

**FACTFINDING DISCUSSION AND RECOMMENDATIONS** **FF-681**

In the matter of the impasse  
between

**El Camino Community  
College District**

And

**El Camino Federation  
of Teachers. Local 1388, AFT,  
AFL-CIO**

Re: Case No. LA-IM-3649-E

**Impartial Chair**

Paul Crost  
5318 E. 2nd Street, Suite 381  
Long Beach, CA 90803

**District Panel Member**

John D. Gray  
School Services of California  
1121 L Street, Suite 1060  
Sacramento, CA 95814

**Federation Panel Member**

Marty Hittelman  
2475 Moreno Drive  
Los Angeles, CA 90039

**Hearing Held**

October 5, 2011

## BACKGROUND

The parties met in formal negotiations between February 18, 2011 and June 8, 2011, for a total of 13 negotiation sessions. The parties spent approximately 45 hours in negotiations at the bargaining table, not including preparation time outside of the actual negotiation sessions.

As a result of these negotiations, tentative agreements were mutually agreed to between the parties.

At the June 8, 2011 negotiation session the final agreements were signed off. After further discussion, both parties agreed that no further proposals would be made and that both parties were at impasse in their negotiations. The parties agreed to notify PERB of the impasse in negotiations and requesting the services of a mediator from the State Mediation and Conciliation Service.

On June 13, 2011, the Public Employment Relations Board ("PERB") determined the existence of an impasse, and advised that the State Mediation and Conciliation Service will assign a mediator.

On July 26, 2011, a mediation session was held before State Mediator Tony Butka from the State Mediation and Conciliation Service. After separately meeting with the two bargaining teams, Mr. Butka advised that he was going to certify the parties to factfinding.

On August 4, 2011, Mr. Butka, in a letter to PERB, certified the parties to factfinding and October 5, 2011 was mutually selected as the hearing date.

On August 24, 2011, PERB, in correspondence to all parties, confirmed Mr. Paul Crost to chair the Factfinding Panel.

On October 5, 2011, the three-member Factfinding Panel met and received the presentations from both parties and explored the possibility of reaching tentative agreement, but the parties were unable to do so. The factfinding hearing was submitted to the Factfinding Panel on October 5, 2011 at approximately 10:30 a.m. for their findings and recommendations. Each party submitted written arguments to the Chair in support of their positions by email on October 28, 2011.

## **RESPONSIBILITIES OF THE FACTFINDING PANEL**

In this matter, the Factfinding Panel is guided by California Government Code section 3548.2 of the EERA, which states in pertinent part:

“In arriving at their findings and recommendation, the Fact Finders shall consider, weigh, and be guided by all the following criteria:

1. State and federal laws that are applicable to the employer.
2. Stipulations of the parties.
3. The interests and welfare of the public and the financial ability of the public school employer.
4. Comparison of the wages, hours, and conditions of employment of the employers involved in the fact finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.
5. The consumer price index for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance pensions, medical and hospitalization benefits; the continuity and stability of employment and all other benefits received.
7. Any other facts, not confined to those specified in paragraphs (1) to (6), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.”

The Factfinding Panel should consider, weigh, and be guided by all of the following statutory criteria:

1. State and Federal laws that are applicable to the Employer.
2. Stipulations of the parties.
3. The interests and welfare of the public and the financial ability of the public schools.
4. Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of

employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.

5. The Consumer Price Index for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
7. Such other facts not confined to those specified in paragraphs 1 through 6, inclusive, which are normally and traditionally taken into consideration in making such findings and recommendations.

### **Other Pertinent State Laws**

#### **Government Code 3548.3.**

(a) If the dispute is not settled within 30 days after the appointment of the panel, or, upon agreement by both parties, within a longer period, the panel shall make findings of fact and recommend terms of settlement, which recommendations shall be advisory only. Any findings of fact and recommended terms of settlement shall be submitted in writing to the parties privately before they are made public. The public school employer shall make such findings and recommendations public within 10 days after their receipt.

(b) The costs for the services of the panel chairperson selected by the board, including per diem fees, if any, and actual and necessary travel and subsistence expenses shall be borne by the board.

(c) The costs for the services of the panel chairperson agreed upon by the parties shall be equally divided between the parties, and shall include per diem fees and actual and necessary travel and subsistence expenses. The per diem fees shall not exceed the per diem fees stated on the chairperson's resume on file with the board. The chairperson's bill showing the amount payable by the parties shall accompany his final report to the parties and the board. The chairperson may submit interim bills to the parties in the course of the proceedings, and copies of such interim bills shall also be sent to the board. The parties shall make payment directly to the chairperson.

(d) Any other mutually incurred costs shall be borne equally by the public school employer and the exclusive representative. Any separately incurred costs for the panel member selected by each party shall be borne by such party.

## **ADDITIONAL PERTINENT STATE REGULATIONS**

### **Title 5 California Administrative Code 58311**

#### **TITLE 5. EDUCATION DIVISION 6. CALIFORNIA COMMUNITY COLLEGES CHAPTER 9. FISCAL SUPPORT SUBCHAPTER 4. BUDGETS AND REPORTS**

### **§ 58311. Principles for Sound Fiscal Management**

In any organization certain principles, when present and followed, promote an environment for growth, productivity, self-actualization, and progress. The following principles shall serve as the foundation for sound fiscal management in community college districts:

1. Each district shall be responsible for the ongoing fiscal stability of the district through the responsible stewardship of available resources.

2. Each district will adequately safeguard and manage district assets to ensure the ongoing effective operations of the district. Management will maintain adequate cash reserves, implement and maintain effective internal controls, determine sources of revenues prior to making short-term and long-term commitments, and establish a plan for the repair and replacement of equipment and facilities.

...

6. Appropriate district administrators will keep the governing board current on the fiscal condition of the district as an integral part of the policy- and decision-making processes.

...

10. District management will have a process to evaluate significant changes in the fiscal environment and make necessary, timely, financial and educational adjustments.

11. District financial planning will include both short-term and long-term goals and objectives, and broad-based input, and will be coordinated with district educational planning.

...

To the extent that the foregoing principles repeat or paraphrase mandates already in existence, these underlying mandates shall continue to be legally binding. Otherwise, these principles, by themselves, shall be applied to the extent that existing state and district funding is available.

**STIPULATIONS OF THE EL CAMINO COMMUNITY COLLEGE DISTRICT  
AND THE EL CAMINO FEDERATION OF TEACHERS**

The following stipulations were agreed to as of the hearing on October 5, 2011.

1. The District is a public school employer within the meaning of Section 3540.1(j) of the Educational Employment Relations Act.
2. The El Camino College Federation of Teachers, Local 1388, AFT, AFL-CIO (“Federation”) is a recognized employee organization within the meaning of Section 3540.1(l) of the Educational Employment Relations Act and has been duly recognized as the representative of the full and part-time faculty unit of the El Camino Community College District.
3. The parties to this factfinding have complied with the public notice provisions of Government Code section 3547 (EERA, “Sun shining” requirement).
4. The parties have complied with the Educational Employment Relations Act with regard to the selection of the Factfinding Panel and are timely and properly before the Panel.
5. The parties have complied with all the requirements for selection of the Factfinding Panel and have met or waived the statutory time limitations applicable to this proceeding.
6. On June 13, 2011, an impasse in bargaining was declared by the Public Employment Relations Board. The mediation process proceeded as scheduled, and the parties continued to meet with the mediator on Tuesday, July 26, 2011, in an effort to reach agreement. The mediator certified the matter to factfinding on August 4, 2011, and the factfinding hearing was mutually agreed to be heard on Wednesday, October 5, 2011.
7. The Factfinding Chairperson is Mr. Paul Crost. The Federation’s representative is Mr. Marty Hittelman and the District’s representative is Mr. John Gray.
8. The District and the Federation have agreed to maintain the current rate of pay, Article 10, Section 2(a) for January 1, 2011 through December 31, 2011 for 2012, and step and column increases shall also continue to be paid for 2012.

## **ADDITIONAL STIPULATIONS**

Following the hearing, representatives of the District and the Federation met and reached an agreement on October 21, 2011 regarding certain outstanding issues. As a result of this agreement, the following eight items ARE NO LONGER ISSUES TO BE RESOLVED IN FACTFINDING.

1. Article 3 – Rights of the Federation
2. Article 6, Section 1(a) regarding part-timers in consideration for part-time jury duty
3. Article 7, Section 1 regarding membership on the Calendar Committee
4. Article 8, Section 3 regarding online office hours
5. Article 10, Section 7(f) regarding part-timers in consideration for part-time jury duty
6. Article 11, Section 9, regarding Jury Duty for Part-Timers
7. Article 11, Section 11 regarding providing certain additional information
8. Article 24, Section 3 regarding instructional technology allowance

## **THE SEVEN COMMUNITY COLLEGE DISTRICTS COMPARABLE TO THE EL CAMINO COMMUNITY COLLEGE DISTRICT**

For comparison purposes, the District suggests the seven other community college districts in Los Angeles County that operate single colleges of comparable size i.e., Cerritos Community College District, Glendale Community College District, Long Beach Community College District, Mt. San Antonio Community College District, Pasadena Community College District, Rio Hondo Community College District and Santa Monica Community College District. Four of these districts, along with El Camino, contract with CalPERS for medical premiums, i.e., Cerritos, Mt. San Antonio, Rio Hondo, and Santa Monica. Excluded from comparison are the very large multi-college Los Angeles Community College District and the small Citrus Community College District.

The Federation presented different theories of comparability. Sometimes all community college districts are listed, such as with respect to financial matters (Tab 12 and

Tab entitled "Ability to Pay"). Other times a few selected districts are listed with respect to the counselor work year. (Tab 6, i.e., Antelope Valley College (Palmdale-Lancaster), Butte-Glen Community College (Oroville), Copper Mountain Community College (Joshua Tree-29 Palms), Grossmont-Cuyamaca Community College District (El Cajon).) With respect to the subject of salaries, the Federation lists some but not all of the single-college community college districts of comparable size, i.e., Cerritos, Glendale, Mt. Sac, Pasadena and Santa Monica, plus the Los Angeles Community College District (Tab 13), but not Long Beach Community College District or Rio Hondo Community College District.

In addition, the Federation proposes to include the Los Angeles Community College District. The Federation's salary comparison data, at Tab 13, reflects that the salary at the Los Angeles Community College District is lower than the El Camino Community College District faculty salary at all 5 salary comparison levels. In addition, El Camino provided a Chancellor's information sheet reflecting the part-time hourly salary rates. (Tab 3, pp. 21-22.) El Camino highlighted the 7 comparison community college district. On page 21, the current average hourly rate for part-timers at the Los Angeles Community College District is also lower, i.e., \$80.90 compared to current average hourly rate for part-timers at El Camino at \$85.65.

LACCD is also not comparable to El Camino because of its massive size: according to the LACCD website, their district is the largest community college district in the United States, operating 9 colleges and covering 882 square miles.

For purposes of factfinding and Government Code section 3548.2, it is reasonable to compare El Camino with the 7 comparable single-college community college districts in Los Angeles County, notwithstanding lower salaries paid by the Los Angeles Community College District, i.e., Cerritos Community College District, Glendale Community College District, Long Beach Community College District, Mt. San Antonio Community College District, Pasadena Community College District, Rio Hondo Community College District and Santa Monica Community College District.

With respect to the issue of health insurance and because of the varieties of different insurance policies that are available on the marketplace, it is reasonable to compare El Camino with the 4 other single-campus community colleges that provide health insurance benefits through CalPERS.

## **THE ISSUE OF DISTRICT FINANCES AND RESERVES**

If El Camino were making an "ability to pay" argument, then the District would have the burden of proving that its financial condition was relevant to its wage and benefit

proposals. However, the District is not making an “ability to pay” argument. Instead, the District is seeking to restructure the contractual language with respect to several items which will be discussed under the particular issue.

The District points out that there are other comparable community college districts that maintain a significant reserve. With respect to the 2009-2010 general fund ending balance, El Camino, in terms of percentage comparison to general fund expenditures, does have the 15<sup>th</sup> highest percentage of net ending balance to expenditure. Other community college districts in Los Angeles have reserves of higher or similar amounts, i.e., Mt. San Antonio at \$31 million, Santa Monica at \$24 million, and Pasadena at \$23 million.

The District asserts that reserves are a safety net that allows a district to meet its obligations, and are especially important in an environment of uncontrollable cost increases, volatile revenue sources, and other surprises that can and do happen. A district typically has some control over costs, but very little control over revenues, especially as the state tightens its belt and reduces the resources going to local districts. Reserves allow a district to have cash on hand to meet its obligations even when hit with unexpected financial turbulence.

In addition, the District argues that most financial problems are really multiyear problems and not one time. Reserves are one-time funds. Once used, they are not replaced except by purposeful action of the district. Therefore, it argues that reserves can be used to carry a district through a year of financial problems until the district can make enough cuts in its budget to address the ongoing financial issues, and that it would take a significant amount of reserves to solve an ongoing budget problem, even temporarily, if no other actions are taken to right-size the budget.

During this time of State funding cuts, the District asserts that its reserves should be even higher than the year before, because of the one-time infusion of federal funds, the cuts in expenditures that have been made, and the actions taken to conserve cash when the State is holding onto the District’s revenues through on-going deferrals of revenue. (District Tab F, Fact 3, pp. 71-72; Fact 7, pp. 91-94.)

The Federation strongly argues that not only is there no claim of inability to pay, the substantial and growing financial reserves establish strong support for the small salary improvements that is seeking. At a minimum, the Federation asserts that none of the drastic takeaways [e.g., counselor school year, health benefits, wage reductions for hourly employees] can be justified under the criteria that the Panel must follow.

## CONSIDERATIONS OF CPI, STATE FUNDED COLA AND SALARY INCREASES

The District points out that the percentage salary increases in the past have exceeded the state Consumer Price Index (CPI) percentage for the same period, and have also exceeded the State COLA funding for community colleges. (District Tab F, Fact 10, p. 128.)

The following table compares the District's negotiated Federation salary settlements compared to the State CPI and the State COLA funding for community colleges.

Year	State CPI%	State COLA Funding Increase to Base Revenue	Salary % Increase
2005-06	3.90%	4.23%	7.66%
2006-07	3.30%	5.92%	5.00%
2007-08	3.40%	4.53%	3.00%
2008-09	-0.30%	0.00%	0.00%
2009-10	0.80%	0.00%	0.00%
2010-11	<u>1.80%</u>	<u>0.00%</u>	<u>0.00%</u>
<b>Totals</b>	<b>12.90%</b>	<b>14.68%</b>	<b>15.66%</b>
Source: California Department of Industrial Relations, Bureau of Labor Statistics; Chancellor's Office, California Community Colleges, El Camino Salary Settlements			

## ISSUES

### 1. **Rights of the District – Federation Proposal, Article 2**

#### **Discussion and Finding**

The Federation proposal is to change Article 2 to more broadly define the power of the Board of Trustees and change the title to Rights of the Trustees. The proposed change in title purports to make clear that the rights described are those of the Board of Trustees rather than the "District." It asserts that the current Agreement does not fully capture the intent of AB 1725. The proposal was based upon a similar clause at Santa Monica. (Federation, Tab Article 2.) The current management rights clause does not restrict the

Federation's right to bargain over the subjects of wages, hours and working conditions that are reserved for bargaining under the Education Employment Relations Act. The status quo language in the C.B.A. is common place in management rights clauses.

### **Recommendation**

**The Chair finds that the proposed changes are merely a short form version of the current language, and that the amendments would have no substantive effect on the rights of management. Therefore, there is no need to replace the current management rights clause with the clause proposed by the Federation.**

### **2. Rights of the Federation – Federation Proposal, Article 3**

#### **Discussion and Finding**

**This issue was mutually agreed to be removed from factfinding.**

### **3. Calendar Committee – District and Federation Proposals, Article 7**

#### **Discussion and Findings**

#### **1. Federation proposal regarding composition of the calendar committee.**

**This issue was mutually agreed to be removed from factfinding.**

#### **2. District proposal regarding winter intersession and summer session.**

**(Article 7, Section 2.) The District proposes:**

#### **Section 2. Committee Recommendations**

The calendar committee shall make recommendations for a school year in compliance with the Education Code. The calendar shall include an academic year consisting of fall and spring semesters, summer and winter sessions, and other academic sessions as may be developed in the future. **It is understood that the District may not offer winter or summer sessions commencing winter session 2012.** [Since this Proposal was made, District has scheduled a limited 2012 winter intersession.]

It is understood that the District may add an additional unscheduled day or days to the calendar in the event that any day or days are "lost" due to

uncontrollable circumstances. The recommended calendar shall include the stipulated holidays as provided by Article 15.

The District seeks the ability to not offer or to modify the length of winter and/or summer sessions. The District modified its proposal since it has already scheduled a limited 2012 winter intersession.

El Camino states that it needs this modification because these special sessions are more expensive than staffing the fall and spring semesters. Other community colleges have not offered or greatly reduced these special sessions. El Camino seeks the flexibility as a matter of cost savings and comparability so that it is not necessary to offer these sessions. The evidence presented by El Camino establishes that the 7 other comparable community colleges either do not offer these sessions or have reduced their offerings and that their contractual language does not mandate offering such special sessions. (District Tab E.1, p. 13.)

The Federation proposed that in order to make clear the intent of the addition, the panel recommends that language be added that states that the Board of Trustees may determine not to offer any classes during winter or summer sessions.

### **Recommendation**

**The Chair recommends the following amendment to Article 7, Section 2 in the collective bargaining agreement between the Federation and the District.**

#### **Article 7, Section 2. Committee Recommendations**

The calendar committee shall make recommendations for a school year in compliance with the Education Code. The calendar shall include an academic year consisting of fall and spring semesters, summer and winter sessions, and other academic sessions as may be developed in the future. **It is understood that the District has the option to not offer or modify the length of winter or summer sessions commencing with summer session 2012. The Board of Trustees may determine not to offer any classes during winter or summer sessions.**

It is understood that the District may add an additional unscheduled day or days to the calendar in the event that any day or days are "lost" due to uncontrollable circumstances. The recommended calendar shall include the stipulated holidays as provided by Article 15.

4. **Hours and Working Conditions – District and Federation Proposals – Article 8**  
**Discussion and Findings**

1. **District proposal regarding calendar work year for Counselors.**

The District proposes as follows:

Section 15 Counselors

(a) Counselors ~~may~~ **will** be employed ~~either~~ on an academic year basis of one hundred seventy-five (175) days of service, ~~or a fiscal year basis. Fiscal Year Counselors are covered by the provisions of Article 14, Vacations, and Article 15, Holidays.~~

~~(b) Counselors employed on a fiscal year basis for the 1995-1996 year have the option of remaining on a fiscal year basis or converting to an academic year basis as of July 1, 1996, or any subsequent July 1. Such election shall be effective as of the appropriate July 1 by written notification to the Vice President – Student and Community Advancement, prior to May 15 of such year. **Such election shall be effective as of the appropriate July 1 by written notification to the Vice President – Student and Community Advancement, prior to May 15 of such year.** Such election is irrevocable.~~

~~(c) Each fiscal year Counselor will formulate and maintain a schedule, subject to the approval of the appropriate Dean of Counseling and Matriculation, consisting of a basic forty (40) hour work week of professional counseling services. **At the start of each term, a copy of each counselor's schedule will be forwarded to payroll.** The schedule may be changed or adjusted, subject to the approval of the Dean. The schedule shall include twenty six (26) hours of student contact a week consisting of one~~

~~on one counseling, group counseling/workshops, and classroom presentations, with a possible reduction of these hours at the Dean's discretion and two (2) hours of on campus, non student contact a week. The Dean may require up to thirty (30) hours of student contact a week, during periods of in person peak registration, not to exceed four (4) weeks per fiscal year. Each Counselor will spend no less than thirty two hours per week on campus (or at the location where a Counselor's work is scheduled) fulfilling contractual requirements for scheduled and unscheduled time. Twenty eight (28) of the thirty two (32) hours must be scheduled on a weekly basis. Counselors earn sick leave based upon an eight (8) hour day, forty (40) hour work week, including during the summer. As a result, absences will be charged on the basis of eight (8) hours per day, including the summer work week schedule.~~

(d) ~~(b)~~ For counselors employed on a modified academic year basis of 175 days, basic service hours per week under ~~the 16~~ an 18-week compressed calendar shall be ~~expanded by 12.5% (45)~~ 40 hours per week. Each Counselor will formulate and maintain a schedule, subject to the approval of the appropriate Dean, consisting of a basic forty (40) hour work week of professional counseling services. ~~Student contact hours within the week shall be increased proportionally, rounding down to the nearest half hour.~~ The weekly schedule shall include ~~twenty nine (29)~~ twenty-six (26) hours of student contact a week consisting of one-on-one counseling, group counseling/workshops and classroom presentations ~~with a possible reduction of these hours at the Dean's discretion~~ and two (2) hours of on-campus, non-student contact a week. The Dean may require up to ~~thirty three and a half (33.5)~~ thirty (30) hours of student contact a week, during periods of in-person peak registration, not to exceed four (4) weeks per fiscal year. Each Counselor will spend no less than ~~thirty six (36)~~ thirty-two (32) hours per week on campus (or at the location where a counselor's

work is scheduled) fulfilling contractual requirements for scheduled and unscheduled time. ~~Thirty one and a half (31.5)~~ **Twenty-eight (28)** hours of the ~~thirty six (36)~~ **thirty-two (32)** hours must be scheduled on a weekly basis.

~~(e)~~ **(c)** Counselors are entitled to all professional privileges afforded to teaching faculty, such as professional development activities. ~~The twenty six (26) student contact hours (29 hours under the modified academic year contract may be reduced, with the approval of the Dean, by up to forty (40) hours (as pro-rated by workload) during the fiscal year (45 hours under the compressed 16 week calendar).~~ These **Counselors will have up to** forty (40) hours ~~(45 hours under the modified academic year contract)~~ **per academic year to** ~~may~~ be used for conferences, workshops (on or off campus), or other professional development, excluding campus committees. Any hours in excess of the forty (40) which are approved for conferences, workshops, etc., will require the counselor to establish additional student contact hours on an hour-for-hour basis. These hours shall be rescheduled within thirty (30) days from the hours missed.

~~(f)~~ **(d)** A Counselor who is also assigned a teaching load during the academic year shall have the option to count the teaching load as overload up to 13.34 percent, or to be governed by the provisions of this Article for such period in the proportion that the Counselor's teaching assignment bears to the normal teaching load as defined in Section 6 of this Article. The balance of that percentage will be assigned as counseling duties as provided by this subsection.

~~(g)~~ ~~In the event a Counselor is scheduled to work Saturday registration, the appropriate Dean shall not deny any reasonable request to be excused from such Saturday assignment, provided adequate staffing needs are met. A Counselor who is assigned Saturday registration will receive~~

~~equal compensatory time off at another time as mutually agreed between the Counselor and the appropriate Dean.~~

(h) (e) The ~~modified~~ academic year is comprised of 175 days of service. The District may schedule no more than twenty (20) of the 175 days of service prior to and contiguous with the beginning of the fall and/or spring semesters. The modified academic year schedule will be communicated to the affected Counselor by May 1 of the prior academic year. Each counselor will prepare a schedule of substitute days off during the academic year and shall discuss the proposed schedule with the Dean who will approve the schedule if it meets the needs of the District. If not approved, the Dean and the Counselor will develop an alternative acceptable schedule. The schedule of alternative days off shall be determined in writing prior to June 1, of each year, but may be changed by mutual agreement during the year.

(i) (f) A Counselor may request to be relieved of counseling duties and assigned as an Instructor. Such request shall be submitted in writing to the Dean of the Division who shall promptly forward the request with a recommendation to the appropriate Vice President who shall meet with the appropriate dean and the counselor requesting such assignment. Upon review of all the circumstances, the appropriate Vice President shall grant or deny the request in writing.

El Camino is the only community college among the 8 comparable community colleges that provides counselors with a 12 month (240 days) work year. El Camino presented evidence that the other community colleges are providing counseling services with a work year comparable to the teaching staff. El Camino seeks the flexibility as a matter of cost savings and comparability so that it is not necessary to staff counselors at a 12-month work year, which includes one month of vacation. (District Tab E.2, pp. 16-18.)

Under the District's proposal, Counselors, like faculty members, will be able to increase their work day beyond 175 days through the assignment of "overload." The

advantage of overload is two-fold. It can be assigned as direct student contact hours between the counselor and the student, and overload will increase the pay for Counselors just like it does for the faculty.

The Federation presented examples from 4 community college districts outside of Los Angeles County that have counselor work years in excess of 175 days. (Federation, Article 8, Tab 6.) It is noted that two of the four schedules presented by the Federation were for 11 months and no vacation. With respect to the Los Angeles Community College District, it offers 2 separate work years for counselors, but again, the 11-month schedule has no vacation.

The Federation also presented the testimony of a counselor regarding the many counseling duties and responsibilities performed by the counseling staff at El Camino. In addition, counselors have a contractual agreement for the current fiscal year to be employed for 12 months.

### **Recommendation**

**The Chair recommends a multi-year phase-in for the Counselor work year. Accrued but unused vacation as of June 30, 2012 shall be paid by the District within 30 days of June 30, 2012. The Chair recommends the following amendments to the collective bargaining agreement between the Federation and the District, with no change in Counselor work year for 2011-12.**

#### **Section 15 Counselors**

~~(a) Counselors may be employed either on an academic year basis of one hundred seventy five (175) days of service or a fiscal year basis. Fiscal Year Counselors are covered by the provisions of Article 14, Vacations, and Article 15, Holidays.~~

~~(b) Counselors employed on a fiscal year basis for the 1995-1996 year have the option of remaining on a fiscal year basis or converting to an academic year basis as of July 1, 1996, or any subsequent July 1. Such election shall be effective as of the appropriate July 1 by written notification~~

~~to the Vice President Student and Community Advancement, prior to May 15 of such year. Such election is irrevocable.~~

~~(e)~~ **(a) Effective July 1, 2012, Counselors will transition from a fiscal year basis to a work year calendar during 2012-13 of 197 work days, with one additional sick leave day, but no vacation or holiday pay. Within the 197 work days, 175 work days will coincide with the modified academic year consisting of two 18-week semesters. Twenty-two (22) additional days will be assigned to be worked during the summer and/or intersession in consultation with the Dean of Counseling and Matriculation.** Each ~~fiscal year~~ Counselor will formulate and maintain a schedule, subject to the approval of the Dean of Counseling and Matriculation, consisting of a basic forty (40) hour work week of professional counseling services. The schedule may be changed or adjusted, subject to the approval of the Dean. The schedule shall include twenty-six (26) hours of student contact a week with a possible reduction of these hours at the Dean's discretion and two (2) hours of on-campus, non-student contact a week. The Dean may require up to thirty (30) hours of student contact a week, during periods of in-person registration, not to exceed four (4) weeks per fiscal year. Each Counselor will spend no less than thirty-two hours per week on campus (or at the location where a Counselor's work is scheduled) fulfilling contractual requirements for scheduled and unscheduled time. Twenty-eight (28) of the thirty-two (32) hours must be scheduled on a weekly basis.

~~(e)~~ **(b) Effective July 1, 2013, For Counselors shall be employed on a modified academic year basis of 175 days, basic service hours per week under the ~~16~~ an 18-week compressed calendar shall be ~~expanded by 12.5%~~ (45) 40 hours per week. Each Counselor will formulate and maintain a schedule, subject to the approval of the appropriate Dean, consisting of a basic forty (40) hour work week of professional counseling services.**

~~Student contact hours within the week shall be increased proportionally, rounding down to the nearest half hour.~~ The weekly schedule shall include ~~twenty-nine (29)~~ **twenty-six (26)** hours of student contact a week **consisting of one-on-one counseling, group counseling/workshops and classroom presentations** ~~with a possible reduction of these hours at the Dean's discretion~~ and two (2) hours of on-campus, non-student contact a week. The Dean may require up to ~~thirty-three and a half (33.5)~~ **thirty (30)** hours of student contact a week, during periods of ~~in-person~~ **peak** registration, not to exceed four (4) weeks per fiscal year. Each Counselor will spend no less than ~~thirty-six (36)~~ **thirty-two (32)** hours per week on campus (or at the location where a counselor's work is scheduled) fulfilling contractual requirements for scheduled and unscheduled time. ~~Thirty-one and a half (31.5)~~ **Twenty-eight (28)** hours of the ~~thirty-six (36)~~ **thirty-two (32)** hours must be scheduled on a weekly basis.

(~~e~~) **(c)** Counselors are entitled to all professional privileges afforded to teaching faculty, such as professional development activities. ~~The twenty-six (26) student contact hours (29 hours under the modified academic year contract may be reduced, with the approval of the Dean, by up to forty (40) hours (as pro-rated by workload) during the fiscal year (45 hours under the compressed 16 week calendar).~~ These **Counselors will have up to** forty (40) hours ~~(45 hours under the modified academic year contract)~~ **per academic year to** ~~may~~ be used for conferences, workshops (on or off campus), or other professional development, excluding campus committees. Any hours in excess of the forty (40) which are approved for conferences, workshops, etc., will require the counselor to establish additional student contact hours on an hour-for-hour basis. These hours shall be rescheduled within thirty (30) days from the hours missed.

(~~f~~) **(d)** A Counselor who is also assigned a teaching load during the academic year shall have the option to count the teaching load as overload up

to 13.34 percent, or to be governed by the provisions of this Article for such period in the proportion that the Counselor's teaching assignment bears to the normal teaching load as defined in Section 6 of this Article. The balance of that percentage will be assigned as counseling duties as provided by this subsection.

~~(g) In the event a Counselor is scheduled to work Saturday registration, the appropriate Dean shall not deny any reasonable request to be excused from such Saturday assignment, provided adequate staffing needs are met. A Counselor who is assigned Saturday registration will receive equal compensatory time off at another time as mutually agreed between the Counselor and the appropriate Dean.~~

~~(h)~~ (e) The ~~modified~~ academic year is comprised of 175 days of service. The District may schedule no more than twenty (20) of the 175 days of service prior to and contiguous with the beginning of the fall and/or spring semesters. The modified academic year schedule will be communicated to the affected Counselor by May 1 of the prior academic year. Each counselor will prepare a schedule of substitute days off during the academic year and shall discuss the proposed schedule with the Dean who will approve the schedule if it meets the needs of the District. If not approved, the Dean and the Counselor will develop an alternative acceptable schedule. The schedule of alternative days off shall be determined in writing prior to June 1, of each year, but may be changed by mutual agreement during the year.

~~(i)~~ (f) A Counselor may request to be relieved of counseling duties and assigned as an Instructor. Such request shall be submitted in writing to the Dean of the Division who shall promptly forward the request with a recommendation to the appropriate Vice President who shall meet with the appropriate dean and the counselor requesting such assignment. Upon review of all the circumstances, the appropriate Vice President shall grant or deny the request in writing.

2. Federation proposal regarding instructor office hours for online classes. This issue was mutually agreed to be removed from factfinding.

5. Compensation – District and Federation Proposals – Article 10

Discussion and Findings

1. District proposal pertaining to part-time retroactivity (Section 7(f); also Article 6, Section 1).

These issues were mutually agreed to be removed from factfinding.

2. District proposal regarding reduction in the part-time hourly rate. (Article 10, Section 9.) The District proposes:

Section 9. Part-Time Faculty Members

~~(j) The Chancellor's Office plans on the current appropriation of part-time equity funds to continue in future years by adding money to the base for the 2002-03 fiscal year.~~ Part-time equity funds from the state may be reduced or discontinued. However, Should this appropriation be reduced in whole or in part, the Part-Time Faculty Schedules commencing July 1, 2011 will be reduced in proportion to the funding available as determined by the part-time equity funds actually received by the District in fiscal year 2009-10. Effective July 1, 2011, the part-time faculty salary schedules will be reduced \$3.84. In addition, should there be further reductions for fiscal year 2010-11 or subsequent years, then ~~the final budget adopted by the Board of Trustees at their September 2002 meeting.~~ the District and the Federation will meet and confer to determine in what proportion the schedules should be reduced.

The District presented the fact that this is a categorically funded program. (District Tab E.3, pp. 20-22.) Over the years, the State of California has significantly reduced so-

called part-time equity funds. In 2009, the State substantially reduced the funding of this categorical program.

State Funded Part-Time Faculty Amount:

2002-03	\$951,429	Decrease from 2002-03	\$544,179	57.20%
2003-04	\$848,408	Decrease from 2003-04	\$441,158	52.00%
2004-05	No Change			
2005-06	No Change			
2006-07	No Change			
2007-08	No Change			
2008-09	\$831,080	Decrease from 2008-09	\$423,830	51.00%
2009-10	\$407,250			
2010-11	No Change			
2011-12	Unknown			

Number of Contact Hrs. in 09-10 =	114,935
Divided into \$544,179	\$4.73
Divided into \$441,158	\$3.84
Divided into \$423,830	\$3.69

The District’s proposal will reduce the current hourly part-time faculty rate by \$3.84.

The District’s current average rate for hourly part-time faculty is \$85.65, substantially more than 6 of the 7 comparable college districts. The District’s proposal would result in a revised average hourly rate of \$81.81, which would still be substantially higher than 6 of the other 7 comparable community colleges.

The average rate for other comparable community colleges, according to the report of the Chancellor’s office (June 30, 2011) is:

Cerritos Community College District	\$56.93
Glendale Community College District	\$61.90
Long Beach Community College District	\$58.51
Mt San Antonio Community College District	\$69.20
Pasadena Community College District	\$61.78
Rio Hondo Community College District	\$75.30
Santa Monica Community College District	\$90.32
The median rate for part-time faculty is:	\$65.55

There is another aspect of the part-time equity issue. It is clear that the District’s general fund is making up the decline of \$441,000 annually since 2003-04 in State funding

for so-called part-time equity. This is readily apparent in comparing El Camino's average part-time hourly rate with the hourly rates paid by 6 of the comparable college districts. To allow the District's general fund to continue to contribute annually approximately \$441,000 to the faculty part-time unit once the special funding was removed by the State is not equitable for other employee units whose positions are reduced when categorical funding is reduced.

The Federation pointed out that no decrease in equity funding has occurred in the last couple of fiscal years. It is not clear why this proposed change is being requested at this time especially in light of the District's statement that it has the ability to pay. It asserted that part-time faculty in the El Camino District are vastly underpaid in comparison to a pro-rata schedule as desired by State Legislative recommendations. In the Fall of 2008 data presented by the Federation, the El Camino part-time faculty were paid an average 49.54% of the average pay of full-time faculty for the same work. It argues that the District has the money to pay a reasonable salary to part-time faculty but continues to refuse to do so - and now it proposes to cut the salary even more. The part-time faculty has also not had a raise in recent years. The position of the District does not meet any standard of fairness.

The District presented a table on average pay for part-time faculty in the State. Testimony in the hearing did not indicate whether the Chancellor's Office included additional pay based on the equity funding in the table calculations. The Federation was not able to investigate this important question as they were not allowed another hearing day in order to research and present this information.

The District claimed that the Federation did not dispute the part-time hourly rates that are confirmed in the report of the Chancellor's office (June 30, 2011). (District Tab 3, pp. 21-22.) Instead, it argued that rates for part-timers are hard to compare and that El Camino full-timers are helping to contribute to the District's high part-time hourly rate.

### **Recommendation**

**The Chair finds that the State has substantially reduced the source of funding for part-time pay and the District's part-time rate exceeds the mean comparable part-time rate by 30.66 percent. However, as there is no claim of inability to pay the**

amount that would be saved by the \$3.84 reduction, and because the closest comparable college District [Santa Monica] is currently paying \$4.67 more than the District's average rate, the Chair concludes that the District has not established a sufficient basis for its proposed reduction of the hourly rates. On the other hand, any further reduction of the State's appropriation for part-time equity should result in a proportionate reduction of the hourly rates. The amount of such reductions should be determined through the meet and confer process

The Chair recommends the following amendment be made to the collective bargaining agreement between the Federation and the District effective July 1, 2012.

Section 9. Part-Time Faculty Members

~~(j) The Chancellor's Office plans on the current appropriation of part-time equity funds to continue in future years by adding money to the base for the 2002-03 fiscal year. However, Should this State appropriation for part-time equity be reduced in whole or in part from the 2011-12 level, the Part-Time Faculty Schedules will~~ may be reduced in proportion to the equity funding available as determined by the State Budget final budget adopted by the Board of Trustees at their September 2002 meeting.. **Any further reductions or discontinuances in the State's part-time categorical equity funding for community colleges that is implemented in the State budget on or after July 1, 2012 shall also reduce the part-time hourly rate in the fiscal year(s) in which the reduction occurs.** The District and the Federation will meet and confer to determine in what proportion the schedules should be reduced.

3. The Federation submitted proposals regarding increasing salary schedules by adding additional steps effective January 2013.

Discussion and Findings

The Federation's proposal is provided behind the tab entitled, "Article 10 – Compensation."

These proposals regarding Appendix "C" and Appendix "D" are all effective January 1, 2013. In support of its wage proposals, the Federation presented salary data from 7 community college districts, Cerritos, Glendale, Los Angeles, Mt. San Antonio, Pasadena, Santa Monica and El Camino. (Federation, Tab 12.) The Federation also presented data from the Research Department, California Federation of Teachers, regarding

salaries for all community colleges and financial data prepared by the Federation pertaining to all community colleges' general fund net ending balance for 2009-2010.

The District responded by presenting financial information pertaining to the State of California, Community College Funding and the funding impact upon El Camino. (District Tab F, pp. 52-146.)

The District also responded by proposing wage reopener negotiations just around the corner, i.e., in April 2012. (District Tab 7, pp. 49-50.)

**The Chair finds that it is not reasonable to include mandatory salary schedule improvements at this time. The Chair believes that the parties will have ample opportunity in the spring to be able to meet and negotiate in good faith regarding salary schedule improvements. In the meantime, the Chair also notes that both parties negotiated salary step and column movement, but no COLA for 2011-12.**

**4. Federation proposal regarding part-time faculty members producing work product and serving on committees.**

**Discussion and Findings**

The Federation's proposal is provided at Tab 7, Section 9(i), for certain work to be paid at "no less than Rate II, Appendix D-3."

The Federation presented information that, per a survey, part-timers on average spent 7.5 hours working on SLOs. (Federation Tab 10.)

The District responded with its survey on part-time hourly rates and the Chancellor's June 30, 2011 Report on Average Hourly Rates. (Note that of the total FTEs reported at El Camino, the average rate is \$85.65 per hour.)

**The Chair finds that in light of the difficult and uncertain financial conditions of the State of California, and the fact that the trigger language in the 2011-12 State budget could be implemented by February 1, 2012, it is not reasonable to include the Federation's part-time pay proposal, including pay for SLOs. The Chair believes that the parties will have ample opportunity in the spring to be able to meet and negotiate in good faith regarding salary schedule improvements.**

**5. Federation proposal for reviewing how full-time and part-time hourly pay is calculated and paid.**

**Discussion and Finding**

The Federation’s proposal is provided at Tab 8, which states, “Form a task force primarily for the purpose of reviewing how full-time and part-time hourly pay is calculated and paid.”

The Federation explains that it is seeking a task force “to work out a uniform and consistent way in which part-time and overload pay is calculated, so that instructors receive the same pay for teaching the same class independently of how and when the class is scheduled.” (Federation Tab 10.)

The District responds that this is a matter pertaining to employee compensation that first needs to be proposed in negotiations by the Federation to the District. The District has taken this position throughout negotiations with the Federation, but no negotiation proposal was presented.

**The Chair finds that this matter does pertain to negotiations and recognizes that it can impact full and part-time employees. The Chair recommends that the Federation, through its own internal bargaining committees, propose what the Federation wants, and then, at reopener negotiations, the Federation can submit its proposal.**

**6. Paid Leaves – Federation Proposal – Article 11, regarding jury duty.**

**Discussion and Finding**

**This issue was mutually agreed to be removed from factfinding.**

**7. Paid Leaves – District Proposal – Article 11, regarding sabbatical leaves.**

**Discussion and Findings**

**The District proposal regarding sabbatical leaves (District Tab 5, p. 24).**

The District proposes to modify its prior proposal so that sabbaticals for 2012-13 will be postponed. (The parties have already agreed that future sabbatical leave application forms will include an acknowledgement by the Dean indicating the Dean's awareness of the application.)

The District presented information that the number of sabbaticals is ultimately left to the discretion of the District and that other community colleges have either reduced or eliminated sabbatical leaves. El Camino continued to grant the traditional amount of sabbatical leaves without any modification.

The Federation presented no written survey information from other community colleges. (Federation Tab 13.)

**The Chair finds that in the absence of a claim of inability to pay, the District has not established an adequate basis for any change in the sabbatical leave provisions of the contract.**

## **8. Travel Outside the United States – Federation Proposal – Article 16**

### **Discussion and Findings**

The Federation proposes to delete the provision in Article 16, Section 4(b) that travel outside the United States must be approved by the President prior to the submission of the conference request to the Board of Trustees.

Neither party presented any written survey information on this subject. The Federation stated that travel requests outside the United States are not approved and El Camino responded that certain requests had been approved, i.e., to Asia.

The District also stated that its insurance carrier requires Board approval.

**The Chair finds that there is no sufficient need to delete the current contract language on this subject.**

## **9. Health and Welfare Benefits – District Proposal, Article 17, and Appendix L**

### **Discussion and Findings**

**The District proposes to amend Article 17 and Appendix L as follows:**

District proposes no change in employee contribution levels for 2012 for dental, vision or life insurance.

### Section 1. Medical Plans

**Effective January 1, 2012, the District shall contribute (not to exceed) the following amounts for the medical insurance: \$521 per month for single, \$905 per month for 2-party, and \$1,177 per month for family. Any difference in the amount between the District contribution for medical insurance and the CalPERS medical insurance premium cost shall be paid by the employee through monthly payroll deductions. Effective July 1, 1996, and annually thereafter, the District shall contribute the minimum payment required, in order to participate in CalPERS medical plan, toward payment of the premium of a medical plan selected by the eligible permanent Faculty Member. The medical plan chosen by the Faculty Member shall be one of those offered by CalPERS under the Public Employees Medical and Hospital Care Act unless the District and the Federation negotiate a change in the carrier for health benefit insurance.**

(a) ~~The District shall provide as a supplemental benefit plan for each permanent Faculty Member an amount equal to the difference between the minimum premium payment made by the District and the total cost of the medical plan selected by the Faculty Member~~ **For the insurance year commencing January 1, 2013, the District or the Federation may commence negotiations in April 2012 to consider different medical and health insurance providers and/or carriers. If a timely request to bargain a change in insurance plans is not provided to the other party by May 1, 2012, then the parties will continue to utilize the CalPERS medical plan for 2013.**

(b) The ~~supplemental~~ **health** benefit plan ~~is~~ applicable to all eligible retirees ages 55 – 65 **who have ten (10) years of service with the District will be** in accordance with Section 7 of this Article. The CalPERS system will deduct the monthly insurance premium only from the retiree's STRS or PERS retirement check and the District will reimburse the retiree for the **applicable District contribution per Section 7.** ~~cost of the employee's health insurance premium.~~

(c) The Faculty Member may elect to have his/her eligible dependents covered under the medical plan the Faculty Member selects. ~~If the Faculty Member selects either of the two CalPERS PPO/indemnity plans offered by the District, the Faculty Member shall pay thirty percent (30%) of the cost of such dependent coverage and the District shall pay the remaining seventy percent (70%) of such cost. If the Faculty Member selects any of the~~

~~CalPERS HMO plans offered by the District, the District will pay one hundred percent (100%) of the coverage.~~

(d) Until December 31, 2011, a Faculty Member whose spouse is a District employee and who selects PERSCare or PERSChoice medical plans may opt to have one (1) medical plan which covers both the employee and the employee's spouse. The District shall pay the difference between two-party and family coverage in order to equalize the paid coverage for this situation. Under this option, an employee spouse would not select his/her own coverage but would opt to be covered under the Faculty Member's Primary Coverage.

(e) Faculty Members may, during ~~the CalPERS~~ open enrollment period in the Fall of each year, change plan coverage effective January 1 of each such year.

(f) ~~CalPERS~~ Insurance benefits coverage begins on the first of the month following the first day the Faculty Member is in paid status. Thus, a Faculty Member whose first day in paid status occurs on August 10 of any year will have coverage beginning on September 1 of that year. The Faculty Member's coverage continues until the first of the month following a full calendar month after the month in which the Faculty Member's last day in paid service occurs. Thus, a Faculty Member whose last day in paid status was March 10 of any year will have coverage through the month of April. Coverage for the dental plans and the vision plan begins and ends in the same manner. An eligible faculty member shall be deemed to be in "paid status" during any summer and/or winter session so long as the faculty member is scheduled to return to paid status at the end of the summer and/or winter sessions.

## Section 2. Dental Plans

The District will ~~continue to maintain its current~~ provide dental plans for all Full-Time Faculty Members and will continue to pay the monthly premium cost of the Faculty Member's coverage. If the Faculty Member selects the Delta Dental Plan or equivalent plan and elects to cover his/her eligible dependents by such plan, the Faculty Member will pay thirty percent (30%) of the cost of such dependent coverage and the District will pay seventy percent (70%) of such cost. If the Faculty Member selects the Delta Care Plan or equivalent plan and elects to cover the Faculty Member's eligible dependents by such plan, the District will pay the entire cost of the dependent coverage.

## Section 3. Vision Plan

The District will ~~continue to maintain its current~~ **provide** ~~vision~~ **vision** ~~service~~ **plan** for Full-Time Faculty Members and will pay the entire monthly premium cost for the Faculty Member's coverage. If the Faculty Member elects to have his/her eligible dependents covered by the **plan**, the Faculty Member will pay thirty percent (30%) of the cost of such coverage and the District will pay seventy percent (70%) of the cost of such coverage.

#### Section 4. Life Insurance - AD&D

The District will ~~maintain its~~ **provide** life insurance and accidental death and dismemberment insurance plan. The District will pay for the cost of such coverage.

#### Section 5. Short-Term Disability Income Insurance

The District will continue to make available to Full-Time Faculty Members a short-term disability income insurance plan. The Faculty Member who elects coverage by this plan shall pay the entire cost of such coverage.

#### Section 6. Compensation in Lieu of Dependent Insurance Benefits

The District will pay Four Hundred Twenty Dollars (\$420.00) at the end of each full year of completed service to each Full-Time Faculty Member not electing dependent medical, dental, and vision insurance coverage for such year. The Faculty Member may, pursuant to IRC regulations, use this sum for a tax-sheltered annuity contribution.

#### Section 7. Retiree Medical Insurance

(a) **For employees retiring prior to July 1, 2011,** the District will provide medical insurance only for any Full Time Faculty Member who retires pursuant to the regulations of the California State Teachers' Retirement System after reaching age fifty-five (55) under Article 19, Section 1, or Section 2, from the time of retirement until reaching age sixty-five (65) and provided the Faculty Member remains in retired status. **With respect to employees retiring after June 30, 2011, the District will contribute toward the medical insurance premium the single-only rate specified under Article 17, Section 1 for any employee who has ten (10) years of service with the District and who retires after reaching age fifty-five (55).** Regarding dependent coverage for retirees, the District will also make available to such a retiree medical insurance and dental insurance for eligible dependents with the cost of such coverage to be borne by the retiree,

provided such option for dependent coverage is made when the retiree is first eligible.

(b) Effective July 1, 1996, and annually thereafter, per CalPERS regulations, the District shall offer to all eligible retirees sixty-five (65) years and older, the one-time opportunity to participate in the CalPERS medical plan. Retirees who choose not to participate in CalPERS when this one-time offer is made, relinquish all future rights to participate in CalPERS. The District shall contribute ~~the same minimum payment as specified in Section 1 of this Article~~ **the minimum CalPERS premium payment (currently \$108 per month)** for an eligible retiree who elects to participate. The retiree shall be responsible for the cost of the medical coverage equal to the difference between the District's **minimum CalPERS premium** payment and the total cost of the selected medical plan.

#### Section 8. Refund of Premiums

In the event there is a refund of insurance premiums paid, the refund shall be applied to the District's cost for the subsequent year.

#### Section 9. Voluntary Tax-Sheltered Annuities

A Full-Time Faculty Member may, subject to the provisions of the Internal Revenue Code, the California Revenue and Taxation code, and the Education Code, voluntarily elect to purchase a tax-sheltered annuity or annuities and enter into an amendment of his/her contract of employment for this purpose and effect a corresponding reduction in salary.

#### Section 10. Voluntary Employee Organization Insurance Plans

The District shall deduct monthly from a Faculty Member's earnings, where such deduction has been requested by the Faculty Member in a revocable written authorization, for payment of premiums for a group life or disability insurance plan available to the Faculty Member as a result of membership in any employee organization. The written authorization or revocation notice shall be on file with the District at least thirty (30) days in advance.

#### Section 11. Disability Coverage

Any Full-Time Faculty Member who has completed ten (10) or more years of service with the District and who is determined by the California State Teachers' Retirement System to be totally disabled and is awarded disability benefits by the California State Teachers' Retirement System, shall

be eligible to continue medical coverage in the District's medical insurance plans available to Faculty Members with the cost of such coverage to be borne by the disabled individual. The disabled individual must elect to continue such coverage at the time District sponsored coverage would otherwise lapse. Such coverage will remain in effect, subject to the payment of the premium cost by such disabled individual, until the individual attains the age of sixty-five (65) or chooses at an earlier age to discontinue making payment.

## Section 12. Insurance Benefits Committee

(a) The District has established an Insurance Benefits Committee comprised of representatives of all Federation-represented employee groups on campus, as well as employees representing other non-represented groups. The Federation agrees to continue its participation in this Committee. This Committee is authorized to review, study and recommend such changes as it deems appropriate in the health benefits (including medical, dental, and vision benefits) and changes, if any, in the sharing of costs for any such coverage between the District and its employees. **Recommendations from the Insurance Benefits Committee may be provided to the respective negotiation teams for the Federation and the District for their review and consideration; however, it is recognized that the ultimate responsibility to evaluate, provide and pay for health benefits is determined through the collective bargaining process.** ~~The Committee has no authority to make available medical insurance coverage to any persons not currently eligible for such coverage, provided that, if the Committee selects a program that mandates some form of coverage for persons not currently eligible for such coverage, this condition is waived to the extent of complying with such mandatory coverage.~~

~~(b) The District and the Federation agree that any proposals concerning health benefits shall be delegated irrevocably to the Committee and shall be removed from collective bargaining. This shall not include any proposals extending health benefits to persons not currently eligible (except as provided in Paragraph (a) of this section). Any recommended changes of the Committee respecting health benefits, which are adopted by the Trustees, shall be final and binding.~~

~~(c) The Committee shall adopt its own by laws that include, but are not limited to, the terms set forth in Appendix L - Insurance Benefits Committee Guidelines.~~

~~(d)~~ (b) Effective January 1, 2002, the District will provide \$20,000 to provide for reimbursement for Part-Time Faculty medical insurance

premiums. This amount if not used in full in 2002, will be carried over to 2003. It will be included as an "increased cost of medical benefits" in the "Adjusted COLA" formula (Appendix N). The \$20,000 contribution shall be made annually in future years, unless different terms are negotiated in future negotiations.

### Section 13. Part-Time Faculty Members' Plan

~~Prior to July 1, 1997, any Part-Time Faculty Member who had not elected to be covered pursuant to the California STRS or PERS was required to participate in the Zahorik Plan where the Part-Time Faculty Member contributed five percent (5%) of pay to the Zahorik Plan and the District contributed two and one half percent (2.5%) of the Part-Time Faculty Member's Pay to Zahorik.~~

### **MOVE TO ARTICLE 19, SECTION 5:**

Effective July 1, 1997, any Part-Time Faculty Member who has not elected to be covered pursuant to the California STRS or PERS plan for the Part-Time Faculty Member is required to participate in the STRS Cash Balance Plan. The Part-Time Faculty Member shall contribute four percent (4%) of pay to the STRS Cash Balance Plan and the District shall contribute five percent (5%) of the Part-Time Faculty Member's pay to the STRS Cash Balance Plan.

### Section ~~14~~ 13. Domestic Partners Benefits

1. The District shall provide medical and other benefits to domestic partners in accordance with the Domestic Partner Rights and Responsibilities Act of 2003 (DPRRA). California Education Code Section 297 provides that registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities and obligations, and duties under the law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted and imposed upon spouses.

2. In order to be eligible for benefits, partners must register with the Secretary of State, State of California. In addition, the eligible employee and domestic partner must:

- (a) Be unmarried and not related to each other;
- (b) Have lived together for at least six months, sharing the common necessities of life and responsibility for each other's common welfare, including financial interdependence;

(c) Be at least eighteen (18) years of age and competent to enter into a contract, or, in the case of persons of opposite sex, one or both persons must be over sixty-two (62) years of age.

3. An employee has sixty (60) days from the date of enrollment with the Secretary of State to complete the HBD12 Health Enrollment Form to enroll their domestic partner and eligible dependent children. Refer to Article 17 for further enrollment information.

4. To obtain coverage both employee and their partner must certify their eligibility by completing the District's Affidavit of Domestic Partnership Form.

**See Also: Appendix L "Insurance Benefits Committee Guidelines"**

**Amend Section 5 and provide that committee recommendations will be approved in writing by a majority of the committee members to the negotiation teams for the District and the Federation.**

**Amend Section 6 to provide that the committee's bylaws are "advisory only."**

The District presented the following reasons for the proposed changes to Article 17: (District Tab E.6, pp. 31-42.)

Since 1991, all employee groups including represented and management employees, have received medical benefits through CalPERS. CalPERS medical plans are on a calendar year with open enrollment typically in October/early November.

For 2011, there are 766 employees enrolled in CalPERS medical plans.

The District asserted the following "facts" in support of its proposal.

Fact 1. The three medical plans with over 90 percent of all employees' enrollment in El Camino are as follows:

Blue Shield Access+	232 employees
Kaiser Permanente	200 employees
PERS Care	267 employees

Total: 699

Fact 2: CalPERS each year publishes the health premiums rates by region. The District is in the Los Angeles Area Region.

Copies of the CalPERS rate charts from 2007 to 2012 are attached, commencing at page 37.

Fact 3. The premium rate increases for CalPERS Blue Shield Access+ have increased 27.97 percent since 2009:

<u>Year</u>	<u>Percent Change (+/-)</u>
2008	---
2009	5.19%
2010	2.99%
2011	17.01%
2012	2.78%
<b>Total Percentage Change:</b>	<b>27.97%</b>

Fact 4. The premium rate increases for Kaiser CA have increased 35.96 percent since 2008:

<u>Year</u>	<u>Percent Change (+/-)</u>
2008	9.16%
2009	7.99%
2010	6.48%
2011	5.04%
2012	7.29%
<b>Total Percentage Change:</b>	<b>35.96%</b>

Fact 5. The premium rate increases for PERS Care have increased 25.18 percent since 2008:

<u>Year</u>	<u>Percent Change (+/-)</u>
2008	-2.56%
2009	0.00%
2010	10.63%
2011	1.97%
2012	15.14%
<b>Total Percentage Change:</b>	<b>25.18%</b>

Fact 6. There was no cap in the expired collective bargaining agreement on District contributions for HMO plans. The District provides all HMO plans at no cost. (Article 17, Section 1(a),(c).)

Fact 7. There was no cap in the expired collective bargaining agreement on District contributions for employee-only PPO plans. The District pays for all employee-only PPO plans. (Article 17, Section 1(a),(c).)

Fact 8. There was a soft cap in the expired collective bargaining agreement on District contributions for 2-party and family PPO plans. For PPO 2-party the District pays 85 percent of the premium cost. For PPO family, the District pays 81.54 percent of the premium cost. (Article 17, Section 1(a),(c).)

Fact 9: The following chart for 2010 and 2011 shows the District and employee contributions for all medical plans under the expired collective bargaining agreement.

**2010 and 2011 Medical Insurance Premiums  
EL CAMINO COLLEGE  
(Amounts are Annual)**

Plan	2010			2011		
	Employee Only	2-Party	Family	Employee Only	2-Party	Family
<b>Blue Shield Access+</b>						
District Cost	\$5,096.28	\$10,192.56	\$13,250.28	\$5,963.16	\$11,926.32	\$15,504.24
Employee Cost	\$	\$	\$	\$	\$	\$
Total Premium	\$5,096.28	\$10,192.56	\$13,250.28	\$5,963.16	\$11,926.32	\$15,504.24
2011 % Increase Paid by District				100.00%	100.00%	100.00%
2011 % Increase Paid by Employee				0.00%	0.00%	0.00%
\$ Increase in District Cost				\$866.88	\$1,733.76	\$2,253.96
<b>Blue Shield Net Value</b>						
District Cost	\$4,416.72	\$8,833.44	\$11,483.52	\$5,130.96	\$10,261.92	\$13,340.52
Employee Cost	\$	\$	\$	\$	\$	\$
Total Premium	\$4,416.72	\$8,833.44	\$11,483.52	\$5,130.96	\$10,261.92	\$13,340.52

2011 % Increase Paid by District				100.00%	100.00%	100.00%
2011 % Increase Paid by Employee				0.00%	0.00%	0.00%
\$ Increase in District Cost				\$714.24	\$1,428.48	\$1,857.00
<b>Kaiser CA</b>						
District Cost	\$4,958.04	\$9,916.08	\$12,890.88	\$5,208.00	\$10,416.00	\$13,540.80
Employee Cost	\$	\$	\$	\$	\$	\$
Total Premium	\$4,958.04	\$9,916.08	\$12,890.88	\$5,208.00	\$10,416.00	\$13,540.80
2011 % Increase Paid by District				100.00%	100.00%	100.00%
2011 % Increase Paid by Employee				0.00%	0.00%	0.00%
\$ Increase in District Cost				\$249.96	\$499.92	\$649.92
<b>PERS Choice</b>						
District Cost	\$5,428.92	\$9,229.20	\$11,509.32	\$5,953.80	\$10,121.40	\$12,622.44
Employee Cost	\$	\$1,628.64	\$2,605.92	\$	\$1,786.20	\$2,857.80
Total Premium	\$5,428.92	\$10,857.84	\$14,115.24	\$5,953.80	\$11,907.60	\$15,479.88
2011 % Increase Paid by District				100.00%	85.00%	81.54%
2011 % Increase Paid by Employee				0.00%	15.00%	18.46%
\$ Increase in District Cost				\$524.88	\$892.20	\$1,113.12
<b>PERS Select</b>						
District Cost	\$5,068.20	\$8,615.88	\$10,744.56	\$5,206.44	\$8,850.96	\$11,037.60
Employee Cost	\$	\$1,520.52	\$2,432.76	\$	\$1,561.92	\$2,499.12
Total Premium	\$5,068.20	\$10,136.40	\$13,177.32	\$5,206.44	\$10,412.88	\$13,536.72
2011 % Increase Paid by District				100.00%	85.00%	81.54%
2011 % Increase Paid by Employee				0.00%	15.00%	18.46%
\$ Increase in District Cost				\$138.24	\$235.08	\$293.04
<b>PERS Care</b>						
District Cost	\$9,264.60	\$15,749.76	\$19,641.00	\$9,446.88	\$16,059.72	\$20,027.40
Employee Cost	\$	\$2,779.44	\$4,446.96	\$	\$2,834.04	\$4,534.44
Total Premium	\$9,264.60	\$18,529.20	\$24,087.96	\$9,446.88	\$18,893.76	\$24,561.84

2011 % Increase Paid by District				100.00%	85.00%	81.54%
2011 % Increase Paid by Employee				0.00%	15.00%	18.46%
\$ Increase in District Cost				\$182.28	\$309.96	\$386.40

Fact 10: In July 2011, CalPERS published its rate increases effective January 1, 2012. The right side of the chart, 2012, shows District and employee contribution rates, assuming there is no change in the expired collective bargaining contract language.

**2011 and 2012 Medical Insurance, Assuming there is No Language Change from the Expired Collective Bargaining Agreement**

Plan	2011			2012			Percent Increase 2011 to 2012
	Employee Only	2-Party	Family	Employee Only	2-Party	Family	
<b>Blue Shield Access+</b>							
District Cost	\$ 5,963.16	\$ 11,926.32	\$ 15,504.24	\$ 6,128.64	\$ 12,257.28	\$ 15,934.44	2.78%
Employee Cost	\$	\$	\$	\$	\$	\$	
Total Premium	\$5,963.16	\$11,926.32	\$15,504.24	\$6,128.64	\$12,257.28	\$15,934.44	
2012 % Increase Paid by District				100.00%	100.00%	100.00%	
2012 % Increase Paid by Employee				0.00%	0.00%	0.00%	
\$ Increase in District Cost				\$165.48	\$330.96	\$430.20	
<b>Blue Shield Net Value</b>							
District Cost	\$5,130.96	\$10,261.92	\$13,340.52	\$5,271.00	\$10,542.00	\$13,704.60	2.73%
Employee Cost	\$	\$	\$	\$	\$	\$	
Total Premium	\$5,130.96	\$10,261.92	\$13,340.52	\$ 5,271.00	\$10,542.00	\$13,704.60	
2012 % Increase Paid by District				100.00%	100.00%	100.00%	
2012 % Increase Paid by Employee				0.00%	0.00%	0.00%	
\$ Increase in District Cost				\$140.04	\$280.08	\$364.08	
<b>Kaiser CA</b>							
District Cost	\$5,208.00	\$10,416.00	\$13,540.80	\$5,587.56	\$11,175.12	\$14,527.68	7.29%

Employee Cost	\$	\$	\$	\$	\$	\$	
Total Premium	\$5,208.00	\$10,416.00	\$13,540.80	\$5,587.56	\$11,175.12	\$14,527.68	
2012 % Increase Paid by District				100.00%	100.00%	100.00%	
2012 % Increase Paid by Employee				0.00%	0.00%	0.00%	
\$ Increase in District Cost				\$379.56	\$759.12	\$986.88	
<b>PERS Choice</b>							
District Cost	\$5,953.80	\$10,121.40	\$12,622.44	\$6,067.56	\$10,314.85	\$12,863.24	1.91%
Employee Cost	\$	\$1,786.20	\$2,857.80	\$	\$1,820.27	\$2,912.44	
Total Premium	\$5,953.80	\$11,907.60	\$15,479.88	\$6,067.56	\$12,135.12	\$15,775.68	
2012 % Increase Paid by District				100.00%	85.00%	81.54%	
2012 % Increase Paid by Employee				0.00%	15.00%	18.46%	
\$ Increase in District Cost				\$113.76	\$193.45	\$240.80	
<b>PERS Select</b>							
District Cost	\$5,206.44	\$8,850.96	\$11,037.60	\$5,150.64	\$8,756.09	\$10,919.34	-1.07%
Employee Cost	\$	\$1,561.92	\$2,499.12	\$	\$1,545.19	\$2,472.30	
Total Premium	\$5,206.44	\$10,412.88	\$13,536.72	\$5,150.64	\$10,301.28	\$13,391.64	
2012 % Increase Paid by District				100.00%	85.00%	81.54%	
2012 % Increase Paid by Employee				0.00%	15.00%	18.46%	
\$ Increase in District Cost				\$ (55.80)	\$ (94.87)	\$ (118.26)	
<b>PERS Care</b>							
District Cost	\$9,446.88	\$16,059.72	\$20,027.40	\$10,876.68	\$18,490.36	\$23,058.53	15.14%
Employee Cost	\$	\$2,834.04	\$4,534.44	\$	\$3,263.00	\$5,220.79	
Total Premium	\$9,446.88	\$18,893.76	\$24,561.84	\$10,876.68	\$21,753.36	\$28,279.32	
2012 % Increase Paid by District				100.00%	85.00%	81.54%	
2012 % Increase Paid by Employee				0.00%	15.00%	18.46%	
\$ Increase in District Cost				\$1,429.80	\$2,430.64	\$3,031.13	

Fact 11. As a result of the expired collective bargaining agreement language, there is also a significant dollar difference in the amount of District contributions based upon the employee plan selection. (Article 17, Section 1(a),(c).) For example, the difference in District contributions for 2011 ranges between \$5,130.96 for Kaiser CA Single to \$20,027.40 for PERS Care family. For 2012 without any contract change, the District contributions will range from \$5,271.00 to \$23,058.53. Of the five LA County single college CalPERS district, only Santa Monica Community College has paid up to current PERS Care rates and Santa Monica is currently in negotiations for health benefits. Mt. San Antonio Community College pays up to \$9,745.80 towards CalPERS health premiums. (See chart at Fact 13.)

Fact 12: The District proposed to make twelfthly contributions of \$521 for employee only, \$905 for 2-party, and \$1,117 for family. (Dollar amounts are listed twelfthly because CalPERS rate charts are listed twelfthly.) At the opening of negotiations in February 2011, proposals were made to the Federation to negotiate health benefits. This proposal was made in writing on May 6, 2011. Subsequently, this proposal was shared with all employees. Health benefits open enrollment is scheduled for October 11 through November 14, 2011.

**EL CAMINO COLLEGE  
DISTRICT INFORMATION**

**2012 Medical Insurance Premiums**

\*Based Upon District Proposed Contribution Rates

**12-Month Employees**

January 1, 2012 through December 31, 2012

District proposes monthly contributions up to  
\$521, employee only; \$905, two-party; and \$1,177, family (twelfthly)

**CALPERS HMO PLANS**

<b>BLUE SHIELD ACCESS +</b>	<b>EMPLOYEE ONLY</b>	<b>TWO-PARTY</b>	<b>FAMILY</b>
District Cost	\$510.72	\$905.00	\$1,177.00
Employee Cost	\$0.00	\$116.44	\$150.87
Total Premium	\$510.72	\$1,021.44	\$1,327.87

<b>BLUE SHIELD NET VALUE</b>	<b>EMPLOYEE ONLY</b>	<b>TWO PARTY</b>	<b>FAMILY</b>
District Cost	\$439.25	\$878.50	\$1,142.05
Employee Cost	\$0.00	\$0.00	\$0.00
Total Premium	\$439.25	\$878.50	\$1,142.05

<b>KAISER CA</b>	<b>EMPLOYEE ONLY</b>	<b>TWO-PARTY</b>	<b>FAMILY</b>
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District Cost	\$465.63	\$905.00	\$1,177.00
Employee Cost	\$0.00	\$26.26	\$33.64
Total Premium	\$465.63	\$931.26	\$1,210.64

**CALPERS BLUE CROSS PPO PLANS**

<b>PERS CHOICE (80/20)</b>	<b>EMPLOYEE ONLY</b>	<b>TWO-PARTY</b>	<b>FAMILY</b>
District Cost	\$505.63	\$905.00	\$1,177.00
Employee Cost	\$0.00	\$106.26	\$137.64
Total Premium	\$505.63	\$1,011.26	\$1,314.64

<b>PERS SELECT (80/20)</b>	<b>EMPLOYEE ONLY</b>	<b>TWO-PARTY</b>	<b>FAMILY</b>
District Cost	\$429.22	\$858.44	\$1,115.97
Employee Cost	\$0.00	\$0.00	\$0.00
Total Premium	\$429.22	\$858.44	\$1,115.97

<b>PERS CARE (90/10)</b>	<b>EMPLOYEE ONLY</b>	<b>TWO-PARTY</b>	<b>FAMILY</b>
District Cost	\$521.00	\$905.00	\$1,177.00
Employee Cost	\$385.39	\$907.78	\$1,179.61
Total Premium	\$906.39	\$1,812.78	\$2,356.61

Fact 13. In Los Angeles County there are 5 comparable local single community colleges enrolled in CalPERS. The following chart compares four of the community colleges and employee contribution rates for 2012. El Camino is the 5<sup>th</sup> community college. El Camino's proposed contributions are listed at Fact 12. (See also contract language proposal, Article 17, Section 1.)

**Cerritos College**

CalPERS Yes or No?      Yes

Rates Agreed for 2012?      Yes.

Contribution amounts:      Two-tier system

Hired before 10/01/03:      Up to \$2,007.33/mo (twelfthly)

Hired on or after 10/01/03:      Up to \$1,176.27/mo (twelfthly)

Note: For employees hired as of October 1, 2003, the rate

of up to \$1,176.27 is the 2010 CalPERS Choice 80/20 Plan family rate.

Health benefits committee: Yes, advisory, recommend only.

**Mt. San Antonio College**

CalPERS Yes or No? Yes.

Rates Agreed for 2012? Yes.

Contribution amounts: Faculty: \$812.15

Employee contribution: Employee pays the difference between CalPERS plan premium rate and District contribution of \$812.15.

Health benefits committee: Yes, advisory, recommend only.

**Rio Hondo College**

CalPERS Yes or No? Yes.

Rates Agreed for 2012? Yes.

Contribution amounts: District pays up to CalPERS Choice premium rates. Employees electing CalPERS Care will pay the difference in cost between CalPERS Choice and CalPERS Care.

Health benefits committee: None.

**Santa Monica College**

CalPERS Yes or No? Yes.

Rates Agreed for 2012? In negotiations.

Contribution amounts: District pays up to the family rate for any plan, including CalPERS Care.

Note: Management/confidential, District pays up to the family rate for any HMO plan or for the CalPERS Choice PPO plan.

Health benefits committee: Yes, advisory.

Fact 14. El Camino's proposal is fair and comparable to other community colleges. In fact, the College's proposal provides faculty a menu of plans that allow them at no cost at the employee only, two-party, of family levels.

	Employee Contribution		
	Employee Only	Two Party	Family
Blue Shield Access+	\$0.00	\$116.44	\$150.87
Blue Shield Net Value	\$0.00	\$0.00	\$0.00
Kaiser CA	\$0.00	\$26.26	\$33.64
PERS Choice 80/20	\$0.00	\$106.26	\$137.64
PERS Select 80/20	\$0.00	\$0.00	\$0.00
PERS Care 90/10	\$385.39	\$907.78	\$2,356.61

Fact 15. El Camino's proposed employer's contributions are comparable to other community colleges.

	Maximum Employer Contribution		
	Employee Only	Two Party	Family
Cerritos College			
- Hired on or after 10/1/03	\$906	\$1,176	\$1,176
- Hired Before 10/1/03	\$906	\$1,813	\$2,077
El Camino College	\$521	\$905	\$1,177
Mt. San Antonio College	\$812	\$812	\$812
Rio Hondo College	\$511	\$1,021	\$1,328
Santa Monica College*	\$906	\$1,812	\$2,357

\*Currently in negotiations

Fact 16. As a result of the contract language, decisions regarding health benefit plans are “delegated irrevocably to the [insurance benefits] Committee and shall be removed from collective bargaining.” (Article 17, Section 12(b).)

Fact 17. The Insurance Benefit Committee includes 13 members, 7 appointed by the Federations, and 6 appointed by the College President. (Appendix L, 1.)

Fact 18. “Any Committee recommendation for changes in insurance benefits must be approved in writing by ten (10) of the members of the Committee.” (Appendix L, 5.)

Fact 19. “All additions to, deletions from, or changes to the Committee’s bylaws must be approved in writing by ten (10) of the members of the Committee, including at least one faculty member voting for approval.” (Appendix L, 6.)

Fact 20. “The Committee shall adopt its own bylaws that include, but are not limited to, the term set forth in Appendix L – Insurance Benefits Committee Guidelines.” (Article 17, Section 12(c).)

Fact 21. As a result of Article 17, Section 12 and Appendix L, there are no changes in health benefits unless approved by ten of the 13 members. (Appendix L, 5.)

Fact 22. As a result of Article 17, Section 12 and Appendix L, the District has continued to pay the entire increased premium cost for HMO benefits and approximately 85 percent of the increased premium cost for PPO benefits.

Fact 23. It is a violation of the Educational Employment Relations Act for there to be a waiver of bargaining health benefit plans and contribution rates irrevocably delegated to a committee beyond the term of the collective bargaining agreement that expired on June 30, 2010. (*Palo Verde Unified School District*, PERB Order No. 321, June 20, 1983, 7 PERC 14182; “PERB, in accordance with general labor law principles, has held that waiver of the statutory right to negotiate a matter within scope must be clear and unequivocal, and will not be inferred.”)

Fact 24. A binding delegation to a committee whose voting requirements prohibits change unless there is a super majority (10 of 13 members, including a faculty member) is an impermissible infringement on the fiduciary responsibility of the elected members of the Board of Trustees. (*California School Employees Association v. Personnel Commission* (1970) 3 Cal.3d 139, 144, 89 Cal.Rptr. 620, 623; “As a general rule, powers conferred upon public agencies and officers which involve the exercise of judgment or discretion are in the nature of public trusts and cannot be surrendered or delegated to subordinates in the absence of statutory authorization.”)

Fact 25. Retirees are reimbursed for the full cost of single coverage from 55-65; however, once they reach 65 only the \$108 is contributed by the District. The remainder of the cost is deducted from the retirement check. (Article 17, Section 7(b).)

Fact 26. The District proposes a hard cap regarding medical contributions for actives and prospective retirees. Effective January 1, 2012, the District proposes to contribute \$521/month twelfthly for single, \$905/month twelfthly for 2-party, and \$1,177/month twelfthly for family. A comparison of the proposed hard cap with the current contract language shows the different contribution rates.

The Federation presented extensive information pertaining to the Insurance Benefits Committee and information with respect to districts that receive their medical benefits from CalPERS. (Federation Tab, Article 17, Insurance Benefits, Tabs 16-21.)

The District responded that the Federation's position of irrevocably delegating all decisions pertaining to the Insurance Benefits Committee prevents the District from being able to negotiate the subject of health benefits at the bargaining table. The District also responded that health benefits are a mandatory subject of bargaining under the Education Employment Relations Act. With respect to the proposal that was made at the Insurance Benefits Committee to modify employer and employee premium contributions, the District points out that this proposal was to accept modified contribution rates for two years and then to revert back in 2014 to the current contract language.

### **Recommendation**

**The Chair believes that the "irrevocably delegating health benefits decisions" language with respect to the Insurance Benefits Committee, runs counter to the ability of either party to be able to negotiate a mandatory subject of bargaining, i.e., health benefits.**

**Recommendations from the IBC should be made to the negotiation teams because health benefits are subject to bargaining between the parties. If no recommendations are made or adopted by the Insurance Benefits Committee, such lack of action or agreement does not prevent either the District or the Federation from being able to negotiate health benefits. The IBC should include the same number of managers and union members on the IBC, for example, a membership of up to 7 members representing the three unions at El Camino and 7 members representing management/supervisory. There will be no requirement for super majority voting.**

The Chair finds that no other community college among the 8 comparable community colleges (or the Los Angeles Community College District, for that matter) is scheduled to contribute up to \$23,058.53 in calendar year 2012 toward the PERS Care Family Plan, with the possible exception of Santa Monica, which, at the time of the factfinding hearing, was in negotiations with the faculty unit over health benefits.

The Chair also recognizes that open enrollment is in process and that previously the District provided employees with the option of fully District-paid HMO plans with no out-of-pocket costs for employees selecting the three CalPERS HMO plans. With respect to CalPERS rate increases for calendar year 2012, the rate increases for three of the plans are below three percent and the PERS Select plan is minus 1.07 percent. On the other hand, PERS Care has a 15.14 percent rate increase and Kaiser CA has a 7.29 percent rate increase.

In light of these facts, it is recommended that the District increase its last, best and final offer so that the following monthly (twelfthly) amounts will result in there being five plans at “no out-of-pocket costs” in 2012:

\$ 590 x 12 = \$ 7,080	Single
\$1,022 x 12 = \$12,264	2-Party
\$1,328 x 12 = \$15,936	Family

For future negotiations, the District and the Federation will have the right to bargain the employer and employee contribution rates for all health insurance plans, as well as the right to bargain over changing the current insurance carriers and providers.

The Chair recommends the following amendments to the collective bargaining agreement between the Federation and the District, to be implemented January 1, 2012.

**Article 17, Insurance Benefits**

**Section 1. Medical Plans**

**Effective January 1, 2012, the District shall contribute (not to exceed) the following amounts for the medical insurance: \$590 per month for**

single, \$1,022 per month for 2-party, and \$1,328 per month for family. Any difference in the amount between the District contribution for medical insurance and the CalPERS medical insurance premium cost shall be paid by the employee through monthly payroll deductions. Effective July 1, 1996, and annually thereafter, the District shall contribute the minimum payment required, in order to participate in CalPERS medical plan, toward payment of the premium of a medical plan selected by the eligible permanent Faculty Member. The medical plan chosen by the Faculty Member shall be one of those offered by CalPERS under the Public Employees Medical and Hospital Care Act unless the District and the Federation negotiate a change in the carrier for health benefit insurance.

(a) ~~The District shall provide as a supplemental benefit plan for each permanent Faculty Member an amount equal to the difference between the minimum premium payment made by the District and the total cost of the medical plan selected by the Faculty Member.~~ For the insurance year commencing January 1, 2013, the District or the Federation may commence negotiations in April 2012 to consider different medical and health insurance providers and/or carriers. If a timely request to bargain a change in insurance plans is not provided to the other party by May 1, 2012, then the parties will continue to utilize the CalPERS medical plan for 2013.

(b) The ~~supplemental~~ health benefit plan ~~is~~ applicable to ~~all~~ eligible retirees ages 55 – 65 who have ten (10) years of service with the District will be in accordance with Section 7 of this Article. The CalPERS system will deduct the monthly insurance premium only from the retiree's STRS or PERS retirement check and the District will reimburse the retiree for the applicable District contribution per Section 7. ~~cost of the employee's health insurance premium.~~

(c) The Faculty Member may elect to have his/her eligible dependents covered under the medical plan the Faculty Member selects. ~~If the Faculty Member selects either of the two CalPERS PPO/indemnity plans offered by the District, the Faculty Member shall pay thirty percent (30%) of the cost of such dependent coverage and the District shall pay the remaining seventy percent (70%) of such cost. If the Faculty Member selects any of the CalPERS HMO plans offered by the District, the District will pay one hundred percent (100%) of the coverage.~~

(d) Until December 31, 2011, a Faculty Member whose spouse is a District employee and who selects PERSCare or PERSChoice medical plans may opt to have one (1) medical plan which covers both the employee and the employee's spouse. The District shall pay the difference between

two-party and family coverage in order to equalize the paid coverage for this situation. Under this option, an employee spouse would not select his/her own coverage but would opt to be covered under the Faculty Member's Primary Coverage.

(e) Faculty Members may, during ~~the CalPERS~~ open enrollment period in the Fall of each year, change plan coverage effective January 1 of each such year.

(f) ~~CalPERS~~ **Insurance benefits** coverage begins on the first of the month following the first day the Faculty Member is in paid status. Thus, a Faculty Member whose first day in paid status occurs on August 10 of any year will have coverage beginning on September 1 of that year. The Faculty Member's coverage continues until the first of the month following a full calendar month after the month in which the Faculty Member's last day in paid service occurs. Thus, a Faculty Member whose last day in paid status was March 10 of any year will have coverage through the month of April. Coverage for the dental plans and the vision plan begins and ends in the same manner. An eligible faculty member shall be deemed to be in "paid status" during any summer and/or winter session so long as the faculty member is scheduled to return to paid status at the end of the summer and/or winter sessions.

## Section 2. Dental Plans

The District will ~~continue to maintain its current~~ **provide** dental plans for all Full-Time Faculty Members and will continue to pay the monthly premium cost of the Faculty Member's coverage. If the Faculty Member selects the Delta Dental Plan **or equivalent plan** and elects to cover his/her eligible dependents by such plan, the Faculty Member will pay thirty percent (30%) of the cost of such dependent coverage and the District will pay seventy percent (70%) of such cost. If the Faculty Member selects the Delta Care Plan **or equivalent plan** and elects to cover the Faculty Member's eligible dependents by such plan, the District will pay the entire cost of the dependent coverage.

## Section 3. Vision Plan

The District will ~~continue to maintain its current~~ **provide** ~~vision~~ **vision** ~~service~~ **plan** for Full-Time Faculty Members and will pay the entire monthly premium cost for the Faculty Member's coverage. If the Faculty Member elects to have his/her eligible dependents covered by the **plan**, the Faculty Member will pay thirty percent (30%) of the cost of such coverage and the District will pay seventy percent (70%) of the cost of such coverage.

#### Section 4. Life Insurance - AD&D

The District will ~~maintain its~~ **provide** life insurance and accidental death and dismemberment insurance plan. The District will pay for the cost of such coverage.

#### Section 5. Short-Term Disability Income Insurance

The District will continue to make available to Full-Time Faculty Members a short-term disability income insurance plan. The Faculty Member who elects coverage by this plan shall pay the entire cost of such coverage.

#### Section 6. Compensation in Lieu of Dependent Insurance Benefits

The District will pay Four Hundred Twenty Dollars (\$420.00) at the end of each full year of completed service to each Full-Time Faculty Member not electing dependent medical, dental, and vision insurance coverage for such year. The Faculty Member may, pursuant to IRC regulations, use this sum for a tax-sheltered annuity contribution.

#### Section 7. Retiree Medical Insurance

(a) **For employees retiring prior to July 1, 2011, the District will provide medical insurance only for any Full Time Faculty Member who retires pursuant to the regulations of the California State Teachers' Retirement System after reaching age fifty-five (55) under Article 19, Section 1, or Section 2, from the time of retirement until reaching age sixty-five (65) and provided the Faculty Member remains in retired status. With respect to employees retiring after June 30, 2011, the District will contribute toward the medical insurance premium the single-only rate specified under Article 17, Section 1 for any employee who has ten (10) years of service with the District and who retires after reaching age fifty-five (55).** Regarding dependent coverage for retirees, the District will also make available to such a retiree medical insurance and dental insurance for eligible dependents with the cost of such coverage to be borne by the retiree, provided such option for dependent coverage is made when the retiree is first eligible.

(b) Effective July 1, 1996, and annually thereafter, per CalPERS regulations, the District shall offer to all eligible retirees sixty-five (65) years and older, the one-time opportunity to participate in the CalPERS medical plan. Retirees who choose not to participate in CalPERS when this one-time

offer is made, relinquish all future rights to participate in CalPERS. The District shall contribute ~~the same minimum payment as specified in Section 4 of this Article~~ **the minimum CalPERS premium payment (currently \$108 per month)** for an eligible retiree who elects to participate. The retiree shall be responsible for the cost of the medical coverage equal to the difference between the District's **minimum CalPERS premium** payment and the total cost of the selected medical plan.

#### Section 8. Refund of Premiums

In the event there is a refund of insurance premiums paid, the refund shall be applied to the District's cost for the subsequent year.

#### Section 9. Voluntary Tax-Sheltered Annuities

A Full-Time Faculty Member may, subject to the provisions of the Internal Revenue Code, the California Revenue and Taxation code, and the Education Code, voluntarily elect to purchase a tax-sheltered annuity or annuities and enter into an amendment of his/her contract of employment for this purpose and effect a corresponding reduction in salary.

#### Section 10. Voluntary Employee Organization Insurance Plans

The District shall deduct monthly from a Faculty Member's earnings, where such deduction has been requested by the Faculty Member in a revocable written authorization, for payment of premiums for a group life or disability insurance plan available to the Faculty Member as a result of membership in any employee organization. The written authorization or revocation notice shall be on file with the District at least thirty (30) days in advance.

#### Section 11. Disability Coverage

Any Full-Time Faculty Member who has completed ten (10) or more years of service with the District and who is determined by the California State Teachers' Retirement System to be totally disabled and is awarded disability benefits by the California State Teachers' Retirement System, shall be eligible to continue medical coverage in the District's medical insurance plans available to Faculty Members with the cost of such coverage to be borne by the disabled individual. The disabled individual must elect to continue such coverage at the time District sponsored coverage would otherwise lapse. Such coverage will remain in effect, subject to the payment of the premium cost by such disabled individual, until the individual attains

the age of sixty-five (65) or chooses at an earlier age to discontinue making payment.

## Section 12. Insurance Benefits Committee

(a) The District has established an Insurance Benefits Committee comprised of representatives of all Federation-represented employee groups on campus, as well as employees representing other non-represented groups. The Federation agrees to continue its participation in this Committee. This Committee is authorized to review, study and recommend such changes as it deems appropriate in the health benefits (including medical, dental, and vision benefits) and changes, if any, in the sharing of costs for any such coverage between the District and its employees. **Recommendations from the Insurance Benefits Committee may be provided to the respective negotiation teams for the Federation and the District for their review and consideration; however, it is recognized that the ultimate responsibility to evaluate, provide and pay for health benefits is determined through the collective bargaining process.** ~~The Committee has no authority to make available medical insurance coverage to any persons not currently eligible for such coverage, provided that, if the Committee selects a program that mandates some form of coverage for persons not currently eligible for such coverage, this condition is waived to the extent of complying with such mandatory coverage.~~

~~(b) The District and the Federation agree that any proposals concerning health benefits shall be delegated irrevocably to the Committee and shall be removed from collective bargaining. This shall not include any proposals extending health benefits to persons not currently eligible (except as provided in Paragraph (a) of this section). Any recommended changes of the Committee respecting health benefits, which are adopted by the Trustees, shall be final and binding.~~

~~(c) The Committee shall adopt its own by laws that include, but are not limited to, the terms set forth in Appendix L Insurance Benefits Committee Guidelines.~~

~~(d)~~ **(b)** Effective January 1, 2002, the District will provide \$20,000 to provide for reimbursement for Part-Time Faculty medical insurance premiums. This amount if not used in full in 2002, will be carried over to 2003. It will be included as an "increased cost of medical benefits" in the "Adjusted COLA" formula (Appendix N). The \$20,000 contribution shall be made annually in future years, unless different terms are negotiated in future negotiations.

### Section 13. Part-Time Faculty Members' Plan

~~Prior to July 1, 1997, any Part Time Faculty Member who had not elected to be covered pursuant to the California STRS or PERS was required to participate in the Zahorik Plan where the Part Time Faculty Member contributed five percent (5%) of pay to the Zahorik Plan and the District contributed two and one half percent (2.5%) of the Part Time Faculty Member's Pay to Zahorik.~~

### **MOVE TO ARTICLE 19, SECTION 5:**

Effective July 1, 1997, any Part-Time Faculty Member who has not elected to be covered pursuant to the California STRS or PERS plan for the Part-Time Faculty Member is required to participate in the STRS Cash Balance Plan. The Part-Time Faculty Member shall contribute four percent (4%) of pay to the STRS Cash Balance Plan and the District shall contribute five percent (5%) of the Part-Time Faculty Member's pay to the STRS Cash Balance Plan.

### Section ~~14~~ 13. Domestic Partners Benefits

1. The District shall provide medical and other benefits to domestic partners in accordance with the Domestic Partner Rights and Responsibilities Act of 2003 (DPRRA). California Education Code Section 297 provides that registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities and obligations, and duties under the law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted and imposed upon spouses.

2. In order to be eligible for benefits, partners must register with the Secretary of State, State of California. In addition, the eligible employee and domestic partner must:

- (a) Be unmarried and not related to each other;
- (b) Have lived together for at least six months, sharing the common necessities of life and responsibility for each other's common welfare, including financial interdependence;
- (c) Be at least eighteen (18) years of age and competent to enter into a contract, or, in the case of persons of opposite sex, one or both persons must be over sixty-two (62) years of age.

3. An employee has sixty (60) days from the date of enrollment with the Secretary of State to complete the HBD12 Health Enrollment Form

to enroll their domestic partner and eligible dependent children. Refer to Article 17 for further enrollment information.

4. To obtain coverage both employee and their partner must certify their eligibility by completing the District's Affidavit of Domestic Partnership Form.

### **Recommendation**

The Chair recommends amending Appendix L "Insurance Benefits Committee Guidelines" as follows:

**Amend Section 5 so that recommendations from the IBC should be made to the negotiation teams because health benefits are subject to bargaining between the parties. If no recommendations are made or adopted by the Insurance Benefits Committee, such lack of action or agreement does not prevent either the District or the Federation from being able to negotiate health benefits. The IBC should include the same number of managers and union members on the IBC, for example, a membership of up to 7 members representing the three unions at El Camino and 7 members representing management/supervisory. There will be no requirement for super majority voting.**

**Amend Section 6 to provide that the committee's bylaws are "advisory only."**

#### **10. Instructional Technology – Federation Proposal – Article 24**

##### **Discussion and Finding**

**This issue was mutually agreed to be removed from factfinding.**

#### **11. Term of Agreement – District and Federation Proposal – Article 25**

##### **Discussion and Finding**

The District presented a specific proposal (District Tab 7) and the Federation stated that that the current contract language needs, "to be replaced with appropriate language." (Federation, Article 25 Tab.)

Both parties are in agreement that there should be a new 3-year agreement effective July 1, 2011. The Federation proposes that there be an agreement covering the period from January 1, 2012 to December 31, 2014. If no salary increase is provided during its term, there should be reopeners on Compensation and Benefits and one other Article from each side. If a salary increase is included in the Agreement, then there should be no reopeners

unless they are mutually agreed to by the Federation and the District.

**Recommendation**

*The Chair recommends that Article 25, Section 5, shall be amended as follows:*

Section 5. Effective Date And Duration of the Agreement, and Reopener Provisions

(a) This Agreement shall be for a three-year term, from ~~dated July 1, 2007, July 1, 2011 through June 30, 2014.~~ ~~as a result of the duly ratified Tentative Agreement dated July 20, 2007 as to Article 10 (Compensation) and Article 17 (Insurance Benefits) only. In as much as the parties have continued to negotiate on the remaining outstanding items following ratification of the Tentative Agreement dated July 20, 2007, the remaining terms and conditions of this Agreement shall become effective upon ratification by the parties through June 30, 2010, unless otherwise specified. (See Article 10 and Article 17, Article 20 shall become effective commencing with the 2008-2009 academic year.) In April 2010~~ *The parties shall commence reopener negotiations for each ensuing fiscal year (2012-2013 and 2013-2014) by April unless another date is mutually agreed upon* ~~in May 2010~~ Both parties shall provide written notice and a proposal to the other party of the nature of the ~~amendment~~ proposals sought to the current collective bargaining agreement. This notice shall, in turn, be publicly sunshined on the agenda of the Board of Trustees with the initial proposals publicly sunshined at the April 2012 and 2013 meetings of the Board of Trustees. In addition, either party retains the right to reopen negotiations during fiscal year 2011-12 in case the District's funding either improves or there is less funding received from Sacramento than was indicated under the Governor's 2011 May revise.

(b) ~~Article 10 (Compensation) and Article 17 (Insurance Benefits) shall be reopened for negotiations for calendar year 2009 and 2010 in the preceding September during the term of this Agreement.~~ *Reopener*

*negotiations in each year shall pertain in each year to compensation-related articles including but not limited to Articles 10, 13, and 17, plus one additional article of each party's selection.* This Agreement may also be reopened for negotiations or consultation upon mutual agreement.

**CONCLUSION**

Each party was provided with a full and fair opportunity to present pertinent information to the Factfinding Panel. Each party fully and fairly exercised their right to do so.

Subsequently, the Panel Members representing the District and Federation have met in Executive Session by conference calls. Based on the above Recommendations of the Chair, they concur or dissent as follows:

Issued on November \_\_\_\_\_, 2011, by

\_\_\_\_\_  
Paul Crost  
Panel Chair

For the District:

\_\_\_\_\_ Concur  
\_\_\_\_\_ Dissent  
\_\_\_\_\_ Concur in Part  
\_\_\_\_\_ Dissent in Part

For the Federation:

\_\_\_\_\_ Concur  
\_\_\_\_\_ Dissent  
\_\_\_\_\_ Concur in Part  
\_\_\_\_\_ Dissent in Part

Report Attached \_\_\_\_\_

Report Attached \_\_\_\_\_

\_\_\_\_\_  
John D. Gray  
District Panel Member

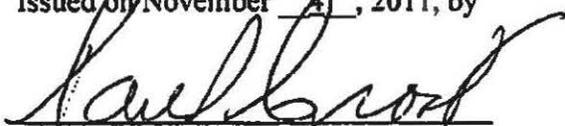
\_\_\_\_\_  
Marty Hittelman  
Federation Panel Member

**CONCLUSION**

Each party was provided with a full and fair opportunity to present pertinent information to the Factfinding Panel. Each party fully and fairly exercised their right to do so.

Subsequently, the Panel Members representing the District and Federation have met in Executive Session by conference calls. Based on the above Recommendations of the Chair, they concur or dissent as follows:

Issued on November 4, 2011, by



Paul Crost  
Panel Chair

For the District:

- Concur
- Dissent
- Concur in Part
- Dissent in Part

For the Federation:

- Concur
- Dissent
- Concur in Part
- Dissent in Part

Report Attached \_\_\_\_\_

Report Attached \_\_\_\_\_



John D. Gray  
District Panel Member

\_\_\_\_\_  
Marty Hittelman  
Federation Panel Member

IN FACTFINDING PROCEEDINGS PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTIONS 35482 AND 35483  
In the Matter of a Dispute between  
El Camino Community College District and the El Camino Federation of Teachers, Local 1388.

**CONCURRENCE/DISSENT BY UNION APPOINTED PANEL MEMBER**  
Marty Hittelman, President Emeritus California Federation of Teachers, Vice President  
California Federation of Labor

November 3, 2011

## **I. INTRODUCTION**

I believe that the factfinding report represents little positive progress that the parties can build upon to reach ultimate resolution of their differences. The animosity and distrust between the Union and the District negotiators remains great. This is underlined by the District's attempt to reverse more than twenty years of progress in faculty conditions of employment. The District management shows little if any respect for the Union as illustrated by their refusal to provide needed budget information to the Factfinding Panel or to the Union. Any reopeners are doomed to fail if the District continues to follow its intent on building unnecessarily large but ever increasing ending balances on the backs of its employees.

The conduct of the one-day hearing and the refusal by the chair of the panel to schedule another day in order to allow for rebuttal arguments seriously undermined the ability of the panel to make reasonable decisions based on fact rather than opinion, beliefs, or summarized phone conversations. The chair allowed little chance for the faculty to present its full case based on his opinion that he was basically volunteering his time and did not wish to spend another day at the rate of \$100 per day.

In addition, Marty Hittelman received the Crost Discussion and Recommendations on November 3 at 12:00 noon. He was informed that he had until Crost filed on November 4 to send him his response. This is an inadequate timeline for such an important document but it does further illustrate the obstacles placed before the Union in having a fair hearing.

When Spencer Covert for John Gray and Marty Hittelman as a panel member presented our proposed findings, Mr. Covert included evidence not presented in the hearing. The Union had no opportunity to rebut that information. Nevertheless, Mr. Crost used much of this information in his proposed decision. This is contrary to any standard of fairness. In short, the curtailment of the factfinding process resulted in little chance for the faculty to present rebuttal to District "facts" nor fully illustrates the problems that will result from the implementation of the District's proposals.

One of the most important underlying facts that was clear from statements by the District and

evidence from the Union was that the District DOES have the ability to pay for the salary increases requested by the faculty as well as to pay for the increased health benefits costs which the District faces in 2001-12. Despite the admission by the District that cost was not the point, it continued to insert arguments based on the cost to the District and Mr. Crost made decisions based on cost with no regard to the enormous ending balances the District has sustained over the last few years.

The increase in cost to the faculty with families proposed by Mr. Crost will be a tremendous economic burden particularly with no salary increase over three years and beyond. In addition, the Union showed clearly that such shifting of cost to the employees was not financially required as the Unrestricted General Fund Balance will not come close to falling below the 5% "prudent" level by the end date of this Agreement. Mr. Crost did not address this issue.

## **Issues**

### **1. Rights of the District – Federation Proposal, Article 2**

The Union proposed to change the language to make it more consistent with actual law. The Union also proposed to change the title to Rights of the *Trustees* instead of Rights of the *District*. The reason for this was that the word "District" can mean many things - including the management of the district considering themselves to be the "district."

The Chair found "that the proposed changes are merely a short form version of the current language, and that the amendments would have no substantive effect on the rights of management. Therefore, there is no need to replace the current management rights clause with the clause proposed by the Federation."

#### **Dissent: Accept the Union proposal.**

If there is no need to change the language, then why do the District negotiators object? The reason is clear. They prefer the current language. The Union language is more applicable to current law. In addition, the Board of Trustees should act to make clear that they are the group with the power under this section.

### **3. Calendar Committee - District and Federation Proposals, Article 7**

#### **Discussion and Findings**

1. Federation proposal regarding composition of the calendar committee.

This issue was mutually agreed to be removed from factfinding.

#### **Dissent: The issue was not removed from the table and still needs to be negotiated.**

2. District proposal regarding winter intersession and summer session. (Article 7, Section Section 2. Committee Recommendations

Mr. Crost first lays out the argument for the District and then states that "The Federation

presented information on the subject, but did not address the subject of comparability. (Federation, Article 7, Tab 3.) “ This represents his idea of fairly summarizing the parties arguments.

The Chair recommends the following amendment to Article 7, Section 2 in the collective bargaining agreement between the Federation and the District.

Article 7, Section 2. Committee Recommendations

*The calendar committee shall make recommendations for a school year in compliance with the Education Code. The calendar shall include an academic year consisting of fall and spring semesters, summer and winter sessions, and other academic sessions as may be developed in the future. It is understood that the District has the option to not offer or modify the length of winter or summer sessions commencing with summer session 2012.*

*It is understood that the District may add an additional unscheduled day or days to the calendar in the event that any day or days are "lost" due to uncontrollable circumstances. The recommended calendar shall include the stipulated holidays as provided by Article 15.*

**Dissent:** The District must negotiate with the Union when attempting to alter the Calendar as it would represent a change in working conditions. It would be an unfair labor practice to follow Mr. Crost's advise.

#### **4. Hours and Working Conditions - District and Federation Proposals - Article 8 Recommendation**

The Chair recommends *a multi-year phase-in for the Counselor work year. Accrued but unused vacation as of June 30, 2012 shall be paid by the District within 30 days of June 30, 2012. The Chair recommends the following amendments to the collective bargaining agreement between the Federation and the District, with no change in Counselor work year for 2011-12.*

##### Section 15 Counselors

**(a)** Effective July 1, 2012, Counselors will transition from a fiscal year basis to a work year calendar during 2012-13 of 197 work days, with one additional sick leave day, but no vacation or holiday pay. Within the 197 work days, 175 work days will coincide with the modified academic year consisting of two 18-week semesters. Twenty-two (22) additional days will be assigned to be worked during the summer and/or intersession in consultation with the Dean of Counseling and Matriculation. Each fiscal year Counselor will formulate and maintain a schedule, subject to the approval of the Dean of Counseling and Matriculation, consisting of a basic forty (40) hour work week of professional counseling services. The schedule may be changed or adjusted, subject to the approval of the Dean. The schedule shall include twenty-six (26) hours of student contact a week with a possible reduction of these hours at the Dean's discretion and two (2) hours of on-campus, non-student contact a week. The Dean may require up to thirty (30) hours of student contact a week, during periods of in-person registration, not to exceed four (4) weeks per fiscal year. Each Counselor will spend no less than thirty-two hours per week on campus (or at the location where a Counselor's work is scheduled) fulfilling contractual requirements for

scheduled and unscheduled time. Twenty-eight (28) of the thirty-two (32) hours must be scheduled on a weekly basis.

(b) Effective July 1, 2013, For Counselors shall be employed on a modified academic year basis of 175 days, basic service hours per week under ~~the 16~~ an 18-week compressed calendar shall be ~~expanded by 12.5% (45)~~ 40 hours per week. Each Counselor will formulate and maintain a schedule, subject to the approval of the appropriate Dean, consisting of a basic forty (40) hour work week of professional counseling services. ~~Student contact hours within the week shall be increased proportionally, rounding down to the nearest half-hour.~~ The weekly schedule shall include ~~twenty-nine (29)~~ twenty-six (26) hours of student contact a week consisting of one-on-one counseling, group counseling/workshops and classroom presentations with a possible reduction of these hours at the Dean's discretion and two (2) hours of on-campus, non-student contact a week. The Dean may require up to ~~thirty-three and a half (33.5)~~ thirty (30) hours of student contact a week, during periods of ~~in-person~~ peak registration, not to exceed four (4) weeks per fiscal year. Each Counselor will spend no less than ~~thirty-six (36)~~ thirty-two (32) hours per week on campus (or at the location where a counselor's work is scheduled) fulfilling contractual requirements for scheduled and unscheduled time. ~~Thirty-one and a half (31.5)~~ Twenty-eight (28) hours of the ~~thirty-six (36)~~ thirty-two (32) hours must be scheduled on a weekly basis.

(c) © Counselors are entitled to all professional privileges afforded to teaching faculty, such as professional development activities. ~~The twenty-six (26) student contact hours (29 hours under the modified academic year contract may be reduced, with the approval of the Dean, by up to forty (40) hours (as pro-rated by workload) during the fiscal year (45 hours under the compressed 16 week calendar).~~ These Counselors will have up to forty (40) hours (45 hours under the modified academic year contract) per academic year to may be used for conferences, workshops (on or off campus), or other professional development, excluding campus committees. Any hours in excess of the forty (40) which are approved for conferences, workshops, etc., will require the counselor to establish additional student contact hours on an hour-for-hour basis. These hours shall be rescheduled within thirty (30) days from the hours missed.

(g) — ~~In the event a Counselor is scheduled to work Saturday registration, the appropriate Dean shall not deny any reasonable request to be excused from such Saturday assignment, provided adequate staffing needs are met. A Counselor who is assigned Saturday registration will receive equal compensatory time off at another time as mutually agreed between the Counselor and the appropriate Dean.~~

(h) (e) The modified academic year is comprised of 175 days of service. The District may schedule no more than twenty (20) of the 175 days of service prior to and contiguous with the beginning of the fall and/or spring semesters. The modified academic year schedule will be communicated to the affected Counselor by May 1 of the prior academic year. Each counselor will prepare a schedule of substitute days off during the academic year and shall discuss the proposed schedule with the Dean who will approve the schedule if it meets the needs of the District. If not approved, the Dean and the Counselor will develop an alternative acceptable schedule. The schedule of alternative days off shall be determined in writing prior to June 1, of each year, but may be changed by mutual agreement during the year.

**Dissent:** The status quo (fiscal year employment unless a currently employed counselor agrees to 175 days) should continue for current counseling employees. The District will continue to be free to hire new counselors under the 175-day rule.

All current counselors were hired for a fiscal year assignment and the District is obligated to recognize that agreement. While Mr. Crost states that nothing goes into effect until July 1, 2012, he did not recognize that each Counselor had signed a 2011-12 contract with the district for a fiscal year assignment. So this part of the decision is consistent with their agreements although Mr. Crost does not concede that point.

The current Agreement in (b) states that "Counselors employed on a fiscal year basis for the 1995-1996 year have the option of remaining on a fiscal year basis or converting to an academic year basis as of July 1, 1996, or any subsequent July 1. Such election shall be effective as of the appropriate July 1 by written notification to the Vice President - Student Services, prior to May 15 of such year. **Such election is irrevocable.**"

Was this election irrevocable only with regard to the employee but not the district?

All full-time counselors have been hired and continue to serve on a fiscal year basis. The reason that the District negotiations team wishes to make this change is to bring the El Camino District in line with a selected number of "comparable" districts with regard to the employment of counselors. No evidence was presented regarding the vast majority of districts in the state. Advertising and hiring for full-time faculty (including counselors) is done **nationwide. The comparable districts for this Article are all the districts in the state.**

No evidence was presented as to how the majority of districts employ counselors and no provision was made for the employment of adequate counselors to serve the students outside of the normal 175 day academic year. The Union was not able to present rebuttal evidence on the District's "evidence" as no second day of testimony and rebuttal was allowed. In addition, Mr. Crost included information from Mr. Covert that was not presented in testimony and which the Union was not able to refute.

In the very brief time allowed for testimony, one El Camino counselor stated that she had given up a counseling job in San Bernardino in order to work the fiscal year in the El Camino District. The district did not choose to refute the fact that hiring is done state-wide for faculty. The district is attempting to pull a "bait and switch."

The District presented a summary of Human Resources research on a limited number of community college districts but did not provide any hard evidence from the districts. Even in the limited evidence presented, most counselors in these other chosen districts were employed for more than 175 days. The Union presented salary schedules that indicated that faculty (including counselors) were working 12 month calendars in other districts.

The Union presented convincing testimony on the need for full fiscal year service by counselors. The district was not able to address how the new system would work to provide the year-round counseling needs of the students.

## **5. Compensation - District and Federation Proposals - Article 10**

### **2. District proposal regarding reduction in the part-time hourly rate. (Article 10, Section 9.)**

The Chair concluded "that the District has not established a sufficient basis for its proposed reduction of the hourly rates. On the other hand, any further reduction of the State's appropriation for part-time equity should result in a proportionate reduction of the hourly rates. The amount of such reductions should be determined through the meet and confer process."

The Chair recommended the following amendment be made to the collective bargaining agreement between the Federation and the District effective July 1, 2012.

#### Section 9. Part-Time Faculty Members

~~(j) The Chancellor's Office plans on the current appropriation of part-time equity funds to continue in future years by adding money to the base for the 2002-03 fiscal year. However, Should this State appropriation for part-time equity be reduced in whole or in part from the 2011-12 level, the Part-Time Faculty Schedules will may be reduced in proportion to the equity funding available as determined by the State Budget final budget adopted by the Board of Trustees at their September 2002 meeting. Any further reductions or discontinuances in the State's part-time categorical equity funding for community colleges that is implemented in the State budget on or after July 1, 2012 shall also reduce the part-time hourly rate in the fiscal year(s) in which the reduction occurs. The District and the Federation will meet and confer to determine in what proportion the schedules should be reduced.~~

**Concur with the above change in language.**

### **3. The Federation submitted proposals regarding increasing salary schedules by adding additional steps effective January 2013.**

The Chair found "that it is not reasonable to include mandatory salary schedule improvements at this time. The Chair believes that the parties will have ample opportunity in the spring to be able to meet and negotiate in good faith regarding salary schedule improvements."

**Dissent:** Due to the loss of salary over the years and in order that El Camino not continue to lose a competitive position for the hiring of full-time faculty, the step insertions should be approved, at least a 2% across the board salary increase beginning in January 2014, and another across the board 2% if the District receives COLA or Growth funding above 1% in 2012-13 or 2013-14.

The District indicated that they have the ability to pay for these increases. In fact, the Union presented evidence that the District is flush with money and the District projects that the Unrestricted General Fund ending balance in 2011-12 will stand at something in excess of \$16,298,768. The Union requested information at the hearing as to how the District calculated

revenue in order that the Union could determine what cuts in funding may occur in 2011-12. In the latest reply from Jo Ann Higdon (10/21/11), **Ms. Higdon was unwilling or unable to provide the Union with the specific information requested** (including how Tier 1 and Tier 2 cuts were taken into consideration, how the student fees that were included in the budget were determined and whether any accounting was made as to any possible shortfalls). In Ms. Higdon's e-mail she stated : " This is in response to your email of October 17, 2011.

*"Previously I responded to these inquiries during the factfinding hearing on October 5, 2011. I have also responded to your inquiry by email on October 14, 2011. As a follow-up, you are reminded that the District is not making an "ability to pay" argument in factfinding. As a result, the various factors that go into my calculations for the budget are immaterial with respect to the factfinding hearing.*

- 1. There are four sources of revenue, federal, state, local and interfund transfers. Each amount that the District anticipates receiving during fiscal year 2011-12 is set forth in the adopted budget.*
- 2. As I have stated many of the assumptions used in the tier 1 and tier 2 projections were taken into consideration. The adopted budget projects receiving revenue from the four sources in the amount of \$101,022,505. Should there be more deferrals in State revenue or implementation of either trigger, then the anticipated State revenue will be less.*
- 3. You have asked how does the District calculate enrollment fees, and as I have stated, the District does not calculate enrollment fees.*
- 4. You have now asked for a prediction of the 2011-12 ending balance. The 2011-12 budget, at page 102, provides for a total ending balance, including reserves, of \$16,298,768. I explained at factfinding on October 5, 2011 that this sum was, in turn, decreased by \$975,000 and increased by \$459,000, which equals \$15,782,768. This was also reported by me to the Board at the Board meeting on October 17, 2011. The ending balance for 2011-12 is likely to change either positively or negatively from the projection based upon what the State of California ultimately decides to do to community college funding during the year. The District will not know its unaudited FY 11 - 12 balance until August 2012."*

The \$16.3 million ending balance represents over 15% of projected Expenditures for 2011-12. As the Union demonstrated in the hearing, the State Community College System considers a 5% reserve as "prudent." In addition to the \$16.3 million reserve, the District is planning to transfer additional unrestricted money (\$5.8 million) out of the Unrestricted General Fund. The District currently also has \$13.9 million in a Post Retirement Benefits Fund which is legally unrestricted but is not recognized as such by the District. In other words, the district has enormous reserves - not the sign of a district having money problems.

As a result of Ms. Higdon's failure to provide the needed information, the panel is unable to determine if the possible Tier 1 (\$527,194) and Tier 2 (\$1,265,264) reductions in mid-year would affect the budget. Even so, the District is still flush with revenue as compared to expenditures. In any case, the District has said it is able to pay for the requests made by the Union.

A salary increase, as proposed by the Union, beginning in January 2014, would cost the Unrestricted General Fund (according to District calculation on tab F11) approximates \$828,732 per 1% increase. The 5% increase would then cost about \$4 million per year (or \$2 million in the 2013-14 year). **This would leave the District with at least double the reserve considered “prudent” by the community college system office.**

**The faculty received no raises in 2008-9, 2009-10, or 2010-11. With the Union proposal the faculty would still not receive an increase in 2011-12 or 2012-13. This represents 5 years of no raises.** In January of 2008, the Consumer Price Index (All Urban Consumers) stood at 220.918. In August of 2011 it stood at 231.833. This represents a 4.94% increase over this period of time. With another two years of inflation added, the 5% increase proposal is not out of line with the cost of living increase over the years. Of course the loss of income to the employee adds up each year and in total lost to inflation greatly exceeds 5% of one years’ pay.

In order to compare salaries one must look at one schedule versus another. The District failed to present any evidence on this point. Average salary comparisons may compare how many senior or junior faculty a district may have. According to documents presented by the Union, El Camino ranked 3<sup>rd</sup> in the state in beginning salaries; 17<sup>th</sup> in MA+24-26 units, 10 years of experience; 37<sup>th</sup> in maximum salary. The following is a table of the placement of academic year faculty on the El Camino Salary Schedule. This document would have been presented in rebuttal if the chair of the panel had allowed for an additional day of testimony. In each cell is the number of faculty presently being paid in accordance with that cell’s salary schedule.

Academic salary Placement Fall 2011

STEP	CLASS I	CLASS II	CLASS III	CLASS IV	CLASS V
1					
2					
3					
4		1	2		
5		4			1
6		4		2	3
7	1	1	1		2
8		4	1	2	1
9		1			4
10		4	1	5	2
11		1		3	4
12	1	22	16	5	5
13				4	4
14				23	17
20		15	6	13	14
24		3	4	6	7

28	1	7	6	16	14
30		3	2	11	13

As can be seen, many of the faculty are on the high end of the schedule. This is the reason the faculty wish to insert new steps 14 and 17 into the schedule - faculty on these steps get no increase in salary due to step advance for many years.

**4. Federation proposal regarding part-time faculty members producing work product and serving on committees.**

The Chair found that “in light of the difficult and uncertain financial conditions of the State of California, and the fact that the **trigger language in the 2011-12 State budget could be implemented by February 1, 2012**, it is not reasonable to include the Federation's part-time pay proposal, including pay for SLOs. The Chair believes that the parties will have ample opportunity in the spring to be able to meet and negotiate in good faith regarding salary schedule improvements.”

**Dissent:** Accept the Union proposal. It was not known by Mr. Crost or Mr. Hittelman whether the District budget already included the trigger language cuts. Mr. Crost clearly did not understand this even though the Union attempted to make it clear in its request for more information on the budget. The response by Jo Ann Higdon as late as 10/21/11 quoted earlier does nothing to clear up this understanding of what financial liabilities the district might face. “Ample opportunity in the Spring” would only make sense if there was a willingness to bargain on this issue on the part of the District. No such interest has been shown to date.

**5. Federation proposal for reviewing how full-time and part-time hourly pay is calculated and paid.**

The Chair found that this matter does pertain to negotiations and recognizes that it can impact full and part-time employees. The Chair recommends that the Federation, through its own internal bargaining committees, propose what the Federation wants, and then, at reopener negotiations, the Federation can submit its proposal.

**Dissent:** The Task Force should be formed. The Board of Trustees should direct that a Task Force be established. It is time for the collegial process to be revived from the almost dead process that currently exists.

The Union proposed that a Task Force be established to address the pay for Part-Timers with regard to the courses they teach and the hours involved in teaching each course. The Union convincingly pointed out that part-timers are currently receiving very different pay for teaching the same course due to the scheduling of the class. A unilateral change in the way hours were paid was made by the district when implementing a new condensed calendar schedule for

assigning classes. Many part-time employees were unaware of such a change until they received a paycheck this semester and found that they were being underpaid in comparison to what they made in previous semesters for teaching the same class. Other districts have solved this problem. For example, Los Angeles went to a pay per course methodology. The issue of how to deal fairly with pay and scheduling of classes is a complex issue and needs to be addressed. The best way to address this is to form a task force to work out a reasonable pay policy.

**7. Paid Leaves - District Proposal - Article 11, regarding sabbatical leaves.  
Discussion and Findings**

The Chair found that in the absence of a claim of inability to pay, the District has not established an adequate basis for any change in the sabbatical leave provisions of the contract.

**Concur**

**8. Travel Outside the United States - Federation Proposal - Article 16  
Discussion and Findings**

The Federation proposes to delete the provision in Article 16, Section 4(b) that travel outside the United States must be approved by the President prior to the submission of the conference request to the Board of Trustees.

The Chair found that there is no sufficient need to delete the current contract language on this subject.

The Union proposed to delete "b) Travel outside the United States must be approved by the President prior to submission of the conference request to the Board of Trustees. The President will provide a written explanation to the faculty members whose request for conference attendance is not approved." The reason given was that the President does not approve such requests nor does he put the reasons in writing.

**Dissent:** Since the District has been acting in bad faith, the language should be deleted and the request go directly to the Board of Trustees.

**9. Health and Welfare Benefits – District Proposal, Article 17, and Appendix L**

The Chair stated that it was his belief that “irrevocably delegating health benefits decisions” language with respect to the Insurance Benefits Committee, runs counter to the ability of either party to be able to negotiate a mandatory subject of bargaining, i.e., health benefits.

He goes on to state his **bias** “Recommendations from the IBC should be made to the negotiation teams because health benefits are subject to bargaining between the parties.” He seems to not be aware of the more than twenty year IBC practice in the El Camino District. His bias should not prevail. He goes on to state another **belief** of his: “The IBC **should** include the same number of managers and union members on the IBC, for example, a membership of up to 7 members

representing the three unions at El Camino and 7 members representing management/supervisory. There will be no requirement for super majority voting. “ Again his opinion versus more than twenty years of El Camino College practice.

He recommends that “the District increase its last, best and final offer so that the following monthly (twelfthly) amounts will result in there being five plans at “no out-of-pocket costs” in 2012:

\$ 590 x 12 = \$ 7,080	Single
\$1,022 x 12 = \$12,264	2-Party
\$1,328 x 12 = \$15,936	Family

For future negotiations, the District and the Federation will have the right to bargain the employer and employee contribution rates for all health insurance plans, as well as the right to bargain over changing the current insurance carriers and providers.

The Chair then goes on to recommend the following amendments to the collective bargaining agreement between the Federation and the District, to be implemented January 1, 2012.

## **Article 17, Insurance Benefits**

### Section 1. Medical Plans

Effective January 1, 2012, the District shall contribute (not to exceed) the following amounts for the medical insurance: \$590 per month for single, \$1,022 per month for 2-party, and \$1,328 per month for family. Any difference in the amount between the District contribution for medical insurance and the CalPERS medical insurance premium cost shall be paid by the employee through monthly payroll deductions. Effective July 1, 1996, and annually thereafter, the District shall contribute the minimum payment required, in order to participate in CalPERS medical plan, toward payment of the premium of a medical plan selected by the eligible permanent Faculty Member. The medical plan chosen by the Faculty Member shall be one of those offered by CalPERS under the Public Employees Medical and Hospital Care Act unless the District and the Federation negotiate a change in the carrier for health benefit insurance.

**Concur/Dissent:** Medical Plans regarding rates should be implemented on January 1, 2013. The same effective date for other proposals. The recommendation from Crost is better than what the District proposed. A careful look at what the classified union agreed to should be looked at and district wide rates should be determined through negotiations.

The District is proposing to radically change the way that Benefit plans and costs have been addressed for over 25 years in the El Camino District. The plan is to shift responsibility for benefits from a representative committee to direct negotiations between the District and the various unions that represent employees. Rather than go to a committee to reach consensus, the District will be negotiating with each individual employee representative.

In addition the District is proposing to increase the cost to employees at a time when the District has the ability to continue to pay the new rates, the faculty has not had a raise in years, and at a time when the district maintains a ending balance that far exceeds the level recommended by the Even if the Board of Trustees, immediately upon receiving this report, implements this plan beginning on January 1, 2012, **faculty members will not have time**, given the CalPERS required sign up time ending on November 4, to analyze what choices they should make to serve their best interests. The classified employees have settled on their payment requirements and that should be considered.

With current levels of coverage, the 6 months cost to the district for the remainder of 2011-12 would be \$4.1 million. Under the district's proposal the 6 months cost would be \$3.3 million - a savings of approximately \$800,000 - an amount easily absorbed in the district budget.

**Mr. Crost proposes the following:**

(a) ~~The District shall provide as a supplemental benefit plan for each permanent Faculty Member an amount equal to the difference between the minimum premium payment made by the District and the total cost of the medical plan selected by the Faculty Member~~ For the insurance year commencing January 1, 2013, the District or the Federation may commence negotiations in April 2012 to consider different medical and health insurance providers and/or carriers. If a timely request to bargain a change in insurance plans is not provided to the other party by May 1, 2012, then the parties will continue to utilize the CalPERS medical plan for 2013.

**Concur** if effective date of the proposal to change the rates to employee is effective on January 1, 2012 instead of the necessary fairness date of January 1, 2013. In the case that the new rates don't go into effect until January 1, 2013.

(b) ~~The supplemental health benefit plan is applicable to all eligible retirees ages 55 – 65 who have ten (10) years of service with the District will be in accordance with Section 7 of this Article. The CalPERS system will deduct the monthly insurance premium only from the retiree's STRS or PERS retirement check and the District will reimburse the retiree for the applicable District contribution per Section 7. cost of the employee's health insurance premium.~~

**Dissent:** The status quo should continue for employee who are hired prior to June 30, 2012. This will allow current employees to retire under the old plan. New employees who retire after this date will have a health plan if they are between the ages of 55 and 65 and have ten years of service in the District. Such plan will be in accordance with Section 7 of this Article. CalPERS will deduct the monthly insurance premium only for the retirement check and the District will reimburse the retiree for the applicable District contribution contained in Section 7.

(c) The Faculty Member may elect to have his/her eligible dependents covered under the medical plan the Faculty Member selects. ~~If the Faculty Member selects either of the two CalPERS PPO/indemnity plans offered by the District, the Faculty Member shall pay thirty percent (30%)~~

~~of the cost of such dependent coverage and the District shall pay the remaining seventy percent (70%) of such cost. If the Faculty Member selects any of the CalPERS HMO plans offered by the District, the District will pay one hundred percent (100%) of the coverage.~~

**Dissent:** Status Quo. The District reported in the hearing that they had no idea how many employees this change might cover. They related no problems that they were aware of with the current provision. No change is required.

(d) Until December 31, 2011, a Faculty Member whose spouse is a District employee and who selects PERSCare or PERSChoice medical plans may opt to have one (1) medical plan which covers both the employee and the employee's spouse. The District shall pay the difference between two-party and family coverage in order to equalize the paid coverage for this situation. Under this option, an employee spouse would not select his/her own coverage but would opt to be covered under the Faculty Member's Primary Coverage.

**Dissent:** Accept the District proposal beginning in January 2013. This would mean that each employee could have separate single coverage or one employee could have a plan that covers both employees and this decision might be made based on how the various units eventually negotiate changes in health care.

(e) Faculty Members may, during the ~~CalPERS~~ open enrollment period in the Fall of each year, change plan coverage effective January 1 of each such year.

**Concur**

(f) CalPERS Insurance benefits coverage begins on the first of the month following the first day the Faculty Member is in paid status. Thus, a Faculty Member whose first day in paid status occurs on August 10 of any year will have coverage beginning on September 1 of that year. The Faculty Member's coverage continues until the first of the month following a full calendar month after the month in which the Faculty Member's last day in paid service occurs. Thus, a Faculty Member whose last day in paid status was March 10 of any year will have coverage through the month of April. Coverage for the dental plans and the vision plan begins and ends in the same manner. An eligible faculty member shall be deemed to be in "paid status" during any summer and/or winter session so long as the faculty member is scheduled to return to paid status at the end of the summer and/or winter sessions.

**Concur**

## **Section 2. Dental Plans**

The District will ~~continue to maintain its current~~ provide dental plans for all Full-Time Faculty Members and will continue to pay the monthly premium cost of the Faculty Member's coverage. If the Faculty Member selects the Delta Dental Plan or equivalent plan and elects to cover his/her eligible dependents by such plan, the Faculty Member will pay thirty percent (30%)

of the cost of such dependent coverage and the District will pay seventy percent (70%) of such cost. If the Faculty Member selects the Delta Care Plan or equivalent plan and elects to cover the Faculty Member's eligible dependents by such plan, the District will pay the entire cost of the dependent coverage.

**Dissent:** The first sentence should read: The District will continue to maintain its current or equivalent dental plans for all Full-Time Faculty Members and will continue to pay the monthly premium cost of the Faculty Member's coverage. The rest would remain as the District proposed. The District must negotiate any changes in plan coverage.

### **Section 3. Vision Plan**

The District will ~~continue to maintain its current~~ provide ~~vision~~ vision ~~service~~ service ~~plan~~ plan for Full-Time Faculty Members and will pay the entire monthly premium cost for the Faculty Member's coverage. If the Faculty Member elects to have his/her eligible dependents covered by the plan, the Faculty Member will pay thirty percent (30%) of the cost of such coverage and the District will pay seventy percent (70%) of the cost of such coverage.

**Dissent:** Change the first sentence to read "The District will continue to maintain its current or equivalent Vision Service Plan for Full-Time Faculty Members and will pay the entire monthly premium cost for the Faculty Member's coverage.

### **Section 4. Life Insurance - AD&D**

The District will ~~maintain its~~ provide life insurance and accidental death and dismemberment insurance plan. The District will pay for the cost of such coverage.

**Dissent:** The District will maintain its current or equivalent life insurance and accidental death and dismemberment insurance plan. The District will pay for the cost of such coverage.

### **Section 7. Retiree Medical Insurance**

(a) For employees retiring prior to July 1, 2011, the District will provide medical insurance only for any Full Time Faculty Member who retires pursuant to the regulations of the California State Teachers' Retirement System after reaching age fifty-five (55) under Article 19, Section 1, or Section 2, from the time of retirement until reaching age sixty-five (65) and provided the Faculty Member remains in retired status. With respect to employees retiring after June 30, 2011, the District will contribute toward the medical insurance premium the single-only rate specified under Article 17, Section 1 for any employee who has ten (10) years of service with the District and who retires after reaching age fifty-five (55). Regarding dependent coverage for retirees, the District will also make available to such a retiree medical insurance and dental insurance for eligible dependents with the cost of such coverage to be borne by the retiree, provided such option for dependent coverage is made when the retiree is first eligible.

(b) Effective July 1, 1996, and annually thereafter, per CalPERS regulations, the District shall offer to all eligible retirees sixty-five (65) years and older, the one-time opportunity to participate in the CalPERS medical plan. Retirees who choose not to participate in CalPERS when this one-time offer is made, relinquish all future rights to participate in CalPERS. The District shall contribute ~~the same minimum payment as specified in Section 1 of this Article~~ the minimum CalPERS premium payment (currently \$108 per month) for an eligible retiree who elects to participate. The retiree shall be responsible for the cost of the medical coverage equal to the difference between the District's minimum CalPERS premium payment and the total cost of the selected medical plan.

**Dissent:** In as much as the District has the ability to pay, no change seems necessary as the coverage is already so low and the changes are already addressed earlier. The District cannot legally change the retiree benefits for employees who retire before the ratification of this Agreement.

### **Section 12. Insurance Benefits Committee**

(a) The District has established an Insurance Benefits Committee comprised of representatives of all Federation-represented employee groups on campus, as well as employees representing other non-represented groups. The Federation agrees to continue its participation in this Committee. This Committee is authorized to review, study and recommend such changes as it deems appropriate in the health benefits (including medical, dental, and vision benefits) and changes, if any, in the sharing of costs for any such coverage between the District and its employees. Recommendations from the Insurance Benefits Committee may be provided to the respective negotiation teams for the Federation and the District for their review and consideration; however, it is recognized that the ultimate responsibility to evaluate, provide and pay for health benefits is determined through the collective bargaining process. ~~The Committee has no authority to make available medical insurance coverage to any persons not currently eligible for such coverage, provided that, if the Committee selects a program that mandates some form of coverage for persons not currently eligible for such coverage, this condition is waived to the extent of complying with such mandatory coverage.~~

~~(b) The District and the Federation agree that any proposals concerning health benefits shall be delegated irrevocably to the Committee and shall be removed from collective bargaining. This shall not include any proposals extending health benefits to persons not currently eligible (except as provided in Paragraph (a) of this section). Any recommended changes of the Committee respecting health benefits, which are adopted by the Trustees, shall be final and binding.~~

~~(c) The Committee shall adopt its own by-laws that include, but are not limited to, the terms set forth in Appendix L – Insurance Benefits Committee Guidelines.~~

**Dissent:** The Parties should go back to the negotiations table, including the other district unions, to hammer out a new way to negotiate benefits for all district employees at the same time. If no

agreement is reached by June 30, 2012, the District proposal for the role of the IBC should go into effect for the faculty unit. Other units will have to negotiate the manner in which they will negotiate benefits - the faculty can only sign off for itself.

The District is proposing to drastically change the role of the Insurance Benefits Committee after twenty years of its existence. Why this is the year to make the change was not clear in the district's arguments. The committee is composed of all union-represented employee groups on campus, as well as employees representing other non-represented groups. It is authorized to review, study and recommend such changes as it deems appropriate in the health benefits (including medical, dental, and vision benefits) and changes, if any, in the sharing of costs for any such coverage between the District and its employees. In the past such recommendations, if approved by 10 members of the IBC, went to the Board of Trustees for action.

In the past the Union and the District agreed that health benefits were "removed from collective bargaining." There was no evidence presented on how the other district unions were forced to participate in the process or how this new provision would affect their benefit packages.

It is not clear how the new proposal will affect union peace or how the district can function with each union negotiating their own benefit packages.

### **Section 13. Part-Time Faculty Members' Plan**

~~Prior to July 1, 1997, any Part-Time Faculty Member who had not elected to be covered pursuant to the California STRS or PERS was required to participate in the Zahorik Plan where the Part-Time Faculty Member contributed five percent (5%) of pay to the Zahorik Plan and the District contributed two and one-half percent (2.5%) of the Part-Time Faculty Member's Pay to Zahorik.~~

### **MOVE TO ARTICLE 19, SECTION 5:**

Effective July 1, 1997, any Part-Time Faculty Member who has not elected to be covered pursuant to the California STRS or PERS plan for the Part-Time Faculty Member is required to participate in the STRS Cash Balance Plan. The Part-Time Faculty Member shall contribute four percent (4%) of pay to the STRS Cash Balance Plan and the District shall contribute five percent (5%) of the Part-Time Faculty Member's pay to the STRS Cash Balance Plan.

**Concur**

### **See Also: Appendix L "Insurance Benefits Committee Guidelines"**

The Chair recommends amending Appendix L "Insurance Benefits Committee Guidelines" as follows:

*Amend Section 5 so that recommendations from the IBC should be made to the negotiation teams because health benefits are subject to bargaining between the parties. If no recommendations are made or adopted by the Insurance Benefits Committee, such*

*lack of action or agreement does not prevent either the District or the Federation from being able to negotiate health benefits. The IBC should include the same number of managers and union members on the IBC, for example, a membership of up to 7 members representing the three unions at El Camino and 7 members representing management/supervisory. There will be no requirement for super majority voting.*

*Amend Section 6 to provide that the committee's bylaws are "advisory only."*

**Dissent:** The Parties should go back to the negotiations table, including the other district unions, to hammer out a new way to negotiate benefits for all district employees at the same time. If no agreement is reached by June 30, 2012, the Chair's proposal for the role of the IBC should go into effect for the faculty unit. Other units will have to negotiate the manner in which they will negotiate benefits - the faculty can only sign off for itself.

11. **Term of Agreement** – District and Federation Proposal – Article 25

The Chair recommended that Article 25, Section 5, shall be amended as follows:

Section 5. Effective Date And Duration of the Agreement, and Reopener Provisions

(a) This Agreement shall be ~~for a three-year term, from~~ dated July 1, 2007, July 1, 2011 through June 30, 2014. ~~as a result of the duly ratified Tentative Agreement dated July 20, 2007 as to Article 10 (Compensation) and Article 17 (Insurance Benefits) only. In as much as the parties have continued to negotiate on the remaining outstanding items following ratification of the Tentative Agreement dated July 20, 2007, the remaining terms and conditions of this Agreement shall become effective upon ratification by the parties through June 30, 2010, unless otherwise specified. (See Article 10 and Article 17, Article 20 shall become effective commencing with the 2008-2009 academic year.) In April 2010~~ The parties shall commence reopener negotiations for each ensuing fiscal year (2012-2013 and 2013-2014) by April unless another date is mutually agreed upon in May 2010 Both parties shall provide written notice and a proposal to the other party of the nature of the amendment proposals sought to the current collective bargaining agreement. This notice shall, in turn, be publicly sunshined on the agenda of the Board of Trustees with the initial proposals publicly sunshined at the April 2012 and 2013 meetings of the Board of Trustees. In addition, either party retains the right to reopen negotiations during fiscal year 2011-12 in case the District's funding either improves or there is less funding received from Sacramento than was indicated under the Governor's 2011 May revise.

(b) Article 10 (Compensation) and Article 17 (Insurance Benefits) shall be reopened for negotiations for calendar year 2009 and 2010 in the preceding September during the term of this Agreement. Reopener negotiations in each year shall pertain in each year to compensation-related articles including but not limited to Articles 10, 13, and 17, plus one additional article of each party's selection. This Agreement may also be reopened for negotiations or consultation upon mutual agreement.

**Dissent:** The beginning date of July 1, 2011 is inappropriate as the Agreement has not yet been ratified and it is now November of 2011. The Agreement term should be from January 1, 2012 to December 31, 2014. If no salary increase is provided during the length of the Agreement then there should be reopeners on Compensation and Benefits and one other Article from each side each year of the contract. Same timeline as outlined above.

CONCLUSION

~~Each party was provided with a full and fair opportunity to present pertinent information to the Factfinding Panel. Each party was unable to fully and fairly exercised their right to do so.~~

~~Subsequently, the Panel Members representing the District and Federation have met in Executive Session by conference calls. Based on the above Recommendations of the Chair, they concur or dissent as follows:~~

Issued on November   3  , 2011, by

\_\_\_\_\_  
Paul Crost  
Panel Chair

For the District:

\_\_\_\_\_ Concur  
\_\_\_\_\_ Dissent  
\_\_\_\_\_ Concur in Part  
\_\_\_\_\_ Dissent in Part

Report Attached \_\_\_\_\_

For the Federation:

\_\_\_\_\_ Concur  
\_\_\_\_\_ Dissent  
\_\_\_\_\_ x Concur in Part  
\_\_\_\_\_ x Dissent in Part

Report Attached \_\_\_\_\_



\_\_\_\_\_  
John D. Gray  
District Panel Member

\_\_\_\_\_  
Marty Hittelman  
Federation Panel Member

The parties did not have a chance for a full discussion of the issues. There were no conference calls.