



Minutes of the
MEETING OF THE FACULTY SENATE
September 30, 2019

APPROVED

- PRESENT:** Richard Albistegui-Dubois, José Briceño, Melinda Carrillo, William Dalrymple, Alexandra Doyle Bauer, Jenny Ferrero, Erin Hiro, Teresa Laughlin, Lawrence Lawson, Jackie Martin, Adam Meehan, Wendy Nelson, Patrick O'Brien, Lillian Payn, Travis Ritt, Julia Robinson, Chris Sinnott, Craig Thompson, Fari Towfiq, Rocco Versaci, Lori Waite, Anastasia Zavodny
- ABSENT:** None
- GUESTS:** Ana Acosta (Telescope), Remy Arnold (ASG), Mark Bealo (Faculty), Wing Cheung (Faculty), Lacey Craft (Faculty), Justin Enriquez (Telescope), Barbara Kelber (Faculty), Patriceann Mead (Faculty), Maureen Meadows (Staff), Steve Perry (Faculty), Linus Smith (ASG), Susan Snow (Faculty), Diane Studinka (Faculty), Jon Walker (ASG)

CALL TO ORDER: The meeting was called to order by Senate President Craig Thompson, at 2:30 p.m. in room LRC-116.

Please note: All votes are presumed unanimous unless indicated otherwise.

- I. APPROVAL OF MINUTES:
- Motion 1** MSC Ritt/Zavodny: Faculty Senate approval of minutes of September 23, 2019 (Exhibit I), as amended.
- The motion carried.
- II. PUBLIC COMMENT: None
- III. ANNOUNCEMENTS:
- Senator Chris Sinnott, from Performing Arts, invited everyone to the first theater performance of the year on Friday, October 4 at 7 PM in the Howard Brubeck Theatre. The Mental State is directed by Annie Hinton.
 - Faculty Luis Guerrero announced that two MATCH events are planned for October. The first will be Wednesday, October 3, at 3 PM. A film titled X + Y will be shown in P32. On October 28, there will be a student and faculty showing in the Planetarium.
 - Faculty Patriceann Mead announced that the annual Noche Havana event is set for October 18 at 7 PM at the Palomar Studio Theatre. A salsa class starts the evening activities with the Brazilian Drum and Dance Ensemble to follow. This annual event speaks to diversity here on campus.
- IV. AGENDA CHANGES: None

V. **ACTION:**

A. Polling the Faculty: Level of Confidence in Superintendent/President's job performance

Motion 2 MSC Laughlin/Versaci: Faculty Senate approval to accept the language as amended for the Level of Confidence in Superintendent/President's job performance poll that will soon be underway (Exhibit II, Exhibit III).

Senator Teresa Laughlin began the discussion by presenting a draft of the polling document. Senators and guests in attendance offered edits to ensure that Faculty Senate was providing adequate instructions and that the polling language was accurate and precise. Senator Jenny Fererro, Chair for Elections Committee, took notes and ended the discussion by summarizing the changes. Senator Fererro will reproduce the document this evening and send the final version to the Senate Office for processing. Final discussion regarding the resolution language is set for our Faculty Senate meeting on October 28, 2019.

The motion carried.

Motion 3 MSC Fererro/Laughlin: Faculty Senate approval to draft a resolution upon completion of the poll.

Senator Fererro wanted clarity regarding instructions language for the ballot and language for the resolution as well. After a lengthy discussion, consensus determined that Fererro would use her own discretion, based on past polls/ballots, to determine the instructions for the ballot. It was also settled that the Faculty Senate members will draft the resolution language once the results of the poll are complete. Dr. Barbara Kelber closed the discussion by thanking Senators for their serious and considerate work. She said she appreciates the senate following the Faculty Constitution and taking action in a way that is collegial and professional.

The motion carried.

B. Committee Appointments/Elections:

- a. **Confirmations:** Senator Anastasia Zavodny prepared handouts that outlined the various committee confirmations.

Motion 4 MSC Zavodny/Laughlin: Faculty Senate approval to confirm the uncontested committee nominees (Exhibit IV). They are as follows:

Behavioral Health & Campus Wellness Committee – Angelica Yanez (Faculty, Non-Instructional, 19-21)
Behavioral Health & Campus Wellness Committee – Loren Pope (Faculty, DRC, 19-21)
Curriculum Committee – Dennis Lutz (Faculty, CTE, 19-22)
Curriculum Committee – Christine (Tina) Barlolong (Faculty, Student Services, 18-21)
Student Program Eligibility Appeals Committee – Karmi Minor-Flores (Faculty, Financial Aid Counselor, 19-21)
Student Program Eligibility Appeals Committee – Angelica Yanez (Faculty, Counselor DRC, 18-20)

The motion carried.

- b. **Elections:** Senator Zavodny prepared handouts that outlined the various committee elections.

Motion 5 MSC Zavodny/Laughlin: Faculty Senate approval to accept ballot results for the following committees (Exhibit IV, Exhibit V). The results are as follows:

Professional Procedures – Christine (Tina) Barlolong (Faculty, At Large, 18-20)
Director of HR Hiring Committee – John Russell (Faculty)

The motion carried.
(I.C.3,I.C.4,I.C.5)

Motion 6 MSC Ritt/Laughlin: Faculty Senate approval to extend the meeting an additional five (5) minutes.

The motion carried.

To close meeting, Zavodny provided an update on the VPHRS appointment. She reviewed the series of emails with HR and announced that HR finally conceded to allow a full-time, at-large faculty member to fill the Counseling position on the committee.

Motion 7 MSC Laughlin/Ritt: Faculty Senate approval to appoint Lawrence Lawson to the VPHRS Committee.

The motion carried.

C. Curriculum: Tabled.

D. DEC make-up: Tabled.

VI. INFORMATION ITEMS

A. Committees: Tabled.

B. Administrators in "Acting" Positions: Tabled.

C. Constitutional Review Committee: Tabled.

D. Policies and Procedures: Tabled.

E. Webpage Workgroup: Tabled.

VI. REPORTS:

A. Senate President: Tabled.

B. Planning Council Reports: Tabled.

C. Palomar Faculty Federation: Tabled.

D. ASG: Tabled.

E. Guided Pathways: Tabled.

F. Accreditation: Tabled.

G. Budget Committee: Tabled.

H. Senate Committee Reports: Tabled.

I. Other Reports: Tabled.

VII. ADJOURNMENT:

The meeting was adjourned at 3:55 PM.

Respectfully submitted,



Erin Hiro, Secretary

EXHIBIT II

| Oct 14 2019 | | | | | | |
|---------------|----------|-----------|---------------------------------------|---|---|-------------|
| Name | Division | FT/PT | Committee | Position | Statement | Confirm all |
| Karen Donovan | MSE | Full time | Faculty Service Area Review Committee | Faculty MSE 19-21 | | |
| Wendy Metzger | MSE | Full time | AB705 Support Subcommittee | Faculty, At-large members: Arts, Media, Business, and Computer Sciences appointed by the Faculty Senate | I am currently creating and leading Math faculty training, both in-person and online, to help faculty teach new math courses created under the AB705 mandate. | |
| Kevin Powers | CTE | Full time | Curriculum | Faculty CTE 19-22 | I would like to re-join the committee. After 4 years of serving on the committee I let my membership lapse. | |

16 October 2019

TO: Acting Assistant Superintendent/Vice President, Human Resource Services Michael Shanahan
 FROM: The Palomar College Faculty Senate
 SUBJECT: Clarification on Recruitment and Title V 53021

We write this letter seeking clarification on the hiring of some “acting” administrators. AP 7120 delineates the recruitment process for many position types, including for administrator, faculty, and staff positions. Per AP 7120, the Faculty Senate has a role in forming the hiring committees for administrators, but that role has been, in some cases, inadvertently circumvented by the overuse of the recruitment of “acting” administrators. Currently, there are several administrative positions designated as “acting”—Acting Dean of Counseling, Acting Dean of MSE, Acting Director of Athletics, Acting Director of Communications, Acting VPHRS, Acting VPFS, and Acting VPSS among others. (Of note, AP 7120 discusses permanent and interim positions and does not make mention of “acting” positions.)

It has been brought to our attention by Human Resources that Title V 53021 (Recruitment) provides a basis for hiring “acting” administrators. Briefly, as you know, Title V 53021 features three main sections, and, respectively, they stipulate that (a) recruitments must be open to people “at least statewide;” (b) for “in house promotions,” the position must be opened to all qualified candidates within the District; and (c) parts (a) and (b) can be ignored in seven specific situations. In our research and understanding, Title V 53021 does allow for the hiring of qualified candidates in temporary positions following certain guidelines--sections (a) and (b) being covered by AP 7120 and statewide or campus wide recruitments.

However, section (c) addresses appointments where, seemingly, statewide or campus wide recruitments might not be required--in seven specific situations. The Faculty Senate understands that it is the fifth and seventh sections in part (c) that the District has been using to hire “acting” administrators without a statewide or campus wide recruitment. Title V 53021 sections (c) (5) and (7) read:

(c) For purposes of this section, a vacancy is not created, and the requirements of subdivisions (a) and (b) do not apply, when:

...

(5) the position is filled by a temporary, short-term, or substitute employee appointed pursuant to Education Code sections 87422, 87480, 87482.5(b), 88003, 88106 or 88109;

...

(7) an individual not currently employed by the district, who is specially trained, experienced, and competent to serve as an administrator, and who satisfies the minimum qualifications applicable to the position, is engaged to serve as an administrator through a professional services contract. No appointment or series of appointments pursuant to this provision may exceed a period of two years.

It’s our understanding that the CA Ed Code sections listed in (c) (5) do not pertain to the specific “acting” appointments that we’re concerned about. Your clarification on that point would be useful.

Further, the CA Ed Code listed in (c) (7) is specifically for recruiting people who do not currently work for the District. Again, your clarification on this point would be useful.

Based on this language, it seems as though the District is legally allowed to hire people (who are not *then* employed by the District) as “acting” administrators through a *professional services contract* for a defined duration of time. This would apply to Acting VPs Ely, Shanahan, and Garcia and Acting Director Lanthier Bandy--all of whom were not working for the district upon their appointment to their current positions.

However, based on this language, it appears as though the District is not permitted to give “in house promotions” to people already working in the District without opening the recruitment to all qualified candidates in the District [section (b) of Title V 53021]. (The seventh section of part (c) specifically says the ability of the district to hire people via *professional service contracts* only extends to qualified people who do *not* work for the District.)

While we harbor no ill will toward Acting Dean Diaz, Acting Dean Roe, Acting Director Hugh Gerhardt, or former Acting Dean Albistegui-Dubois (or any other administrators who received an “in-house promotion” from a recruitment, which was not opened up at least campus wide, while employed by the District), we believe that, based on the code the District relied on to place those people into these “acting” roles, these individuals could have been placed in administrative positions counter, certainly, to AP 7120 but, more importantly, counter to Title V 53021. Of course, we welcome evidence and explanation to the contrary. In fact, that’s what we’re asking for: alert us to how our thinking is incorrect here. If we’re correct in our thinking, however, we’re asking for a remedy to this situation that adheres to Title V, Ed Code, and AP 7120.

Specifically, we’d like to ask:

1. What are/were the official position titles for Diaz, Roe, Gerhardt, Albistegui-Dubois, and all other administrators who worked for the District at the time they received “in-house promotions”?
2. What are/were the hiring processes for Diaz, Roe, Gerhardt, Albistegui-Dubois, and all other administrators who worked for the District at the time they received “in-house promotions”?
3. Does the District rely on other legal language regarding recruitment other than BP/AP 7120, Title V 53021, and the CA Ed Code referenced in Title V 53021 that can explain why Title V might not have been followed in the appointment for these positions?
4. Were Diaz, Roe, Gerhardt, Albistegui-Dubois, and all other administrators who worked for the District at the time they received “in-house promotions” hired under *professional services contracts*? If not, what type of contract were they hired under?
5. If, indeed, these positions were filled counter to Title V 53021 and CA Ed Code, what is the remedy for this possible violation?

Thank you for your time in reading and responding to our query. We’re concerned, of course, because the Faculty Senate’s rights per AP 7120 may have been violated if these appointments were, indeed, made counter to law and policy. We sincerely hope they were not and that you can inform us as to why not. The

Faculty Senate is requesting a response, in writing, be received by our office by the last day of October 2019.

Best Regards,
The Palomar College Faculty Senate