

Response to Dr. Norman's Email of October 5, 2018
Composed by Steve Spear on behalf of the PACRA Board

SUBJ: Retiree Benefits

Dear Dr. Norman,

The PACRA Board has reviewed your email of October 5, 2018. Thank you for making the District's position clear as to your perceived process for dealing with potential changes to Benefits. We understand and accept the reality of the processes used for such changes for campus groups either through the negotiations or meet and confer processes.

First, we'd like to clarify the nature and legal status of the Palomar College Retirees Association (PACRA). We are an informal group of retirees that was established to keep abreast of retiree benefits, administer a small scholarship program, have an annual lunch, and attempt to help the Palomar College community in whatever way we can. We DO NOT HAVE LEGAL STANDING TO REPRESENT RETIREES IN ANY FORMAL WAY WITH RESPECT TO BENEFITS. We gladly serve on the Benefits Committee at the pleasure of the Governing Board both to become informed about Benefits concerns and processes, and to add historical perspective to matters the Committee may address. At the end of this email I have attached a copy of the By-Laws of PACRA. You will notice that in Articles II and III it is quite clear that PACRA does not have standing to negotiate benefits on behalf of retirees as both the Purposes and Membership of the PACRA are incompatible with such activities. There is then attached an Addendum listing the facts that demonstrate that the District cannot negotiate benefits with PACRA.

With this in mind, several points in your email do not legally apply to the relationship between the District and its retirees.

In Paragraph 1 of the October 5th email, in lines 4-6 you state "*...benefits are negotiated and/or determined for unrepresented groups under the meet and confer process. Any change to benefits would require negotiations, but this is not done on an individual level but is done with the various groups.*"

Our question, of course, is which group does the District believe represents Retirees? It is not current on-campus unions and groups because they, by law, do not have legal standing to negotiate for any retired members who have left the employ of the District. It also CANNOT BE PACRA because PACRA is really no more than an informal club with no legal standing to represent any retirees in any contractual matter. So then, there does not exist, anywhere, any group with which the District may meet and confer about benefits changes with respect to current retirees. Thus, my comment in the email of July 7th stands as correct: The District would have to negotiate any change in current retiree benefits with each individual retiree because there is no group with standing with which to negotiate.

In Paragraph 3 of your October 5th email, you reference "*represented members, albeit retired*" (line 1) and "*represented groups*" (line 5). Again, we would emphasize, CURRENT RETIREES DO NOT BELONG TO ANY REPRESENTED GROUP.

In Paragraph 5, line 2, you again address "*negotiated process*". Again, we would comment, THERE IS NO GROUP WITH WHICH THE DISTRICT CAN NEGOTIATE THAT REPRESENTS CURRENT RETIREES.

And, of course, by law the District cannot unilaterally change current retiree benefits.

We look forward to meeting with you on [insert date of meeting].

Respectfully,

-Steve

Steven G. Spear, Ph.D. / Faculty Emeritus
Vice President of PACRA / PACRA Benefits Committee

Two attachments

BY-LAWS OF THE
PALOMAR COLLEGE RETIREES' ASSOCIATION

ARTICLE 1

NAME

This organization shall be known as the Palomar College Retirees' Association (PACRA).

ARTICLE 11

PURPOSES

- The Palomar College Retirees' Association is a non-profit organization with the following purposes:
1. To implement communication between the College and retired College personnel in all matters of mutual interest.
 2. To communicate on behalf of retired College personnel with representatives of government agencies and other groups outside the College in matters affecting the health and welfare of retired persons.
 3. To work for improvement of the retirement program of Palomar College.
 4. To coordinate the Association's activities with the Palomar College Foundation.
 5. To provide pre-retirement and post-retirement planning and counseling.
 6. To provide a means for continuing the professional and educational activities of retired College personnel.
 7. To facilitate continuing support, including financial, by the Association for furtherance of academic and other professional objectives of Palomar College.
 8. To sponsor or facilitate social and recreational activities of interest to retired College personnel.

ARTICLE 111

MEMBERSHIP

Section 1. Eligibility

- a. General Membership in the Association is available to all retired employees of Palomar College, their spouses and surviving spouses, and any active employees of the College who desire to become members. The categories of General Membership are "regular" and "contributing" in accordance with the dues structure established by the Board of Directors.

(See ARTICLE 111, sec. 2)

- b. Associate Membership in the Association may be granted by the Board of Directors upon recommendation of a General Member to former employees of Palomar College who are not officially retired and to the spouses and surviving spouses of these persons. Associate Members pay the same dues as General Members.
- c. Honorary Membership in the Association may be granted by the Board of Directors to persons who, by virtue of outstanding service to Palomar College and/or to the Association, have demonstrated their loyalty to and support of the purposes of the Association. Honorary Members normally neither pay dues nor hold office, but may do so if they desire.

Section 2. Dues

- a. Dues Structure: Dues for the various categories of membership shall be established by the Board of Directors prior to and be payable on the beginning of each fiscal year.
- b. The Fiscal Year shall be July 1 to June 30.
- c. Regular Members elect to pay regular dues, as specified annually by the Board of Directors.
- d. Contributing Members elect to pay dues in an amount at least one and two-thirds times that of regular dues, as specified annually by the Board of Directors.
- e. All Members may elect to contribute additionally to the support of the Association.

ADDENDUM

**(or why PACRA cannot negotiate changes to retiree benefits)
(and why the District cannot lessen current retiree benefits)**

Drawing from the BY-LAWS of PACRA:

In Article II, Purposes: Nowhere does it establish one of the functions of PACRA is to negotiate and benefits changes to current retirees.

In Article III, Membership, Section 1 Eligibility, subsection a:

1. All retired employees are eligible for membership, including those who do NOT have Retiree Benefits.
2. Spouses and surviving spouses may enjoy membership even if they do NOT have Retiree Benefits.
3. Active employees of the District may become members.

Thus, because any represented group must include all members and those members are equally covered by the same benefits, PACRA CANNOT be the Group that represents retirees for contract negotiations.

QED: If neither PACRA nor any on-campus current employee representative group can, by law, represent current retirees in negotiations, then ONLY INDIVIDUAL CURRENT RETIREES WOULD HAVE LEGAL STANDING TO NEGOTIATE THEIR OWN BENEFITS IF THE DISTRICT DEISRED TO CHANGE THEM.

Since the District would obviously not wish to enter into hundreds of different contract negotiations, then current law and case law will have to stand and current retirees' benefits granted on the date of retirement will stand until the death of the retiree or whatever contract language on the date of the retiree's separation from the district was in effect at that time.