis burst that happy little bubble before it could quite catch air. Though I had been prepared in my graduate coursework for the reality of the situation "on the ground," once I began working in earnest, it hit me like a stack of ungraded essays to note the vast disparity in my students' skill levels, even within the same class. As I struggled through those first years, I had many informal chats with my high school teacher friends, asking them about their experiences with students, trying to figure out where the gaps were between high school and college. I even went so far as trying to arrange regular meetings with these colleagues, but discovered that rounding up teachers to meet, simply because one community college instructor had questions, was a hard sell. Thus, we never quite got further than informal chats.

Was it a bus line?

Then, in 2006, at the Strengthening Student Success Conference in San Diego, while waiting for a colleague and browsing the informational tables, I glanced at a pamphlet for a group called Cal-PASS. Luckily, I like to read, as the institutional-sounding name (was it a bus line?) wasn't exactly enticing. Yet as soon as I read it and talked to the woman behind the desk, I felt as if a beam of light shone on that unassuming little table. This was what I had been looking for! Not only did Cal-PASS (which I found out stood for the California Partnership for Strengthening Student Success) provide a forum for educators in the disciplines to meet, but they offered a chance to track aggregated data on their students, all the way from kindergarten through university. This went beyond what I had even hoped for.

Shortly after that conference, the energetic, dedicated and friendly people at Cal-PASS helped set up a consortium in San Mateo with three Cal-PASS Professional Learning Councils (PLC's) in the disciplines of English Language Learners, Math and English.

Finding out what students are doing before and after we teach them

So what do they do? The Cal-PASS PLC's meet once a month to provide a space for faculty in a specific discipline to talk to their colleagues at their own institutions as well as their intersegmental colleagues about best practices, or actual practices, or data that supports those practices, or

whatever it is that the PLC's decide will best serve to align curriculum between their educational segments. In other words, it allows us to find out what students are expected to know in their previous and subsequent educational pathways and find ways to make the transitions between segments

more seamless and effective. Most consortia have English and Math PLC's, as they are core courses, but there are a variety of other PLC's, including Science, Career Technical Education, English Learners and Counseling. What was, and continues to be, the most exciting thing to me about Cal-PASS is its potential to transform our pedagogy from a solitary practice into one that engages with the educational continuum. Hopefully these dialogues can be used to transform our current system of multiple, disconnected practices into a more cohesive overall practice, one focused on successful transitions and outcomes for our students.

Course materials freely exchanged

I am amazed at how useful to my own practice I find the information exchanged at the Cal-PASS PLC's. In the English PLC's we are freely exchanging course material which, of course, we end up modifying for our own

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Left to right, Lucia Lachmayr (Skyline), Lisa Palmer (Cañada), Kathleen Feinblum (Skyline) and Bonnie Fiedler, from El Camino High School, at a recent English PLC meeting

Trustee responds to Advocate letter on administrators' pay

Dear Editor:

I am writing in response to the letter by Professor Michael Chriss in the February issue of the *Advocate* ("Administrator's Salaries Should Be In Line With Faculty Salaries").

Professor Chriss makes some excellent points regarding CEO salaries and the current economic crisis, and I agree with him that there are many cases where executive compensation in American business has no relationship to value created for shareholders and is extremely inequitable with regard to the rank-and-file workers. However, I must dispute one of the statements that Pro-

fessor Chriss makes in his article with respect to our Community College District.

In the second paragraph of his letter, Professor Chriss proposes an alternative structure for faculty salary schedules and then states "... it would have been far better than our fashion of seeing what the Board gives to the administration and then fighting for some percentage of that." I have served on the Board of Trustees since 2003 and in my observation the behavior of the Board (at least since that time) has been exactly the opposite of what Professor Chriss describes. I have always been an advocate for fairness in annual salary increases across our District's multiple bargaining units and unrepresented workers and administrators. Since I have been on the Board, our process has been to refrain from giving any salary adjustments to administrators until after we have concluded the collective bargaining process and/or seen what the annual increases for the bargaining units would be based on the state budget Cost Of Living Adjustment and contract stipulations. I have never in my tenure on the Board seen us to first determine salaries for the administration and then force the bargaining units to fight for some percentage of that salary schedule. I would find such a method to be completely contrary to our desire to create a cohesive and collegial community of professionals dedicated to the educational needs of our community.

Thank you very much for giving me the opportunity to respond to Professor Chriss via the *Advocate*. I should note that this letter is from me as an individual and is not an official position or communication from the Board of Trustees.

Sincerely,

Dave Mandelkern
Trustee,
San Mateo County Community College District
(title included for identification purposes only)

Cal-PASS: Faculty from across segments meet

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courses. I find that simply learning the vocabulary of each institution is, in and of itself, so very useful. Once the K-12 faculty had spoken to the college instructors on the function of the "K-12 Standards" in their teaching of the curriculum, the college faculty elaborated on "Student Learning Outcomes" and we were able to have further fruitful discussions as a result of those dialogues. One Westmoor High School English and English-language-learner (ELL) teacher as well as PLC co-chair, Vicki Day, relates that the PLC's "help me to understand where I am in relationship to other [teachers in their] grading." Similarly, adjunct Skyline College ESOL instructor, Cheryl Hertig, notes that currently the ELL PLC's are evaluating the concepts of good writing at each level. For her, this reinforces that she is "on the right track when [she] evaluates the abilities of students..." via her use of rubrics. Many PLC members have shared that these rich discussions influence their own teaching as it allows them to more fully understand what students have previously done or if they persist once they leave their classes.

For me, besides enjoying the discussions and getting a better sense of where my students are in their educational trajectory, I feel that Cal-PASS affords a means of reclaiming faculty ownership of the profession. Instead of waiting for legislators or the public to tell us what they want us to do, we are coming together as professionals and sharing what is in the best interests of our students so that they are not merely passed along, but thrive as they move through the system successfully.

For more information about Cal-PASS or to look up when and where your local Cal-PASS professional learning council meets, go to: www.calpass.org. □

**Let us know how well we are
getting information to you
Please complete AFT 1493's
communications survey**

**- Go to: AFT1493.org
- Click on: "Faculty Surveys"**

SURVEY ON AFT 1493's COMMUNICATIONS WITH FACULTY

Tell us how well we are communicating

So what do you really think of this newsletter? We would like to get your honest feedback on what you like and don't like about *The Advocate*. We also want to know if you use the AFT 1493 website, aft1493.org, and whether you would prefer to receive more of your news from the union via our E-News email messages. In our email announcement of this issue, we are sending out to all faculty a link to

an online survey asking you to tell us what you think about our communications with faculty. If you don't have the link, you can access the survey by going to aft1493.org, and then clicking on "Faculty Surveys."

Please take a few minutes to let us know your feelings about AFT 1493's communications with faculty. It will help us to be able to better serve your needs. Thank you!

Arbitrator reinstates faculty member

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for the 2006-07 year and had been promoted to Contract II. Three days after the union went to the administration, the faculty member was told by her supervisor that "she was not a good fit for the program." The following semester, Fall 2008, the college and district administration agreed to reduce her hours to 27, but refused to give her the back pay.

Soon thereafter, the administrator on her Tenure Review Committee presented the committee with a list of "concerns." Not only were these concerns vague, but they also were not among the criteria listed in the contract to be used as the basis of evaluation.

Critical memos kept secret

During the remainder of the Fall semester 2007, the Tenure Review Committee did not follow up on the "list of concerns." The committee, however, did receive a package of six secret memos, three of which were written by members of the Tenure Review Committee and two were written by classified employees and one by another instructor. These memos contained criticisms of the probationary employee and were the major reason for the committee to vote not to reemploy her, but she was not given a copy of the memos and therefore had no way to defend herself. The Tenure Review Policy and

Procedure states:

- *The tenure review process upholds the principles of inclusivity, equal access, and opportunity; promotes diversity; and is fair and unbiased.*
- *The tenure review process fosters open communication among participants in order to assure fairness and opportunity for success.*
- *To that end, a four-year probationary period provides sufficient time for contract employees to understand the expectations for tenure; to develop skills and acquire the experience to participate successfully in the educational process; and to use the District's and other resources for professional growth.*

Evaluees must be told of perceived faults

In his final brief to the arbitrator, union attorney, Robert J. Bezemek wrote:

"It is elementary that a District must give every probationary faculty member in this tenure system, **unequivocal and timely notice of their perceived faults and an adequate opportunity to respond.** A faculty member's response might involve correcting misperceptions of her critics, defending herself against false criticisms, modifying behavior to address areas where improvement is needed, seeking assistance from colleagues, or from a trusted mentor, or other means. Instead of fulfilling this basic obligation, the District manifestly dis-

**AFT 1493
CALENDAR****Executive Committee /
General Membership
Meetings:**

Wed., April 15, 2:15 p.m.
Cañada, Rm. 3-104

Wed., May 13, 2:15 p.m.
Skyline, Rm. 6205

regarded it, depriving (the grievant) of a fair opportunity to meet expectations for tenure.

The opportunity to respond to alleged deficiencies is not a "meaningless gesture" because it allows an evaluator to weigh the accuracy, relevance, good faith or usefulness of any information it receives."

Miller v. Chico, supra., 24 Cal. 3d at 713, n. 11)."

The decision to keep the memos secret from the evaluatee was made by the Vice-President and according to the Tenure Review Policy, the Vice-President is identified as the person responsible "to assure fair and unbiased evaluations" and "to monitor and assure compliance with due process, District Policy, timelines and procedures."

**Board must not over-rule
arbitrator's decision**

The decision of the arbitrator is not binding, it is advisory. The union has put binding arbitration on the negotiating table every time the contract has been renegotiated. The District has countered that the Board has never over-ruled a decision of an arbitrator, so there is no need for binding arbitration. The administration is asking the Board to over-rule the arbitrator. The administration has violated the contract, the Tenure Review Policy and has denied the most basic due process rights to a faculty member. The Board needs to accept the decision of the arbitrator. □