

# Board overrules arbitrator's decision!

## 25-year promise broken, exposes essential requirement for binding arbitration

by John Kirk, Former AFT 1493 Chief  
Grievance Officer

In a stunning lack of integrity and breach of trust, the Board of Trustees overturned the entire decision of an arbitrator for the first time in the history of the District. The Board met in a special session on March 26<sup>th</sup> and "following full consideration of the entire record and presentations of the parties (Board minutes)" voted to overrule the arbitrator. Therein lies the lack of integrity. The entire record contained 800 pages of testimony from numerous witnesses, an 82-page brief by the union attorney, and evidence in the form of 90 exhibits presented during the four-day arbitration hearing. In the few hours the Board deliberated, there was no way they could have read, absorbed and digested all of that information.

### Highly respected arbitrator

The arbitrator, William E. Riker, who was chosen mutually by the District and the union, is one of the most respected arbitrators in the State. One look at the website of the State Mediation service reveals that he is listed as having more published decisions than any other CSMCS arbitrator. (Riker is also one of five arbitrators selected by the District to adjudicate, with binding arbitration, any disagreements arising from the construction contracts in the District.) He sat through four days of hearings; he accepted and read 90 pieces of evidence (exhibits); he looked each witness in the eye; and he asked questions of the attorneys and of the witnesses. He read all of the briefs and spent a month preparing his decision. In his decision he wrote:

*"...the evidence presented by the Union on behalf of the Grievant is persuasive, and the recommendation of the Tenure Review Commit-*

*tee 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."*

The Arbitrator found that the contract was violated when the grievant was prematurely let go, and not afforded the full four years to meet tenure expectations. He also found that the employee had been required to work more than 30% more hours than were required by the Agreement, without additional pay. He ordered the District to make the grievant whole for pay

lost as a result of this.

After the Decision was issued, the District decided it did not violate the Agreement, and imposed its own interpretation of the Agreement and the evidence. It voted to reject the Arbitrator findings and conclusions of the Arbitrator. How is the Board of Trustees able to overrule the carefully crafted decision of the arbitrator and why did the Board do it?

### Effect of advisory arbitration

Our contract's grievance procedure does not have binding arbitration. Instead, an arbitrator's decision is only "advisory" to the Board. If the Agreement did have binding

*continued on page 7*

## Who cares about binding arbitration? You do!

by Teeka James,  
AFT 1493 Co-Vice President

Have you heard? The District lost \$25 million in the stock market horror show in the fall, our colleges are risking anorexia nervosa to fit into smaller slacks with tighter belts, and the District's plan for averting complete financial disaster includes the SMCCCD perennial favorites: "de-fund[ing] positions," "improv[ing] class loads whenever possible," and "reduc[ing] operational expenses by reducing services, sharing services, redesigning services."<sup>1</sup> But while the left hand is busy boring another hole in the

belt strap, the District's right hand just spent at least eighty-thousand Yankee dollars to dispute a recent faculty grievance, which it lost. Resoundingly. What's a poor District to do?

I'm sure you can think of several options (to receive the ruling with humility comes to my mind). The District chose to call "foul" and ask the Board of Trustees to disregard the arbitrator's ruling. Though it all happened behind closed doors, apparently in the course of an evening's Board meeting the Trustees were (miraculously) able to read, as required

*continued on page 9*

## INSIDE THIS ISSUE

- 2 **President's Letter: Working on better communications**
- 4 **Fighting words at 2009 CFT Convention**
- 8 **Many valuable ways the Union and Senate collaborate**
- 10 **Results of AFT 1493 Communications Survey**
- 12 **CFT opposes all May 19 election propositions except 1B**
- 12 **Faculty input needed for new contract negotiations**

San Mateo Community College  
Federation of Teachers  
AFT Local 1493, AFL-CIO  
1700 W. Hillsdale Blvd.  
San Mateo, CA 94402  
(650) 574-6491  
aft1493.org

### Editor

Eric Brenner, Skyline, x4177

### Editorial Board

Eric Brenner, Skyline, x4177  
Dan Kaplan, x6491

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Dietra Prater Slack, Sky., x7301x19216

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Nina Floro, Skyline, x4414  
Ron Brown, CSM, x6691

### Chief Negotiator

Joquin Rivera, Skyline, x4159

### Executive Secretary

Dan Kaplan, x6491  
kaplan@smccd.edu



## PRESIDENT'S LETTER

# We're working on our communication. Are you hearing us? We're listening to you.

by Monica Malamud, AFT 1493 President

As the academic year draws to a close, the calendar fills up with recognition ceremonies, award events and, of course,



commencement at each of our colleges. While we manage to juggle our regular responsibilities and find time for celebrations, I hope you will also pause and recognize your own accomplishments, and how you have contributed to the accomplishments of others around you. After all, no matter how isolated we may feel at times, we're all dependent on each other to achieve both our personal and our collective goals.

And how do we work together, when we're in different classrooms, offices, buildings and campuses? In order to coordinate efforts, contribute ideas, improve processes and outcomes, and simply get things done, we need to communicate with one another. In AFT 1493, we're constantly trying to improve communications. We invite you to contact us at any time, but we are also actively trying to seek your input in matters that affect all faculty. Participation is voluntary, but we hope that you will take advantage of the opportunity and let us know what you think.

## Advocate gets good reviews, but AFT 1493 website is panned

Recently, you had the chance to participate in a communications survey. (See page 10 for a report on this survey.) You told us that you were generally satisfied with the contents and frequency of both the Advocate and our E-News, but that our website needed improvement (navigation, color scheme, links to resources, easier access to union officers, a mechanism for posing questions were some

of your suggestions). We heard you! And, frankly, we totally agree. So we'll re-design the website so that it becomes an easier-to-use resource and another means of bi-directional communication.

## AFT is using surveys to try to find out what you think

In fact, the communications survey is just the most recent example in a number of surveys that we had this year. When faculty representatives from the three colleges came to an AFT meeting to request the addition of flex days, as one way to deal with the increasing number of non-teaching tasks that faculty need to complete, we decided to ask all District faculty what they thought of this idea, and of the proposed dates for added flex days. When the District approached the AFT with the idea of offering an early retirement incentives package, as one way to deal with the budget crisis, we decided to poll faculty with the most years of service in the District. Since that poll didn't provide us with enough feedback, we re-designed it and cast a wider net, allowing everyone who was eligible for retirement to participate. We also conducted, in collaboration with the Academic Senates on the three campuses, a survey on large classes, in order to get ideas from faculty on how to proceed with an MOU on large classes that we have been renewing for several semesters.

A few faculty members have questioned the value of our surveys, alleging that they are not "scientific" or do not have statistical significance, since we don't ensure that a minimum number or a representative sample of our faculty participates. It is true that we do not validate survey participation to make sure that we have a representative sample. This is normally done when only a few are asked to partici-

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## AFT 1493 office moves to CSM Building 12, Room 191

As of Monday, April 13, the AFT Local 1493 Office has been relocated from the space it had occupied for the last 27 years in Building 15, Room 131 at the College of San Mateo.

The new AFT Office is now located in **Building 12, Room 191, at CSM**. The office telephone numbers (574-6491 and 574-6649) have re-

mained the same.

Faculty Office Building 15 is being thoroughly renovated at this time and all faculty whose offices were previously located in Building 15 are now located in Building 12, along with the new AFT Office.

The future and permanent new location of the AFT Office has yet to

be determined.

When all of the boxes have been unpacked and the space made more habitable, AFT plans on having an open house where all District faculty can enjoy an afternoon of refreshments and good conversation in the new AFT space. We'll keep you posted. □

### President's Letter

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pate in a poll and the results will be interpreted as what the entire population would have responded. But that is not what we do: we usually send our surveys/polls to all affected faculty, that is, to the entire population we want to hear from. I have a feeling that many of you will agree that this is a very democratic process: after all, elections in this country are decided by majority vote, regardless of whether those who voted constitute a "representative sample".

And if you agree that this is a good process, you may now be wondering why we do not just call it a "vote" and let the results dictate the decision. The reason that we don't do this is that we may not have considered all ramifications or implications of the question at hand. After all, there are only about 20 members in our Executive Committee, and we respect and welcome the collective wisdom of our hundreds of faculty members. So survey results are advisory, and although we will generally go with what the majority tells us, we would not want to be bound by this in case we discover compelling evidence that goes against the opinion of the majority, either in the open-ended sections of our surveys, from faculty members with particular insights on the issue, or from other sources.

### Two more surveys coming up

We have two surveys in the works: right after this issue of the Advocate comes out, you will receive one asking

you what your priorities for negotiations are, since the whole contract will be open for negotiations. And as soon as fall semester starts, we will be asking you what your experience was with the additional flex day we had this spring (March 11<sup>th</sup>); this information will be useful as we negotiate future academic calendars, starting with the 2010-2011 calendar.

### *In-person communication: AFT meetings, Chapter Chairs*

Our meeting agendas now have times allotted for each topic, so that you can see how extensive the discussion will be, and estimate at what time it will start. However, if you're planning to come to an AFT meeting only for a specific agenda item, it's best to let your Chapter Chair know in advance. Agendas can be re-arranged and we'd like to make sure you're present for the topic that interests you. Agendas now also indicate which topics are action items – this means that members of the Executive Committee will be voting, so if you have something to say that can inform our decision, come to the meeting or speak to your campus Co-Chairs before the meeting.

Lezlee Ware and Elizabeth Terzakis, campus Co-Chairs at Cañada College, have started two new ways of communicating with faculty on the campus: the AFT express newsletter and the AFT express meeting. Yes, **express**, because they recognize that faculty are busy and often don't have time to attend another meeting and read another e-mail. The AFT express meeting sets aside 30 minutes a month,

scheduled and announced in advance, when faculty can join them to ask questions, bring up concerns or just talk about union-related issues. There is no pre-set agenda. "But what if those 30 minutes are not scheduled at a convenient time for me?" you might ask. Cañada faculty can always call them, e-mail them or request a meeting at their convenience, just like faculty at CSM and Skyline can do with their campus Co-Chairs; the AFT express meeting is simply there for faculty who like the convenience of dropping in without having to take the initiative to schedule a meeting. The AFT express newsletter is sent monthly via e-mail and it highlights what your union is working on. The first two issues of this new form of communication were submitted to the CFT convention and won a communications award for "Best Rookie of the Year". The Chapter Co-Chairs at all three colleges will continue to work on improving communications with their respective faculty. Please let them know if you have any suggestions.

As you can see, we're working hard to improve our communication. We may not always agree, and, in my opinion, total agreement is not even the desired outcome much of the time. It's the exchange of ideas and points of view that enhances the process and makes the final result better. So we're constantly looking for new ways to share information with you and to solicit your input. But I would also like to remind you of what I said in my first column as AFT 1493 president: I see myself as a representative, but I cannot do my job if I don't know what's on your mind! □

## Fighting words at the 2009 CFT Convention

by Katharine Harer, AFT 1493 Co-Vice President and  
Monica Malamud, AFT 1493 President

This year's CFT Convention in Sacramento on March 20-22<sup>nd</sup> was an energizing and spirited three day event. AFT 1493 was represented by seven union activists, joining with the nearly 500 participants from around the state. Attending were President, Monica Malamud, Co-Vice President & Negotiator, Katharine Harer, Chief Negotiator, Joaquin Rivera, Grievance Officer & Skyline Co-Chapter Chair, Nina Floro, Grievance Officer & CSM EC Rep, Ron Brown, Canada Co-Chapter Chair, Elizabeth Terzakis and union Executive Secretary, Dan Kaplan. We attended subcommittees, workshops, council meetings and general sessions. The following is a description of some of the highlights of the Convention.

Monica Malamud, AFT 1493 President, attended the "Professional Issues/Higher Education" subcommittee on Friday afternoon where the following three resolutions affecting community colleges were discussed and forwarded to the Convention for floor debate and voting:

The CFT should:

- Support "one person, one vote" in the election of department chairs
- Pursue legislation to mandate rehire rights for temporary faculty
- Support legislation to promote part-time faculty to full-time positions

All three resolutions were subsequently approved by the Convention as a whole. The third resolution was quite controversial, both in committee and on the Convention floor, as it targets issues of fairness while, at the same time, bringing up questions about minimum qualifications versus program needs and potentially small hiring pools.

Over the course of the Convention, twenty-six workshops were offered on a variety of subjects. Our team tried to cover as many different sessions as we could. See Nina Floro's article (page 5) focusing on two workshops she attended with exciting pedagogical content and the potential for inspiring our students.



Erwin Chemerinsky (left) with AFT 1493's Dan Kaplan

### "The de-constitutionalization of education"

During Saturday's General Session we were treated to an address by Erwin Chemerinsky, Dean of the new UC Irvine School of Law. Chemerinsky is a former Duke and USC Law School professor and he has served as a trial attorney with the Department of Justice. His area of expertise is constitutional law, federal practice and civil rights and civil liberties.

Chemerinsky's talk was on what he terms "the de-constitutionalization of education" and, without a piece of paper or a note card, he made a convincing (and horrifying) argument examining the abandonment of public education by the country's highest legal body, the Supreme Court.

Chemerinsky stated that after the historic Brown vs Board of Education case in 1954, very little real de-segregation took place in this country until 1964 when the Civil Rights Act ruled that segregated schools could not receive any federal monies. From 1964-88 U.S. schools became more integrated; however, starting in 1988 and up until the present day, our schools have become increasingly divided by race and class.

Here are a few examples, cited by Chemerinsky, of how the Supreme Court has turned its back on public education:

In 1974, the Court ruled it *illegal* to bus kids from one public school district to another to achieve de-segregation. When the Seattle and Louisville schools set-up voluntary de-segregation plans, the Supreme Court ruled against them. Justice Roberts wrote that ruling.

In 1973, the Court ruled it *constitutional* for property taxes to fund local school districts, even though this practice creates serious disparities in educational opportunities. For example, per pupil spending for non-white students runs 20% below spending for white students. And what about vouchers? According to Chemerinsky, vouchers have one purpose: to remove children from public schools and move them into parochial schools. The Supreme Court has ruled voucher systems to be *constitutional*.



Joaquin Rivera speaks on CFT Convention floor

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## CFT Convention

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Chemerinsky: "Equal educational opportunity is a constitutional imperative and must be recognized by the Supreme Court. (Our children's) opportunities correlate with wealth and race."

Finally, this haunting idea: "(In education) we deal everyday with the legacy of slavery."

## Regressive taxes: poor pay more, rich get richer

Later that afternoon we heard from CFT President and community college teacher, Marty Hittelman, who gave a fiery State of the Union address. Hittelman started out by stating that the current California budget is "the worst budget ever." The legislature has said that it wants to balance cuts with revenue but that isn't the case with this budget – it's 2/3 cuts, 1/3 revenue and all the revenue in the budget comes from "regressive taxes". For those of you who aren't up on your budget lingo, that means taxing people MORE who earn LESS and taxing people LESS who earn MORE. We're talking about a 3% increase in taxes for those in higher income brackets and a 13% increase for those in lower brackets. In contrast, the CFT is advocating for a "progressive taxing structure".

Hittelman voiced concern that schools may lose some of our categorical programs. Lawmakers talk about needing "flexibility" in categorical funding. However, categoricals exist in order to protect certain essential programs, such as Adult Education. "We must not have amnesia," Hittelman declared, forgetting why we created this funding in the first place. We must fight for the funding to remain with these programs. The term "flexibility" is confusing to the public, he explained. It sounds like a good thing, but in reality, this kind of flexibility will not meet the needs of our students.

"This budget is a result of people who do not know how to negotiate," Hittelman said. Democratic lawmakers started with the idea that they had to "give blood to the other side" and kept offering more and more sacrifices to the Republicans.

"Negotiation was a euphemism for capitulation. The lawmakers have forgotten that their source of power is the labor movement. They kept all their hearings secret – there were no public hearings. The legislators made mistakes because they did not have the counsel of labor." Members didn't even know what was in the current budget until one hour before they voted on it! What passed, in Hittelman's words, were "temporary taxes and permanent corporate loopholes."

## AFT 1493'ers win Communications Awards

On a final note, our local won two Communications Awards this year. Elizabeth Terzakis and Lezlee Ware won the "Rookie of the Year" award which honors new publications. Just after being appointed AFT Co-Chairs at Canada, the duo created the "AFT Express", a one-page monthly

## Beyond the convention hall and into the classroom: Finding a "lesson" at the 2009 CFT Convention

*by Nina L. Floro, AFT 1493 Grievance Officer  
and Skyline College Co-Chapter Chair*

As a delegate *and* English teacher attending the 2009 CFT Convention, I was not only interested in participating in sessions that dealt with CFT-related issues, I was also drawn to sessions that offered me practical, pedagogical ideas that I could use as a teacher always hungry for new ideas. The PeaceJam and the Labor History sessions included speakers who shared information that encourage activism in students and inspired me with ideas that I could take into the classroom and/or my college.

### "PeaceJam" Session

I had never before heard of the PeaceJam Foundation, but I learned that it is an organization whose mission is to "create a new generation of young leaders committed to positive change in themselves, their communities and the world through the inspiration of Nobel Peace Laureates." PeaceJam's year-long educational programs are for students in kindergarten through college. The Nobel Peace Laureates themselves are involved in the development of the curriculum and the program itself. Laureates like the Dalai Lama and Desmond Tutu, for example, have worked

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*Katharine Harer reads her award-winning poem with lighting provided by CFT President Marty Hittelman*

newsletter that gives Canada faculty highlights of our union's news and views. Katharine Harer won the prestigious Jim Herndon award – the second time she has won this high honor – for a poem she wrote on the occasion of John Kirk's retirement, entitled "Who Are The Workers?" She was asked to read the poem in front of the packed convention hall and received a standing ovation. □

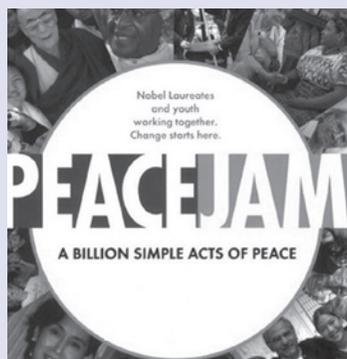
## Finding a lesson at the CFT Convention

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directly with the program and its students. In fact, this June 13-14, 2009, Rigoberta Menchú Tum will appear at a PeaceJam Youth Conference, "Ending Racism and Hate."

Workshop presenters Jess Ward (Director of Administration, PeaceJam) and Jeff Qualey (Newport-Mesa Federation of Teachers) explained that PeaceJam programs are comprised of 3 core components: education, inspiration, and action.

The "education" component ensures that the curriculum encourages critical thinking and research skills focused on increasing the students' knowledge about non-violent tactics in local and global conflicts. Since one goal of PeaceJam is to inspire youth to commit themselves to positive change, the program's "inspiration" component puts the students in touch with the 12 Nobel Peace Laureates' experiences. With exposure to the Nobel Peace Laureates' lives, students learn how these individuals have brought about positive change through non-violence, despite the violent and oppressive socio-political injustices they faced. Finally, the "action" component of the program provides the curriculum that allows students to work on projects within the range of PeaceJam's Global Call to Action projects. Students develop their own ideas for the projects and then engage in the research and implementation of the projects to address issues facing their own communities.



What I found so appealing about the PeaceJam Program and its applicability to my own classroom and college community is the opportunity for students to go beyond passive learning and into engaged learning and community activism. I have to admit that visions of learning communities danced in my head as I imagined partnerships between English and biological sciences, social sciences and mathematics, economics and history, and so many more. Given the appropriate resources, staff, and energy, a whole new college program with a community activist oriented focus could take shape, one that embraces a variety of disciplines and produces scholar-activists who are committed to positively changing the local community.

### "The Folks Who Brought You the Weekend: Making History Come Alive"

The presenters in this workshop raised concerns about how so little in our classrooms has been taught about labor laws and labor history and what educators in preschools through colleges can do to incorporate information about

labor history and workers' rights into their lessons. They shared practical lessons with the participants, allowing us to sample activities we might be able to modify and subsequently use with our own students.

Workshop presenter Linda Tubach (Collective Bargaining Education Project, LAUSD), for example, makes labor history relevant to students by developing collective bargaining projects in which students create mock unions and engage in collective bargaining activities. Management versus union scenarios are set up so that students think critically about both sides of the management-union situation. Elementary school teacher and presenter, Bill Morgan (San Francisco USD), promotes student discussions about labor and working conditions by using everyday items such as soccer balls made in Pakistan or toys made in China to get his young students to think about how everyday items are produced, where they come from, and under what conditions they are made by the workers. Such activities can be designed for students across all levels.

Presenter Diane Bush (Labor Occupational Health Program, UC Berkeley) demonstrated the value of using labor-related skits/plays in the classroom to educate students about working conditions. For instance, she engages students in skits about teens in the workplace and asks them to analyze the working conditions and safety issues they see. Students first act out the short skits, then discuss what they have observed, and later have problem-solving discussions about the teens' working conditions. Similarly, Bill Morgan uses a short puppet show, *Trouble in the Hen House*, to teach about the strength and value of organizing unions. His students act out a story about hens who organize a union to fight against unfair compensation and poor working conditions. Through this activity, the students learn about becoming activists, organizers, negotiators, and problem solvers.



The labor history session was an eye-opening session, to say the least. Just as I did in the PeaceJam session, I attended this session as an educator with visions of bringing new knowledge, excitement, and practical ideas back to my classroom. My wish now is to have the extra energy, time, and resources I need in order to take the grand visions that I have and incorporate labor history into my English composition, developmental writing, and literature classes. Then my goal to create awareness with regard to labor history and workers' rights and to inspire activism in my students will begin to take shape. □

## Board overrules arbitrator

continued from page 1

arbitration, the decision of the Arbitrator would have been final. Under our contract, "the arbitrator is empowered to include in any award such financial reimbursements or other remedies as judged to be proper and fix the effective date of any such award or finding." (§17.5.7) In this particular case, the Arbitrator awarded the faculty member reimbursement for overload pay for 2006-07, back pay salary for 2007-08, reinstatement to a probationary position for two years (Contract III/IV) and payment of all medical expenses which would not have been incurred but for the instructor's dismissal. The total value of that award exceeds \$250,000! Did the Board overrule the arbitrator because of the money?

### *The Board has always said they'd never overrule an arbitrator's decision*

The reason we do not have binding arbitration is ironic, for it results from the assurances of the District. AFT inherited some of the present contract from the CTA (California Teachers Association) who negotiated the first contract (in 1982 the CTA was voted out by the faculty and AFT was voted in.) The original CTA contract did not contain binding arbitration and it contained a no-strike clause. (One of the core principles of American labor law is the *quid pro quo* relationship between binding arbitration and a no-strike clause.) Over the years AFT has put binding arbitration of grievances on the negotiating table. Every time the Board's response has been the same, we didn't need it. They explained that the Board would never overrule the decision of an arbitrator, therefore, binding arbitration was unnecessary. And for 25 years this has been the case. But apparently that assurance doesn't hold when an Arbitrator finds serious violations, as in this case.

If the Board had read the transcript of the four-day hearing, they would have learned that two administrators interfered with the Tenure Review Procedure by telling the Tenure Review committee that it would be all right to base its decision on secret documents. That advice was in direct violation of the Tenure Review Policy. It is the responsibility of the members of the Tenure Review committee to not only tell the evaluatee their concerns, but also to give the evaluatee the necessary time to correct any deficiencies. That failure was the crux

of the Arbitrator's decision. He wrote:

*"...adequate notice is to be given to a probationary employee. They are to have the opportunity to correct deficiencies, and that there be an obligation on the part of the committee, as well as the District, of fairness and equity to help support a probationary employee in reaching tenure at the end of a four-year period."*

### *Administration tries to rush Board's decision*

Did the Board overrule the Arbitrator to cover-up for the mistakes of the administration? What other reason would the Board have for its action? The Board has, by doing what it said it would never do, proved that binding arbitration is essential to the protection of faculty rights.

Before the case went to arbitration, the union and the District attempted to settle the case. AFT rejected the District offer which was unfair and inadequate. After the Arbitrator ruled in favor of the union, the administration with the help of the County Counsel attempted to rush the Board into a decision without allowing the union to argue its case before the Board. When the union objected and provided evidence that the union had a right to appear before the Board, the District relented. One member of the County Counsel's office represented the Board during the arbitration and another member of the County Counsel's office advised the Board. When the union pointed out that this was a conflict of interest, the Board hired an outside attorney for advice. The outside attorney happened to be on the Board of the nearby Hillsborough Elementary School District which is also represented by the same County Counsel. It appears that the administration and the County Counsel did everything in their power to get the Board to reject the decision of the Arbitrator. And that is what the Board did. Here, the District substituted its own interpretation for that of a respected, neutral arbitrator. What integrity remains if the District can unilaterally determine the meaning of its agreement with us?

The union has decided to file an unfair labor practice charge against the District and, if necessary, to go to court to enforce the collective bargaining agreement and to challenge the District's decision to reverse the Arbitrator. □

## AFT 1493 CALENDAR

**Executive Committee/  
General Membership meeting**  
Wednesday, May 13, 2:15 p.m.  
Skyline College, Room 6205

**Community College Council meeting**  
Friday, May 15, 4 to 10 p.m.  
Four Points Hotel, Los Angeles

**Teach-In: Bail Out Working People,  
Not the Banks**  
Saturday, May 9, 1 to 5 p.m.  
Plumbers Union Hall,  
1621 Market Street (at Gough), San Francisco

**San Mateo Labor Council COPE Banquet**  
August 7, 2009

## Collaboration between Union and Senate: desirable and necessary

by Monica Malamud, AFT 1493 President

Last summer, June 12-14, 2008, I attended the Faculty Leadership Institute of the Academic Senate for California Community Colleges in Newport Beach. I got a lot of information on best practices for local Senates, how local Senates relate to the state Senate and the System Office, the budget process and its status at the time, Basic Skills, Minimum Qualifications, the Student Equity Plan, to name a few. Just a week later, June 22-27, 2008, I went to the Union Leadership Institute of the AFT, which was held at UCLA. Although this leadership institute was longer than the senate's, I focused mainly on one topic and took a week-long course, Managing the Union. Both leadership institutes gave me a wealth of information on the structure of the two faculty organizations, how information flows back and forth, and how to work efficiently to advance faculty interests and promote collaborations at the local level and beyond.

This Spring, March 20-22, I attended the CFT Convention in Sacramento. I also attended the Convention held last Spring in Oakland. There are always interesting workshops (legal updates, academic freedom, diversity, accreditation, the state of the budget and its implications for community colleges, to name some of the topics). A few weeks ago I also went to the Spring Plenary of the Academic Senate for California Community Colleges in Burlingame, just like I did last year in April. At the Senate Plenaries, the choice of topics was as varied as at the CFT Conventions: basic skills, accreditation, diversity, academic freedom, program review, enrollment management, hiring and tenure review processes, legal assistance, among others. Both at the CFT Conventions and the Senate Plenaries there were over twenty workshops to choose from. And in the general sessions there was discussion and voting on what seemed like a zillion resolutions.

### Leaders in both Senate and Union

I've served on Cañada's Academic Senate Governing Council (ASGC) since spring 2005, and I've been on the Executive Committee of the AFT since spring 2006. By now you must be wondering why the faculty union president is also a member of the ASGC, and why she attends state level Senate meetings just as often as union meetings. Is this normal? I don't know how common this is, but it is certainly not rare: I have met many faculty who participate in the senate and in the union, whether concurrently or at different times, both in our District and across the state. To give you just a couple of examples, the top two officers of the CFT have worked in the Academic Senate as well. Marty Hittelman, current CFT president, served on the Executive Committee of the state-wide Community Colleges Academic Senate. Dennis Smith, CFT Secretary-Treasurer, was president of the Los Rios District Academic Senate.

I don't think that it is necessary that one person be involved in both the Senate and the Union. However, for me personally, the fact that I am involved in both gives me a broader perspective on the issues facing faculty. I would also like to believe that it equips me to better serve faculty, by bringing together two organizations that represent faculty interests, when dealing with issues that require both Senate and Union participation.

### Different emphases: academic and contractual

Both the Senate and the Union represent faculty, but they have different foci. In a nutshell, while the Senate handles academic and professional matters (you may have heard this referred to as "the 10+1"<sup>1</sup>), the Union deals with wages and

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	Union	Senate
Class size resolution	Class size is a negotiable issue under (Educational Employment Relations Act 3543.2)	Determination of class size needs to consider the appropriate conditions for effective teaching and learning (Title 5. §53200. #5)
MOU on large classes	Large courses affect workload, a working condition, and have implications on compensation (EERA 3543.2, 3543.3)	Whether teaching a large class is a viable option needs to be based on pedagogical feasibility (Title 5. §53200. #5)
Compressed calendar	Calendar is a negotiable issue	Impact on instruction and students (success, retention, persistence, achievement of educational goals) (Title 5. §53200. #4, #5, #10)
Intellectual property	Policy must be negotiated, because intellectual property is an area where there is conflict of interest. (EERA)	A piece of work (that may be reproduced and sold) stems from an academic pursuit (Title 5. §53200. #11)

## Who cares about binding arbitration? You do.

continued from page 1

by law, the eight-hundred-page transcript of the arbitration hearings and the other case-related documents before overturning an arbitrator's decision. The District will insist that the Trustees carefully considered their decision and will claim faculty don't have all the information, so we cannot understand the nuances of the situation or the compelling reasons that forced the District to disregard the arbitrator's judgment. But, the fact remains: the arbitrator said, "You lose," and the District said, "Whatever. We don't care what you think anyway."

## District changes the game plan

So now you're thinking, "What the . . . ? Can they do that?" Unfortunately they can (and they did) because our contract does not have a binding arbitration clause.<sup>2</sup> Histor-

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## Collaboration between Union and Senate

continued from previous page

working conditions through negotiations and grievances. Sometimes, an issue can be discussed from both perspectives, academic and contractual. This is why there is some repetition and overlap among the workshop topics I listed earlier for the CFT Conventions and the Senate Plenaries.

The table on page 8 shows examples of issues that are being considered both by the Senate and the Union in our District, each one contributing its expertise and area of competence.

As you can see from the examples, in our District, the Senate and the Union are working together on many matters, and we expect to continue working collaboratively in the future. This should not be interpreted as either organization overstepping its boundaries or as a confounding of duties. As I said earlier, issues may need to be considered both from the academic and the contractual point of view. In these cases, this collaboration is not just desirable but necessary.

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<sup>1</sup> The "10+1" are the following academic and professional matters (Title 5, §53200):

1. Curriculum, including establishing prerequisites.
2. Degree and certificate requirements.
3. Grading policies.
4. Educational program development.
5. Standards or policies regarding student preparation and success.
6. College governance structures, as related to faculty roles.
7. Faculty roles and involvement in accreditation processes.
8. Policies for faculty professional development activities.
9. Processes for program review.
10. Processes for institutional planning and budget development.
11. Other academic and professional matters as mutually agreed upon.

ically, binding arbitration has been a standard feature of labor contracts since unions agreed to give up the right to strike to resolve grievances in exchange for employers' agreement to accept the decision of an outside arbitrator. Approximately 75% of California community college districts represented by AFT currently have contracts with binding arbitration. Though AFT 1493 negotiators have raised the issue time and again, our District has always, until now, brushed it aside, assuring AFT that they'd never overturn an arbitrator's ruling, cooing that they'd always play fair with faculty, provide shin guards, plenty of water breaks. Well, clearly the District's game plan has changed, and from the faculty side of the bench, it sure feels like the pitch is booby-trapped and someone's paid off the referee.

As disturbing as this individual case in point may be, in the end this is really about a drastic shift in the way disagreements between faculty and the District will be decided from here on out. Ours is a legal system based on precedent, and similarly, our District bases many of its decisions on past practice. Please take note: It is now officially past practice to overturn unfavorable arbitration rulings.

What this comes down to is that without a binding arbitration clause in our contract, the District can, essentially, do anything it wants. The Union can go through all the motions, spend hundreds of thousands of dollars in arbitration, and then the District can simply say, "Too bad, it must suck to be you," and *voilà*, we're up that existential creek again. Because without binding arbitration, when all is said and done, our contract is not enforceable. Anything in our contract on which faculty and the District do not see eye-to-eye and take to an arbitrator to resolve can be overturned by the Board. Anything: your salary, your workload, your sick leave, your health benefits, your retirement, your working conditions, your tenure, your sabbatical. Whatever contract violations occur in these or any other area, the District need not fear because the precedent has been set.

Aren't you glad you've been working so hard to save your colleges from the WASC posse? Don't you feel appreciated? I think I'll go assess some SLOs and then write up a Program Review or two.

So now what? Well, our current Contract ends in June of this year and our path is clear: Binding Arbitration must be part of our contract.

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<sup>1</sup> From slide number 8 in a finance and budget presentation given to District Shared Governance Council on April 17, 2009 by Jim Keller. You can see the rest of the slides here: [http://sharepoint.smccd.edu/SiteDirectory/edserv/dsgc/Meeting\\_Handouts/20090420/Budget/Update.pdf](http://sharepoint.smccd.edu/SiteDirectory/edserv/dsgc/Meeting_Handouts/20090420/Budget/Update.pdf)

<sup>2</sup> AFT 1493 inherited that lovely bit of language from its predecessor.

**AFT 1493 COMMUNICATIONS SURVEY**

**Faculty give thumbs up to The Advocate and E-News, but say AFT 1493's website needs work**

At the end of March AFT 1493 conducted an online survey asking all District faculty to tell us what you think about our communications with you--what you like and don't like about The Advocate, the AFT 1493 website, [aft1493.org](http://aft1493.org), and whether you would prefer to receive more of your news from the union via our E-News email messages.

In general, you gave us positive feedback about *The Advocate* and our *E-News* email messages and you told us that you thought our website needs improvements. We are listening and we plan to redesign our website this summer to be ready for the beginning of the Fall semester. There were also many specific comments and suggestions from the survey that we plan to act on in the near future. Below are some of the key results from the survey questions, with some selections from the close to 200 individual comments we received. The complete results are posted on our union's website, [aft1493.org](http://aft1493.org) (click on "Faculty Surveys.")

**Participants:**

full-time tenured faculty members	69	60%
full-time non-tenured faculty members	2	2
part-time faculty members	41	37%
retirees	2	2%
Total	114	100%

**How do you access and read *The Advocate*:**

in print, delivered to your faculty mailbox	98	88%
online, by linking from our email	48	43%
online, by going <a href="http://aft1493.org">aft1493.org</a> website	9	8%

**Please briefly describe what you think we could do to improve *The Advocate*.**

*Among the 60 responses to this question, some of the suggestions included the following:*

- Include information on issues brought up by faculty in individual programs/divisions at each college that other faculty may not be aware of.
- Creative ideas to improve teaching conditions.
- Tell more about your variety of grievance issues handled
- More investigative/critical reporting on full-time and part-time issues in education and working conditions
- Better explanation of the District/College budget shortfall when we are growing in student FTES and have made substantial cuts
- More information for part-time employees
- More information regarding other ventures in which our

faculty are involved so we could support our colleagues  
 - provide a reader response column to union issues for questions or opinions

**Do you find AFT 1493 E-News email messages useful?**

Yes, I usually read them when I receive them and I usually find them useful	74	67%
No, I look at them, but I don't usually find them useful	29	27%
No, I don't usually read them at all	7	6%
Total	108	100%

**Currently, *The Advocate* comes out three times a semester and AFT 1493 E-News email messages come out occasionally. Would you prefer to receive information from AFT 1493 through more frequent E-News email messages and less frequent Advocate issues?**

Yes, I'd prefer more frequent E-news messages and fewer Advocate issues	18	16%
No, I'd prefer to continue the same frequency of both	86	77%
No, I'd prefer less AFT news altogether	7	6%
Total	109	100%

**Have you accessed the [aft1493.org](http://aft1493.org) website?**

Yes, often	12	11%
Yes, several times	27	24%
Yes, once or twice	38	32%
No, never	37	33%
Total	112	100%

**If you have you accessed the [aft1493.org](http://aft1493.org) website, please briefly describe what you think we could do to improve the website.**

*Among the 36 responses to this question, some of the suggestions included the following:*

- Update, redesign, organize content in a more user-friendly and attractive manner.
- Have a place for input. How can AFT help the community? Union members have a responsibility to working people and each other.
- The color scheme of the home page is jarring and difficult to read
- 1) links to officers e-mails; 2) better navigability; 3) more

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**LETTERS TO THE ADVOCATE**

Ed. Note: *The following letter to the Editor, by retired professor Michael Chriss is a response to a letter by Trustee Dave Mandelkern in the last issue of The Advocate. Trustee Mandelkern's letter was responding to Professor Chriss' initial letter, published in the February 2009 Advocate.*

Dear AFT Editor:

I have read Trustee Dave Mandelkern's comments with regard to the letter I wrote about the disparity between faculty salaries and that of administrators. Trustee Mandelkern corrects me on the procedures which are followed in determining salaries, and I am happy to stand corrected by his comments.

But the point of my letter was that the administrator

**AFT 1493 Communications Survey**

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logical organization and layout 4) user friendliness; 5) easier on the eyes

- Make sure that it is up to date with the most recent information.

**Do you have any other comments or suggestions regarding what you like or what could be improved in AFT 1493's communications with faculty?**

*Among the 49 responses to this question, some of the suggestions included the following:*

- More opportunity for faculty feedback
- It would be nice to see what the other colleges nearby us earn for comparative purposes
- An explanation of what officers are responsible for or what they're about (something about them).
- It would be useful to have some information on what the status of conditions are and perspective from the union for upcoming challenges and issues.
- Perhaps an annual flyer/email to faculty with union contact info and a bullet list of things that one could contact the union about.
- It would be helpful for Academic Senate and AFT to look for places to work together more.
- Small seminars that offer educational opportunities regarding contract issues and other pertinent issues applicable for part time faculty.
- I would like some sort of introductory information about AFT. Sometimes I feel the articles are written for people who are already well versed in labor issues. □

pay scale is substantially higher than the faculty pay scale, and that this is both wrong and unjust. Such salary disparity implies that the work of administrators is more important and is more valued than the work of the faculty. I believe that we are all in the District together, all serving important but EQUAL functions, and we all EQUALLY contribute to the success of our colleges. Our pay scales should reflect this basic philosophy in a just and fair manner. Thus far, it has not and does not.

Sincerely,

Michael Chriss

Ed. Note: *The following letter from Cañada Professor Frank C.C. Young refers to an arbitration decision regarding a faculty member who was denied tenure by a tenure review committee. The AFT believed the contract was not followed and the faculty member's rights were violated, but after taking the case to arbitration, the Arbitrator's decision did not support the faculty member. Professor Young was a member of the tenure review committee in this case. The specifics of this case are confidential, but if any faculty has questions about it, the AFT may be able to provide some additional limited information.*

Dear Editor,

It should be a celebratory event for the power of our union when the tenure review committee at Cañada College, consisting of four faculty members (all tenured AFT members) and the Dean, have cooperatively and patiently gone through four years of a review assessment and evaluation process and reached the final arbitration in which we successfully denied the tenure of a faculty member in question at our campus. This very fact vindicated that within our union we still can adjudicate as to whom among us should or shouldn't be a tenured member in our District. It clearly shows us that if any faculty member does not live up to our professional standards, the tenure review committee at that campus and the District could jointly make the right decision for the good of all. Justice will ultimately prevail and transcend the unnecessary assumption of a dichotomy between "we" against "them".

More power to the union.  
Respectively,  
Frank C.C. Young  
Philosophy Department  
Cañada College

## **CFT opposes all May 19 special election propositions except 1B**

After thorough debate, four hundred delegates to the California Federation of Teachers (CFT) annual Convention voted to oppose all propositions on the May 19 Special Election ballot with the exception of Proposition 1B. Says CFT president Marty Hittelman, "We do not believe that these propositions are beneficial to the welfare of the people of California and, in particular, to the students of California."

### **No on 1A**

Proposition 1A would create a maze of rules controlling California budgeting that would severely restrict the state from enacting budgets that adequately address the realities that California will be facing in coming years, especially the ability to address the needs of California's aging population. Proposition 1A, if approved, would also trigger the ability of the Governor to unilaterally reduce individual program budgets without

approval of the legislature. Says Hittelman, "This 'power grab' by the governor is not in keeping with the concept of balanced power among legislative, administrative, and judicial branches of government embedded in the United States Constitution."

### **Yes on 1B**

CFT voted to support Proposition 1B because, although Proposition 1B does not fully address the requirements to fund education under Proposition 98, it is a less costly avenue than filing a lawsuit to secure the bulk of that revenue.

### **No on 1C**

CFT opposes Proposition 1C because it is an unrealistic scheme to secure \$5 billion in loans from investors in the lottery. CFT believes lottery proceeds will not be able to repay the loans, and that this scheme will drain funding from the state General Fund.

### **No on 1D and 1E**

Proposition 1D and 1E would raid important social programs to fund other important needs. CFT supports many of the programs that 1D and 1E would severely reduce and thus opposes 1D and 1E.

### **No on 1F**

CFT opposes Proposition 1F not because we support what the Legislature has done this year, but because it unfairly penalizes all Legislators equally. Explains Hittelman, "Prop 1F is a cynical attempt to convince the public that the inability of the Legislature to pass reasonable budgets is the fault of the majority of the legislators. It is not. The problem is with the two-thirds requirement to pass a budget, which creates a tyranny of the minority that subverts the democratic will of the Legislature and the voters of California." □

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## **New contract negotiations are about to start; Please give us your input on what changes are needed**

*by Joaquin Rivera, AFT 1493 Chief Negotiator*

The current contract between the AFT and the District expires on June 30, 2009. Your AFT negotiations team is preparing to negotiate with the District the contract for the next three years. As always, our negotiating proposals are determined by you. We need your input so we can make this contract work for you.

In order to make sure that we hear from all the members, we will be asking all faculty to complete an online negotiations survey, which will be posted on the AFT 1493 website ([aft1493.org](http://aft1493.org)) at the same time as this issue of *The Advocate* is published. Please take a few minutes to fill it out. Your participation in this survey is very important. We are relying on your input to guide us as

we develop our initial proposals. This survey will provide you the opportunity to communicate your needs and priorities for these negotiations. When you participate, you have a stake in the negotiations. When our priorities are shaped by all of us, we can negotiate the improvements required to have a better contract so we can better perform the critical work we do in our District.

The contract is made up of 21 articles and 11 appendices, labeled A through K. Since our whole contract will be open, every issue contained in these articles or appendices may be a proper subject for discussion during the next round of negotiations. This is a great opportunity to address other important issues in addition to salary and benefits. We encourage you to look at

our current contract when considering your input. Is the language clear? Does it work? Think about the issues most important to you at work. Are they appropriately addressed in the contract? How can they be improved? Think about changes since the last contract was negotiated that you may want to address in this round of negotiations. Is new technology impacting your work? Are workload issues such as program review, release time, etc. properly addressed in the contract? Are there any new issues not addressed in the contract that should be?

Please, participate in the upcoming survey to make sure that your priorities are reflected at the negotiating table. We can't win a good contract without your participation! □