

Chabot-Las Positas Faculty Association (CLPFA)

FACULTY FOCUS

Volume IX, Issue 4

May 2009

Negotiations Update

By Charlotte Lofft, FA President
and Dave Fouquet, Vice President (Chabot)

SALARY ADJUSTMENT FOR 2008-09: Article 21B of the Contract states that the District and FA shall agree to improvements and wages for Academic Year 2008-09 within 45 days from when the Governor signs the State Budget for Fiscal Year 2008-09, and that the District and FA acknowledge the need to make improvements that impact both Full-time and Part-time unit members. As you know, the State Budget was not signed until mid February, 2009; further, some revenue assumptions in that budget depend on the passage of certain propositions in the May 19 Special Election. (Regardless of what happens May 19, 2009-10 will be an especially tough budget year.) Bottom line: the stalemate in Sacramento has led to considerable delays in getting any agreement on our own faculty salaries for 2008-09.

As of this writing, the FA has submitted a specific proposal which the District has countered. The parties are spending a lot of time going through apportionment levels and cost assumptions. The FA is sensitive of the precarious situation with regard to the California budget; notwithstanding, our goal is a fair and equitable resolution for our unit members. Our current contract expires on June 30, 2009. Only after the salary for 2008-09 is resolved will we begin negotiations for the new contract. Stay tuned: more updates to follow.

Retirement

Congratulations to faculty retiring this year. Your dedication to the institution, fellow faculty and especially to your students was appreciated and will be remembered.

Chabot

Carol Golden- Dental Hygiene Instructor 1995 – 2009

Carol Baumann – Librarian – 1989-2000

Frederick Hodgson – French Instructor 1988-2009

Gayle Hunt – English/ESL Instructor 1988 -2009

Carol Murray –ESL Instructor 1988- 2009

Jeannette G. Paz – Health Instructor – 1990– 2009

John Jerry Anthony Parente – Religious Instructor – 2004-2009

Las Positas

Lindel Bruce – English Instructor – 1978 – 2009

Jackie Fitzgerald – Early Childhood Development – 1981-2009

Pat Pohl – Physical Education – Health 1971-2009

Sophie Rheinheimer – Physical Education/Health) 1972 - 2009

2009-2010 CLPFA Officers

President
Charlotte Lofft
510.723.6873

Vice President
Chabot: **Dave Fouquet**
510.723.6868
LPC: **Jane McCoy** 925.424.1237

Secretary
Tom DeWitt
510.723.6821

Treasurer
Kevin Ankoviak
925.424.1396

Part Time Representatives
Chabot: **Seth Harwood**
LPC: **Teresa Donat**
925.424.1000 ext 2360

Membership
Chabot: **Shari Jacobsen**
510.723.7696
LPC: **Debbie Fields** 925.424.1113

Grievance Officer
Chabot: **Charlotte Lofft**
510.723.6873
Chabot: **Dave Fouquet** 510.723.6868
LPC: **LaVaughn Hart** 925.424.1194



Website:
www.clpfa.com

Disabled Students - Faculty Rights and Responsibilities

By Charlotte Lofft, FA President (This was written by Ms. Patricia Lim, FA Attorney, and is being paraphrased from Ms. Lim's work.)

The FA has been involved in some recent matters related to the rights of students with disabilities and the related rights of faculty to instruct all students in the class and maintain their individual faculty academic freedom in the process. FA attorney, Ms. Patricia Lim, has provided the following guidance on these matters. Please contact me if you have any questions about this topic, and I will approach Ms. Lim for help with your questions. The material below was written by her.

Ms. Lim states:

"Legal Analysis"

The Chabot and Las Positas Community Colleges are covered by two separate but complementary federal disability discrimination laws. Because the colleges receive federal monies, they are subject to Section 504 of the Rehabilitation Act of 1973 (Section 504). In 1990, the Americans with Disabilities Act (ADA) was passed. Under Title II of the ADA, the Colleges are defined as "public entities" and therefore, also subject to the ADA. The Office of Civil Rights (OCR) in the Department of Education enforces both laws, and has prepared helpful guidelines to better understand the mandates and limitations of disabled students and faculty rights under both laws.

Both Section 504 and Title II prohibit discrimination on the basis of physical or mental disability. As part of that mandate, these laws also require that disabled individuals are provided (1) access to educational programs and facilities and (2) "academic adjustments" and/or auxiliary aides in higher education. An **academic adjustment** and/or an auxiliary aide is an accommodation that facilitates access to educational programs and facilities. Examples of "academic adjustments" include: priority registration, reduced course load, extended examination time, substituting one course for another (if not an essential course for the degree program), and extending the length

of time to complete assignments and other academic activities.

Examples of **auxiliary aides or services include:** taped texts, note takers, interpreters, readers, videotext displays, talking calculators, Braille calculators, printers or typewriters, closed caption decoders, and assistive listening devices.

In providing an academic adjustment, the Colleges are not required to lower, substantially modify or waive any essential requirements and/or standards of a course or program. See *Southeastern Community College v. Davis*, 442 U.S. 397, 401-402, 405 (1979)(holding Section 504 does not compel educational institutions to make substantial modifications to their programs to allow disabled persons to participate); *MacGregor v. Louisiana State Univ. Board of Supervisors*, 3 F.3d 850, 860 (5th Cir. 1993)(finding that a disabled law student's request to attend school part-time would force the school to lower its academic standard or compromise the reasonable policy of its academic program and that Section 504 does not require that much); and *Dougherty v. Southern College of Optometry*, 862 F.2d 570, 574-575 (6th Cir. 1988)(waiver of a necessary program requirement is a substantial rather than merely reasonable accommodation).

This is true for instructors as well. The instructor is ultimately responsible for ensuring the "integrity" of the course he or she is teaching. Therefore, the instructor may verify the student's disability as well as the pre-approved academic accommodations. The instructor also has the right, based on the course outline and syllabus, to determine how well the student is learning the required material and to grade accordingly. The Colleges and/or instructor can also require that the disabled student adhere to the College's code of conduct, including attendance policies.

Attendance policies are outlined in the Colleges' Student Handbook titled "Academic Regulations and Student Rights and Responsibilities." Attendance is clearly an essential course and/or program requirement; a student cannot learn and/or participate in the course if he or she is not present. The disabled student's ability to learn and keep up with the rest of the class is dependent not only on his or her attendance but also that of any aides in the class. Late arrivals disrupt the class, especially when spaced out over the class period.

Continued page 3

Continued Disabled Students Faculty Rights

Conclusion

Faculty are well within their rights to ask that the disabled student and any aides respect the classroom rules, course outline and syllabus as well as other class members by arriving to class on-time and with a minimal amount of disruption. To "waive" these rules is to lower the standards faculty set for their students and compromise their course performance. Ultimately, a student's attendance problems will impact his or her performance, but the law gives the instructor the right to determine how well the student is learning the required material and to grade him or her accordingly.

Recommendation

In researching this subject-matter, I discovered that many colleges have adopted **Faculty Rights Statements**. There are many versions available on the internet. I strongly recommend that the Union consider creating a faculty rights statement as well, ideally with the support of all concerned parties.

Finally, the Union should propose negotiations with the District over the impact and effects of the disability laws on faculty. It is problematic for each member of the faculty to have to imagine on their own the nature of their responsibility. Ideally, a negotiated agreement will (1) put the burden on the administration to assure compliance with State and Federal laws, while (2) assuring that faculty have adequate administrative support and assistance to assure that the course objectives can be met for all students. The process might include a provision for a joint union-management meeting, with the instructor, the Disabled Student Services coordinator, and the administration, to avoid problems and/or resolve issues before they escalate."

RETIREMENT UPDATE

By Charlotte Lofft, FA President

BE AWARE OF A POSSIBLE PETITION FOR A NEW PROPOSITION THAT WOULD AFFECT OUR RETIREMENT CONTRACT

The information below refers to an effort by a Paul McCauley of Southern California to get a new proposition on the ballot that might seriously affect our final compensation upon retirement. I have forwarded this to the FA attorney, Mr. Bob Bezemek, and he feels that it would not withstand a court challenge. **Nevertheless, please be advised that the FA recommends that you NOT sign any petition to put this measure on the ballot.**

Renegotiation of Public Employee Pension Contracts. "Initiative Constitutional Amendment. Summary Date: 01/21/09 Circulation Deadline: 06/22/09 Signatures Required: 694,354

Proponent: Paul McCauley
Eliminates certain state constitutional restrictions on renegotiating public employee pension contracts. Allows vested pension benefits to be reduced for existing and prospective public-sector retirees. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Possible reduction in pension costs for state and local governments, depending on future actions by state and local governments and courts. Any such reduction likely would be largely or entirely offset by negotiated increases in other costs, such as employee salaries and wages. (08-0018, Amdt. #1S.)
http://www.sos.ca.gov/elections/elections_j.htm#1350

Las Positas Commencement

**Friday, May 29, 2009
6:00 PM**



Chabot Commencement

**Saturday, May 30
10:00 AM**

Grading By Attendance

By Charlotte Lofft

All of you should have received a letter from me, FA attorney, the subject of our do have the right to contrary to what some of you might have heard lately. Please let me know if you didn't get a copy of the letter, and I will forward one to you.



have received a coauthored by our which deals with grading rights. We grade by attendance,

STUDENT LEARNING OUTCOMES AND EVALUATION OF FACULTY

**By: Charlotte Lofft, FA President,
in collaboration with Mr. Robert Bezemek, FA
Attorney**

This article appeared in the last newsletter and is being repeated since some people have asked about it.

Please note the second from the last paragraph stating that Program Review cannot be a way to force evaluation of faculty based on involvement with SLOs.

The FA has learned that there is discussion and confusion about including faculty's success at incorporating SLOs into their courses as a variable to be evaluated in performance evaluation. The Association is writing to caution that adding a variable, whether it is SLO-related or not, must be negotiated with the CLPFA, and cannot be done by any agreement between the District and faculty themselves, or unilaterally by the District.

The Union's role as exclusive bargaining agent of the faculty provides that working conditions, such as those related to performance evaluation, must be a subject for collective bargaining, and hence negotiated with the CLPFA. Only the Union as an entity can agree to the contents of an evaluation form, including the criteria. The California Public Employment Relations Board, which enforces collective bargaining rights, has held that evaluation criteria are negotiable. *Holtville Unified School District* (1982) PERB Decision No. 250 and *Walnut Valley Unified School District* (1983) PERB Decision No. 289. See also *State of California (Department of Motor Vehicles)* (1998) PERB Decision No. 1291.

Thus, any action by any college district to deal directly with faculty on including SLO-related work in an evaluation, would amount to an unfair labor practice. Districts are not permitted to bypass the Union representing the faculty, and deal directly with faculty over such negotiable matters.

I want to add that when AB1725 was enacted, the Legislature confirmed that faculty evaluation procedures include negotiable criteria.

In addition, our current Collective Bargaining Agreement does not allow for the evaluation of faculty

in regard to incorporating SLOs into their classes or syllabi. Articles 14 and 15, which govern evaluation, do not indicate that the faculty's effectiveness in creating or use SLOs is subject to evaluation. We CLPFA and the District agreed in Articles 14.C.5.c. and 15.C.5.c. that participation in program review is part of faculty duties. However, the negotiated Agreement does not extend that limited authorization into assessing faculty's creation or use of SLOs. Such a change would require agreement of the Union.

It has nevertheless been suggested that program review includes SLOs. This is not so - program review and SLOs are distinctly different things. The fact is that the evaluation of SLOs was considered, and rejected, in negotiations between the District and the CLPFA.

The Association also notes that recent changes in Federal law indicate that the Federal Department of Education does not require SLOs to be a component of evaluation. Several labor organizations have recently expressed the view that WASC/ACCJC lack any authority to compel any college adopt SLOs as an evaluation component, since the criteria used for evaluation are decreed by the Legislature as a subject for collective bargaining negotiations.

I hope this clarification of CLPFA's views is of assistance.

WASC Requirements to Have SLOs in Syllabus and Course Outline

By Charlotte Lofft, FA President

We have been hearing a lot about WASC requiring SLOs in our Syllabi and Course Outlines. I contacted the FA attorney, Mr. Robert Bezemek on this issue. Mr. Bezemek is of the opinion that WASC cannot require this as a condition of accreditation. He and other labor lawyers in the state are looking into this and may well challenge WASC on it. I will provide more information as this issue unfolds.

Rotational Seniority for Overload Assignments

By Charlotte Lofft, FA President

I have been approached by a few faculty who were unaware of the system for Contract or Regular faculty to request overload assignments. (NOTE: Contract faculty are tenure track who don't have tenure yet. Regular faculty are tenured faculty.)

The language below is from the Contract, Article 10D.10d. Please review it and let me know if you have questions. In essence, rotational seniority has to be requested by the unit member at a date certain, which is by the end of the first week of December in any Fall Semester. Once the Contract or Regular faculty person requests it, then the process goes according to the terms of the Contract, quoted below.

I hope this helps clarify the issues. Again, any questions should be directed to me.

"d. With respect to Summer Session, overload, and Inter-session assignments, if rotational seniority is requested by a Contract or Regular unit member, then each eligible unit member shall have the right to choose an assignment, in order of seniority (initially determined by date of hire) until either all the assignments are taken, or all unit members are assigned the desired amount of overload.

- (1) Once the most junior person receives an assignment in any round, the process shall wrap around to the most senior person who has the first right of choice in the next round.
- (2) Each semester the process shall commence where it ended the previous semester (i.e., it does not automatically begin a new round).
- (3) If the unit member fails to request the assignment on time (as indicated in (b) above), then the normal assignment preference may be forfeited for that semester, Summer Session or Inter-session.

e. Temporary unit members shall be eligible for overload, Summer Session, or Inter-session assignments according to [Article 18B.1.e](#) after Part-time (Adjunct) unit members receive assignments. The above processes of rotational seniority and requesting assignments shall be followed if invoked."

An Update About Your 403b Rights

By Charlotte Lofft, FA President

This is a repeat of the recent email announcement regarding new options in your 403b investment opportunities. The District will use Envoy *to manage our 403b accounts. Until now, we have had limited access to different mutual fund companies, and we had no access to Vanguard Mutual Funds.

The good news is the Envoy now has a relationship with Vanguard, and we can set up a Vanguard 403b account with Envoy. We can also set up 403b accounts with Fidelity, Oppenheimer, T. Rowe Price, and TIAA CREF. There may be other mutual fund companies that I have not mentioned.

***No 'official contract' has been signed it is expected to be available after June 1, 2009.**

Contact Envoy directly for details.
Envoy President: Mr. Robert Homaday
1-800-248-8858
www.EnvoyPlanServices.com

Cameras on Campus

By Charlotte Lofft, FA President

There has been some concern about the use of cameras on campus. The stated reason for installing cameras is for security. The FA has no problem with this reason, but we have put the District on notice that cameras do not belong in faculty work areas, such as the library, classroom or offices. Specifically, if the District sees a need to install cameras in or near faculty workplaces, such as libraries, classrooms, or offices, then they have to approach the FA and attempt to negotiate impact effects.



Please advise your FA reps if you are aware of any cameras being placed in areas where you work; we want to know immediately. Thank you.

CHABOT-LAS POSITAS FACULTY ASSOCIATION MEMBERSHIP APPLICATION FORM

TO: All Faculty

Thank you for your support of the Faculty Association.

Our Dues Structure is as follows:

Contract, Regular, and Temporary Faculty: \$39. per month for each of ten months (\$390 annually).
\$32.50 per month for each of twelve months (\$390 annually).

Part Time Faculty: \$10. per month for each pay period*

**Non-continuous employment may require filling out a new form upon reemployment.*

Please return this form, including the Payroll Deduction Authorization below, by **Campus Mail** to:

Shari Jacobsen, Chabot College Membership

Shari will send a copy to our Treasurer, Kevin Ankoviak of LPC and another copy to the District Office Payroll Department.

Thank you for your support of the Faculty Association.

For our records:

Name: _____
Division/Area _____
Phone Numbers are optional, but appreciated:
Phone (Office): _____ Home _____
Home Address (Optional): _____

Payroll Deduction Authorization Form:

To Chabot-Las Positas Community College District:

You are hereby authorized to deduct from my regular salary warrants the amount for organizational dues payable to Chabot-Las Positas Faculty Association, and transmit these deductions to the Chabot-Las Positas Faculty Association without further liability to the District. This authorization shall remain in force until modified or revoked in writing by me, or by the Chabot-Las Positas Faculty Association.

Social Security or W Number _____ Date _____

Name _____

Signature _____

Status: Check One College: Check One

Contract/Regular/Temporary _____ Chabot _____

Part-Time _____ Las Positas _____

Just return this page in an envelope to **Shari Jacobsen, Chabot College, Membership.**

Thank you very much,

The Chabot-Las Positas Faculty Association