



FACULTY SENATE MEETING

January 27, 2020

EXHIBITS



Minutes of the
MEETING OF THE FACULTY SENATE
December 9, 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:

GUESTS: Barbara Baer (Faculty), Linus Smith (ASG), Remy Arnold (ASG), Jon Walker (ASG) Rachel Alazar (ASG)

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

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

PUBLIC COMMENT:

Barbara Baer handed out COPE (Committee on Political Education) payroll deduction request forms (Exhibit I) asking senators to join COPE, the political arm of PFF. She stated that the only political election the group will be involved with this next year is the Governing Board election. COPE's efforts are in line with Faculty Senate's efforts of leadership change and replacing governing board members in the next election can help make this happen.

ANOUNCEMENTS:

Senator Lawrence Lawson announced the Distinguished Faculty Award 2020 recipients. He read the following:

Dear campus community,

On behalf of the Distinguished Faculty Award committee, we are thrilled to announce the winners and finalists of the 2020 Distinguished Faculty Award.

The full-time faculty winner is **Kristen Marjanovic** from the History Department and the part-time faculty winner is **Barbara Springer-Hammons** from Child Development.

We also had a wonderful group of finalists:

Full-Time Faculty Finalists:

Amy Caterina, Photography

Jim Fent, Alcohol and Other Drug Studies

Jenny Ferrero, Child Development

Lakshmi Paranthaman, Business Administration

Eli Ziade, Mathematics

Part-Time Faculty Finalists:

Leanne Farmer, Health

Tucker Grimshaw, English

Russell Sheaffer, Film and Media Studies

Suzanne Woodward, ESL

Anastasia Zavodny, Economics and Business Administration

AGENDA CHANGES: None

APPROVAL OF MINUTES:

Motion 1 MSC Laughlin/Lawson: Faculty Senate approval of minutes of December 2, 2019 (Exhibit II) as amended.

Abstentions: Travis Ritt, Julia Robinson, Rocco Versaci

The motion carried.

ACTION:

A. Committee Appointments/Elections:

Motion 2 MSC Zavodny/Laughlin: Faculty Senate approval to confirm committee appointment (Exhibit III).

Curriculum – Gina Wilson – Faculty, SBS (17-20)

Title V Steering – Shannon Andrews – Faculty, Physics and Engineering (18-20)

Elections – Jose Carlos Pedroza – Faculty, determined by EC Chair (18-20)

The motion carried.

Motion 3 MSC Laughlin/Sinnott: Faculty Senate approval to accept the results of the ballot for Faculty Tri-Chair of the Accreditation Steering Committee election (Exhibit IV).

Adam Meehan

The motion carried.

1.A.1, 1.A.2, 1.B.1, 1.B.2

B. Curriculum:

Senator Wendy Nelson reminded senators that she sends out a curriculum actions document the day after curriculum meets. She encourages senators to read the document and click on the embedded links to obtain further information before coming to senate to approve actions.

Motion 4 MSC Nelson/Laughlin: Faculty Senate approval of curriculum actions approved December 4 (Exhibit V).

The motion carried.

1.A.1, 1.A.2, 1.B.1, 1.B.2, II.A.1

REPORTS:

A. **Senate President:** President Thompson stated that he and Vice President Jackie Martin met with President Joi Lin Blake and spent the bulk of the time talking about FSAs, the short-term, hourly issue and the December 17 meeting she is scheduled to have between Governing Board President Hensch, Vice President Garcia and the Board of Governors. Vice President Martin stated that hard copies of FSAs were mailed to all faculty and asked for clarity from President Blake. President Blake stated that this action was 10 years past due and needed to be done. She added that FSAs usually come from the departments but in this instance, they came directly from Human Resources. This added to the confusion. The FSA issue will be agendized for discussion at a later senate meeting. Additionally, Dr. Blake stated she is expecting a state monitor to be appointed by the Board of Governors. Thompson then told the senate that the last SPC meeting included robust discussion regarding the

short-term, hourly layoffs that are affecting the tutoring centers. Lastly, Thompson met with Vice President Jack Kahn where he suggested that a faculty member be added as a co-chair to IPC. This suggestion was favored by VP Kahn. Also, the tutoring centers' budgets were discussed and there seems to be confusion on whether funding is available for tutors next semester. Thompson told the Senate that VP Kahn also mentioned that he isn't sure what the layoff status is for all short-term, hourly employees.

- B. Planning Council Reports: None.
- C. Palomar Faculty Federation: Senator Teresa Laughlin stated that the PFF is not stalling the SERP report as reported by the district. PFF needs time to read the report to ensure it is not a "half-baked" SERP plan that ends up costing the district more money. PFF is taking this matter very seriously and doing its due diligence to ensure this is not impetuous decision making and mismanagement. Regarding the concept of a state monitor as opposed to a state takeover, Laughlin explained that a state takeover is when the state says goodbye to the governing board and literally takes over control of Palomar. A state monitor is someone who checks in on Palomar to ensure the college is making progress toward set benchmarks. Laughlin said she welcomes a monitor because she believes the administration needs oversight. Laughlin encouraged senators to attend the governing board meetings on December 10 and the 17. The state chancellor will be Zooming in to the December 17 meeting.
- D. ASG: Representative Remy Arnold announced that on December 11, Hang-Out-With-ASG event is set. January events are also scheduled.
- E. Guided Pathways: Senator Wendy Nelson said the committee met last Friday and has a tentative list of META Majors that will come to the senate in February. During the month of January, the committee welcomes any other feedback before the proposal comes to the senate.
- F. Policies and Procedures: Senator Teresa Laughlin reported that an aspirational civility policy was formed at the last meeting. All interim vice presidents were absent.
- G. Budget Committee: None.
- H. Senate Committee Reports: None.
- I. Other Reports: Senator Chris Sinnott reported that PC3H Pride Center may be losing its student hourly person who runs the center. Sinnott said he will speak at the Governing Board meeting and will remind trustees that when they take money away from places like this, it has direct impact on the students. There is an entire community of students who will not have a safe space here on campus. Senator Patrick O'Brien reported that the Student Equity and Achievement Council is scheduled to meet this Friday. Members stated that regardless of whether the meeting is cancelled by administrators or not, they will meet.

III.A.1, III.A.2, III.A.3

INFORMATION ITEMS (A, B, C, D only):

A. Constitutional Review Committee: President Thompson led senators through the final sections of the constitution, making necessary revisions. Senator Fererro will make final edits and submit the document to senators to review. The constitution will come back to the senate for action next semester.

Motion 5 MSC Ritt/Lawson: Faculty Senate approval to move back into Action portion of meeting.

The motion carried.

Motion 6 MSC Lawson/Fererro: Faculty Senate approval to extend meeting by five (5) minutes.

The motion carried.

Motion 7 MSC Ritt/Zavodny: Faculty Senate approval to bring the revised constitution back to Faculty Senate as an information item for full vetting at the first meeting in the spring 2020 semester.

Abstentions: Jackie Martin

The motion carried.

B. Resolution on Short-term Employee Dismissals: President Thompson presented a document titled Resolution in Support of Short-Term Hourly Employees Who Support Students and asked senators for edits.

Motion 8 MSC Laughlin/Lawson: Faculty Senate approval to move back into the Action portion of meeting.

The motion carried.

Motion 9 MSC Lawson/Laughlin: Faculty Senate approval to extend meeting by five (5) minutes.

The motion carried.

Motion 10 MSC Lawson/Laughlin: Faculty Senate approval of Resolution in Support of Short-Term Hourly Employees Who Support Students (Exhibit VI), as amended.

The motion carried.

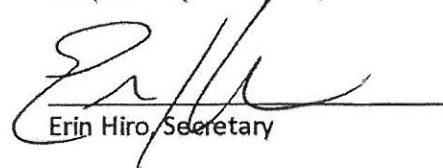
C. Senate Goals: Tabled.

D. Webpage Workgroup: Tabled.

ADJOURNMENT:

The meeting was adjourned at 4:00 PM.

Respectfully submitted,



Erin Hiro, Secretary

Jan 27 2020						
Name	Division	FT/ PT	Committee	Position	Statement	Confirm all
Perri Gellman	MSE	FT/ PT	CALM Committee	Faculty, at Large	I am interested in helping instructors and students obtain reasonably-priced solutions to curricular needs. As a college student, I withdrew from college for a semester, because I could not afford my books. I also graduated with student loan debt. I would like to join this committee to help create and promote solutions that will minimize the impact of high textbook costs on our students.	

Dear Faculty Senate,

I would like to apply for the Work-Based Learning Coordinator position (30% re-assigned time). I have been involved with a number of the projects related to the position.

I have been one of Palomar College's representatives on the regional Work-Based Learning and Job Placement workgroup since the summer of 2018. I participated in a subcommittee of the working group that planned a regional Work-Based Learning Summit in September 2019. Over 150 educators and administrators attended to learn about how instructors are integrating work-based learning activities at the elementary, secondary, and community college levels.

At Palomar, I've worked with faculty and staff members in a variety of disciplines and programs (including Physics, Engineering, Auto Tech, Auto Body, Business Administration, and Sociology) to connect students to internships and work experience. I would welcome to opportunity to build on this experience as a Work-Based Learning Coordinator.

Thank you very much for your consideration.

Jason Jarvinen
Assistant Professor/Work Experience Coordinator

- c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.
- (2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

Law section

A Strategy for Conducting Discussions of Agenda Items

To expedite discussions during senate meetings, the senate may wish to consider Standing Rules to provide order while ensuring that effective participation occurs. The senate may determine time limits and establish who may speak and under what conditions. The Academic Senate, at its plenary sessions, requires members wishing to speak to an item to queue before a "pro" microphone on one side of the room or at a "con" microphone on the opposite side or to ask questions about parliamentary procedure at a "parliamentary" microphone located mid-room. This procedure provides for an orderly discussion of the issues within the allotted time, enables the president to terminate discussion when no one appears to speak further in support or in opposition. This practice generally reduces redundant comments.

Strategies for Voting on Agenda Items

Procedures for voting during a meeting should be determined locally, particularly if the goal is to keep the meetings progressing in an orderly fashion.

Some items on an agenda may be handled by what is known as approval by consent. If no opposition is perceived or expected to items such as approval of the minutes of the previous meeting, approval of the agenda, and acceptance of reports from various committees that do not require action by the senate, the president may list them on the agenda under the "consent calendar" and declare them passed by general consent after allowing an opportunity for opposition to be expressed. Should any senator wish to discuss, amend, or vote on such items, the party should ask to have the item removed from the consent calendar for separate consideration after the bulk of the consent items has been approved. The senate president should always honor such a request to have an item removed.

Senates may not hold secret votes, including voting for officers within the senate (Government Code §54953.c.), and therefore voting on action items must take place publicly. If a senate meeting is held via teleconferencing, all votes taken must be by roll call. (Government Code §54953.b.2.). Senates must "report any action taken and the vote or abstention on that action of each member present for the action" (Government Code §54953). The voting must be public, and therefore voting by email is not allowed. The Brown Act does not specify how legislative bodies must conduct their votes with the exception of teleconferencing; it only specifies that the results

Administrators in “Acting” Positions

Title 5. Education | Division 6. California Community Colleges | Chapter 4. Employees | Subchapter 1. Equal Employment Opportunity Programs | Article 2. Other Specific Responsibilities of Community College Districts | 5 CCR § 53021 | § 53021. Recruitment.

(a) Except as otherwise provided in this section, community college districts shall actively recruit from both within and outside the district work force to attract qualified applicants for all vacancies. This shall include outreach designed to ensure that all persons are provided the opportunity to seek employment with the district. The requirement of open recruitment shall apply to all full-time and part-time vacancies in all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, and all executive/administrative/managerial positions. Recruitment for full-time faculty and educational administrator positions shall be at least statewide and, at a minimum, shall include seeking qualified applicants listed in the California Community Colleges Equal Employment Opportunity Registry and posting job announcements with the Registry. Recruitment for part-time faculty positions may be conducted separately for each vacancy or by annually establishing a pool of eligible candidates, but in either case full and open recruitment is required consistent with this section.

(b)(1) “In-house or promotional only” recruitment shall not be used to fill any vacancy for any position described in subdivision (a) except when the position is being filled on an interim basis for the minimum time necessary to allow for full and open recruitment; provided however, that no interim appointment or series of interim appointments exceeds two years in duration.

(2) Where in-house or promotional only recruitment is utilized to fill a position on an interim basis pursuant to subdivision (b)(1), all district employees shall be afforded the opportunity to apply and demonstrate that they are qualified.

(3) The job announcement for the interim position shall comply with section 53022 and the selection process shall be consistent with the requirements of this subchapter.

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

- (1) there is a reorganization that does not result in a net increase in the number of employees;
- (2) one or more lateral transfers are made and there is no net increase in the number of employees;
- (3) a position which is currently occupied by an incumbent is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;
- (4) the faculty in a division or department elect one faculty member to serve as a chairperson for a prescribed limited term;
- (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;
- (6) a part-time faculty member is assigned to teach the same or fewer hours he or she has previously taught in the same discipline without a substantial break in service. For purposes of this section, “a substantial break in service” means more than one calendar year or such different period as may be defined by a collective bargaining agreement; or

(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.



29 January 2020

TO: Acting Assistant Superintendent/Vice President, Human Resource Services Linda Beam
 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 VPHRS, Acting VPFAS, Acting VPI, 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--again, 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, Beam, and Ligioso and Acting VPI Sivert--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 are 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 February 2020.

Best Regards,
The Palomar College Faculty Senate

Thank you, Trustee Deerfield; I have a short report tonight. Over the break, I have been spending a lot of time reading the Faculty Senate Handbook and Board Policy. In a section on "Roles of the Senate," the handbook states, "The senate and the administration should establish a clear understanding regarding which of the 10+1 items on which the board has elected to rely primarily upon the advice and judgment of the senate and on which they will seek to reach mutual agreement with the senate." That distinction between "rely primarily" and "mutual agreement" is important and I will return to it.

I didn't know if we had such a section, so I looked through Board Policy, and found this passage in BP 2510:

"Pursuant to rules adopted by the Board of Governors of the California Community Colleges, the Governing Board elects to rely primarily upon the advice and judgment of the Faculty Senate on academic and professional matters.

"The term 'Academic and Professional Matters' means the following policy development and implementation matters:"

The passage goes on to list Palomar College's 10+1+1. Two numbers from that list which are particularly important at this time are 9—"Processes for program review," and 10—"Processes for institutional planning and budget development." Both of these areas relate to issues raised in the FCMA T report. Number 11 in the 10+1+1 is "Faculty Hiring Policy, Faculty Hiring Criteria, and Faculty Hiring Procedures." It's important to keep in mind, therefore, that according to its own policy, the Board has agreed to rely primarily upon the advice and judgment of the Faculty Senate in Faculty Hiring.

I would also like to address what the term "rely primarily" indicates. According to a paper co-written by representatives of the California Community College Trustees, the Chief Executive Officers of the California Community Colleges, and the Academic Senate for California Community Colleges, to "rely primarily" as opposed to "mutually agree upon" raises specific obligations on the part of the Board. The paper states, "This term means that...in instances where a recommendation [by the senate] is not accepted the reasons for the board's decision must be in writing and based on a clear and substantive rationale which puts the explanation for the decision in an accurate, appropriate, and relevant context." I don't believe in the past we have followed this standard, particularly when it comes to the areas of budget development and hiring procedures. The Senate Handbook also states that the Governing Board should reject the Senate's advice only for "exceptional circumstances" and "compelling reasons" and suggests that the senate and administration work together to establish what constitutes those terms. I hope in the future we can work on defining those terms and clarifying under what specific circumstances the Board would not follow the Senate's advice. Thank you.