

Side Letter Agreement
between the
All Faculty Association
and
Sonoma County Junior College District
regarding

Effects of District Emergency Action Due to Coronavirus Pandemic
April 2, 2021

This Side Letter is made by and between the Sonoma County Junior College District ("District") and the All Faculty Association ("AFA"). The purpose of this Side Letter is to address the effects on working conditions resulting from the District's action to operate the instructional program and student services remotely through the end of Summer 2021, consistent with its authority under the EERA to act in case of business necessity. This Side Letter is anticipated to be in effect for the Summer 2021 term.

On March 18, 2020, the Sonoma County Health Officer issued a Shelter in Place Order.

On March 19, 2020, the State of California issued a Shelter in Place Order.

On March 24, 2020, the Sonoma County Junior College District proclaimed a state of emergency.

On January 21, 2021, President Chong advised the college community of the following decision: "I have made the decision to maintain remote instruction and student services at SRJC through summer 2021." (see <https://pr.santarosa.edu/srjc-remote-through-summer-2021>).

On March 12, 2021, Santa Rosa Junior College received approval from the Sonoma County Health Officer to continue in-person instruction during Summer 2021 for courses in programs offered at the Public Safety Training Center and in Health Sciences. The approval also included a number of other courses permitted to be offered in a hybrid format with some in-person instruction. COVID-19 in-person instruction protocols for Summer 2021 will be negotiated as needed between AFA and the District for these courses.

Sonoma County Department of Health Services Orders are amended as the COVID-19 pandemic evolves. A list of all orders issued since May 1, 2020 can be found at: <https://socoemergency.org/emergency/novel-coronavirus/health-orders/>.

A. Temporary Measure with No Binding Effect. AFA and the District acknowledge and agree that the current transition to a remote instruction and service format is temporary, and for the purpose of implementing preventative measures in compliance with the sheltering-in-place orders, while continuing to provide instruction to the students of Santa Rosa Junior College. Nothing in this agreement

will prohibit the District from exercising its right of assignment. These measures, and the terms of this agreement, shall apply only through Summer 2021, and nothing in this agreement shall be precedent setting.

B. District Operations. The District's decision to operate the majority of programs and services remotely through the end of the Summer 2021 term is final and will not be changed even in the event that the shelter-in-place order is lifted.

1. Faculty members who are performing their duties remotely will not be required to come to campus before the end of the Summer 2021 term. No faculty member will be required to come to campus in the event that doing so would violate the Order or recommended protocols of a national, State of California, or Sonoma County public health official to shelter in place, quarantine, or self-isolate. AFA and the District agree to reenter negotiations if orders from public officials are inconsistent with recommendations from the science community.
2. In the event that the COVID crisis worsens or there is another disaster event such as a wildfire or Public Safety Power Shutoff that affects the District's ability to operate, it may be necessary for the District to close. If the District closes, all instruction and services, including those operating remotely, will be suspended during the emergency time period.
3. This Side Letter does not preclude the District exercising its authority to require employees to provide service as per the California Emergency Services Act and/or in conformance with applicable national, State, or County orders.
4. **In Progress Classes.** Per Ed Code §55023, the "IP" symbol may be used only in those courses which normally extend beyond the end of an academic term. In the event that a class with in-person instruction must shut down before the end of the term due to increased health order restrictions, the District may choose to employ the IP designation in order to continue and complete the course after the end of the term.
 - a. The "IP" symbol indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await completion of the course. When courses extend beyond the normal end of an academic term, a new section is created in the following term. This new section is treated as a new and separate section for the new term and is given load based on the hours of lecture and lab remaining. Assigning In Progress sections to faculty members will follow existing contract language as specified in Article 16.03.C. In an unanticipated emergency, In Progress is an option to protect students and help them complete. In Progress is subject to VPAA approval. In this situation, compensation will be negotiated.
 - b. In limited circumstances, In Progress is pre-approved for academy-based programs that extend beyond the academic term.

C. Use of District Facilities. In accordance with SB 1159 and AB 685, faculty members will have access to their offices to retrieve materials and may also use District facilities to facilitate remote learning or for in-person instruction permitted by the Sonoma County Department of Public Health and scheduled by the District.

1. Any faculty member who uses a District facility must comply with the Sonoma County Department of Health Services orders and protocols negotiated with

AFA.

- a. All persons will wear facial coverings before they enter any indoor facility or any enclosed open space, or while outdoors when unable to maintain a six-foot distance from another person at all times.
 - b. Anyone coming to District sites must perform a symptoms self-check.
 - c. Anyone coming to District sites must follow the District Operational Protocols and Protection Plan.
2. The District will provide a clean and safe working environment for any faculty member designated to use on-site spaces that the District authorizes for use in facilitating remote learning or approved in-person instruction.

D. Working Conditions During the Remote Period

1. With the exception of classes that require in-person instruction and that the Sonoma County Department of Health Services approves for face-to-face meetings, all Summer 2021 classes and student services will continue to be delivered through a remote modality.
2. Faculty members will conduct their classes in accordance with Article 17.04.B.5.
3. Faculty members may teach their classes using synchronous instruction, asynchronous instruction, or a combination of synchronous and asynchronous instruction; however, the nature of how the course meetings will be conducted must be indicated in the schedule of classes and not substantially changed during the course of the term. Completely asynchronous courses must be published in the schedule of classes as "online" and may not have specific dates or times associated with them. Courses with synchronous instruction must have published meeting times in the Schedule of Classes. The Section Comments for a class in the Schedule of Classes will accurately reflect the days and times that the students must be available for synchronous instruction. Faculty members may choose their own Learning Management System (LMS) or other technology options for remote teaching.
4. Faculty members using synchronous instruction may require students to attend "real time" remote learning sessions only during times published in the schedule of classes.
5. Faculty members have the right to require a level of student participation that they deem appropriate for their courses, which may include requiring students to use video conferencing or other technologies by which students are visibly present. While there is no express prohibition against faculty requiring students to attend live on line synchronous classes with their cameras on, an indiscriminate cameras-on requirement risks violation of student privacy rights under the California Constitution, and potentially implicates other federal and state privacy and civil rights laws. However, if there are circumstances where full audio and visual student participation is essential to instruction, a carefully tailored cameras-on requirement might be appropriate.
6. Faculty members are responsible under the Family Educational Rights and Privacy Act (FERPA) to protect the confidentiality of student education records. To record students in a Zoom class requires each student to sign a waiver consenting to being recorded.

7. Faculty members will conduct contractual office hours through remote modalities. Office hours may be synchronous or asynchronous.
8. Allied assignments will be conducted through a remote modality. It is understood that the scheduling of such activities may deviate from their regular scheduling. After the semester begins, all changes to individual allied assignments will be approved by the department chair in consultation with the faculty members affected by those changes. The department chair will notify the supervising administrator. The Supervising Administrator must approve any changes that require additional faculty load, as in the case of substitute assignments per Article 29.03.
9. Faculty members will ensure that classes converted to remote modalities meet the CCC attendance accounting guidelines. The District will provide these guidelines for reference. If a faculty member's section is selected in an external audit, the faculty member will provide to the District any necessary information regarding attendance accounting.
10. **Faculty absence due to disruption.** During the remote period, a faculty member may be unable to provide synchronous remote instruction or allied services due to a PSPS power outage, wildfire or other disaster-related disruption beyond the faculty member's control.
 - a. If possible, the faculty member may choose to remotely fulfill those duties asynchronously.
 - b. If it is not possible for the faculty member to fulfill the duties asynchronously, the District will provide a safe, reasonable alternative work site or offer supporting technology that the faculty member may utilize at home or another location so that the faculty member may perform the duties synchronously.
 - c. If it is not possible for the faculty member to fulfill the duties asynchronously, or if the faculty member declines to provide the instruction or allied services as accommodated, the District may choose to hire a substitute to provide the instruction or allied services. The faculty member will complete a Notice of Absence form (NOA) and the absence will be deducted from the faculty member's personal necessity leave.
 - d. If it is not possible for the faculty member to fulfill the duties asynchronously, and if the District is unable to provide an accommodation, the faculty member will complete an NOA, but the District will not deduct from the faculty member's personal necessity leave.
 - e. A faculty member that is displaced due to a mandatory evacuation will complete an NOA and the District will only deduct from the faculty member's personal necessity leave for absences beyond the equivalent of three working days, prorated for adjunct faculty.
11. Contract faculty members whose courses can be offered only with some in-person instruction and for which in-person instruction is not permitted will have their contract loads met by the District according to Article 32.02.C.2. Disagreements over whether a course cannot be taught will be settled between discipline faculty and the VPAA.
12. **Accessibility.** The District acknowledges its obligation to comply with all federal

and state requirements for distance education accessibility during the COVID-19 emergency.

- a. Converting course content to an accessible format: Faculty members may choose to convert their own course content to an accessible format, and the District's Online Accessibility Team will provide technical support and professional development.
- b. Faculty members who choose not to convert their own course content will provide the District's Online Accessibility Team access to the online course, and the Team will convert the faculty member's content to an accessible format.
- c. In the event that a faculty member or the District is unable to provide timely accessibility in a specific case, the faculty member will notify their Supervising Administrator. In such cases, the District will make every effort to ensure accessibility and assist the faculty member in providing approved accommodations, and the faculty member will provide course access to facilitate District efforts.
- d. Access to faculty members' online courses per Section 12.b-c of this Side Letter will be limited to only those instructional materials that need to be converted and solely for this purpose.
- e. The parties acknowledge that, in circumstances where the District can establish an undue burden, the District may be unable to provide equal access through auxiliary aids or resources (Section 504 of the Rehabilitation Act and the Americans with Disability Act [ADA]) or accessible electronic and information technology (Section 508 of the Rehabilitation Act)

13. Faculty Privacy Rights.

- a. **Instruction and student services.** Faculty members maintain the same right to privacy regardless of the method they are using to provide remote instruction or student services, equivalent to their right to privacy in delivering classroom-based instruction or in-person student services. The District will announce to students that they are prohibited from recording remote class sessions, taking screen-shots of live class sessions, saving chats, and engaging in any other activity that captures virtual learning experience. The District's announcement will state that capturing remote instruction or student services without express permission violates other students' and faculty members' privacy rights. It is considered an "act of misconduct" for a student to "use any electronic listening or recording device in any classroom without the prior consent of the instructor, except as necessary to provide reasonable auxiliary aids and academic accommodations to a student with a disability or make a video recording, audio recording, take photographs, or streaming audio/video of any person in a location where the person has a reasonable expectation of privacy, without that person's knowledge and express consent."
 - b. Faculty members also maintain all other existing privacy rights.
14. Faculty members retain academic freedom and intellectual property rights in modifying their classes for remote instruction, to the same extent as in delivering classroom-based instruction.

15. None of the conversion to remote instruction shall be precedent setting. Once in-person instruction resumes, no faculty member shall be compelled to teach remotely. Once face-to-face instruction resumes, approval for online courses will revert to the existing process.

E. Faculty Evaluations

1. Faculty members who transition to a remote modality will not be evaluated on their use of the remote technology or teaching methodologies. Evaluations that take place in Summer 2021 will be limited to subject matter competency only; use of remote technology or teaching methodologies will not be evaluated. Evaluations that base negative ratings on anything other than subject matter competency will be set aside.
2. Out-of-cycle and follow-up evaluations. These evaluations will follow the process and timelines in existing contract language. As with all other evaluations scheduled for Summer 2021, evaluation ratings will be based solely on subject matter content.

F. Leaves

1. The District shall adhere to and provide all leaves required by any applicable federal, state, or local laws in addition to any other statutory or contractual leaves to which faculty members are entitled.
2. Faculty members who decline to perform an assignment in Summer 2021 may utilize a full or partial leave.
3. Compensation during leaves.
 - a. Faculty members may use accrued personal necessity leave.
 - b. Faculty members may use accrued sick leave as personal necessity leave. The expansion of personal necessity leave beyond the contractually allowed 11 days per year, and the use of accrued sick leave for personal necessity leave, will not be precedent setting.
 - c. If a faculty member exhausts all of their accrued personal necessity leave, they may use donated faculty sick leave to remain on paid leave (see Section F.6 of this Side Letter).
 - d. Contract Faculty Contract Load - The amount of accrued personal necessity leave needed to cover a leave is calculated according to this formula:
workload % as a decimal x 595 = hours of leave required to cover the assignment
 - e. Hourly (adjunct and overload) – The amount of accrued personal necessity leave needed to cover an hourly leave is calculated on an hour-for-hour basis.
4. Partial leaves will be used for discrete assignments whenever possible.
5. Faculty members who exercise the option to use personal necessity leave in lieu of performing a Summer 2021 assignment must notify the Department Chair and Supervising Administrator via email before the Priority 1 registration begins for Summer 2021 (April 23, 2021).
6. The District and AFA have established a Personal Necessity Faculty Leave Donation Bank. Faculty members who decline to teach an assigned class in

Summer 2021 may use Personal Necessity Leave to remain in paid status. In the event that a faculty member may not have a sufficient amount of accrued sick leave, the faculty member may apply for donated leave through the Personal Necessity Leave Donation Bank with the following conditions:

- a. Faculty members will be eligible to use donated leave to cover up to 20% of their absence. All of the faculty member's accrued and advanced paid leaves must be exhausted in order for the donated leave to be applied. Applications for the use of donated leave will be accepted via this linked [Request For Donated Sick Leave Form](#) until April 30, 2021, and the donated leave received by May 26, 2021 will be distributed equally among applicants based on the availability of hours donated and the number of applicants. Applicants are encouraged to verify their eligibility with Human Resources. Human Resources will provide faculty applicants a definitive calculation of hours they are entitled to only after the donation deadline.
 - b. Faculty members may contribute sick leave credit in hourly increments from their accrued sick leave balance via this linked [Sick Leave Donation Form](#) for the purpose of donating hours to faculty members who are eligible to use the Personal Necessity Faculty Leave Donation Bank. The deadline for donations is May 26, 2021. A contract or adjunct faculty member may not make donations that reduce their accrued sick leave to less than eighty (80) hours or thirty (30) hours, respectively. Donations of sick leave hours are irrevocable. Any unused donated hours will be added to the Catastrophic Leave Bank.
 - c. Human Resources will solicit applications for the use of donated leave as well as sick leave donations from faculty members. Human Resources will maintain records for the Personal Necessity Faculty Leave Bank.
7. Substitutes may be employed to replace faculty members on leave. These substitute assignments will be considered short-term substitute assignments, per Article 29.04.B, as they are for the specified and known duration of the leave. Therefore, the load will count against the 67% cap. Some substitute assignments may be subject to Article 29.04.C. All substitute assignments will be considered temporary increases and will not increase the established load of the faculty member serving as the substitute.
 8. If a faculty member has chosen to use leave in lieu of performing an assignment, and the assignment is later cancelled by the District due to low enrollment or because the District has decided not to offer the course, the faculty member will remain on leave from the assignment provided the deadlines referenced in Section F.5 of this Side Letter were met.
 9. A contract faculty member with a Summer 2021 assignment may convert the hourly load of the summer assignment to contract load in order to eliminate all or part of a negative contract load balance accrued during Spring 2020, Fall 2020, or Spring 2021.

G. In-person instruction for courses that cannot be offered using a remote modality

1. AFA and the District acknowledge that safety is the highest priority, and that the District will not offer face-to-face instruction without authorization by State and

County Health Orders and unless it can do so safely.

2. AFA and the District agree that the following criteria will be applied to determine which courses that cannot be fully offered using a remote modality will be approved for face-to-face instruction:
 - a. The course is offered in a low-traffic facility, with very few building occupants.
 - b. The course is offered in a facility that easily allows for social distancing.
 - c. The course is offered outdoors.
 - d. The course is regulated by an outside agency that does not allow the course to be taught 100% remotely.
 - e. The course is needed for completion of a certificate, degree, or transfer.
 - f. The course is required for a program that has three or more sequenced pre-requisites, or the course is a prerequisite that would hold students back from taking three or more future courses.
 - g. The course is necessary to the training of "essential workers" (see list by sector at <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>)
 - h. Not offering the course would cause a program to be reduced to such an extent that it would not be functional, and therefore not serve students.
 - i. Testing only: The course requires testing that cannot be offered online without compromising the academic integrity of the assessment tool.
3. Department Chairs or, in departments with no department chair, program coordinators, and in consultation with discipline experts as needed, will rank the courses that they wish to offer with face-to-face instruction or other activities and indicate to the District via a provided form which of the criteria in Section B.2 of this Side Letter apply to each course.
4. The District will produce a ranked list of courses, and AFA will verify that the criteria were properly applied.
5. The District maintains right of assignment in determining how many classes can be safely offered with face-to-face instruction given constraints of staffing, resources (including but not limited to PPE), facilities, and District finances.
6. Each department, in consultation with the Supervising Administrator, will develop safety protocols for any program that will offer in-person instruction or activities. Safety protocols will be approved by the District and AFA, and posted at the site where in-person instruction takes place.
7. In the event that State and County Health Orders do not allow in-person instruction or provide exemptions to allow in-person instruction, courses that were submitted for approval for in-person instruction will be converted to a remote modality or cancelled.

H. Grievances. Time limits to file a grievance may be extended in any specific instance by mutual agreement of the parties in writing. This is in effect through August 11th,

2021; thereafter, the thirty (30) day time limit to file a grievance will resume pursuant to Article 11.04(B), unless otherwise negotiated.

I. Additional Compensation.

1. Department Chairs or faculty members who perform delegated Department Chair Duties, Program Coordinators, and faculty members with Special Assignments that require them to transition programs or services online may claim up to 15 hours total for the extracontractual work required for the remote transition for Summer 2021.
2. To recognize the additional workload and professional development associated with the transition of traditionally face to face courses to a remote modality, faculty members who transition(ed) new courses or student services to a remote modality may claim additional hours of compensation at the base hourly rate. Hours for pay will be claimed by submitting an agreed-upon form to the District by June 30, 2021.
 - a. Preparation.
 - i. Up to 15 hours per course or allied assignment that the faculty member is teaching in Summer 2021 and that the faculty member received compensation for transitioning in a previous semester or term.
 - ii. Up to 20 hours per course or allied assignment that the faculty member is teaching in Summer 2021 and that the faculty member did not receive compensation for transitioning in a previous semester or term.
 - iii. Up to 5 hours per additional section that the faculty member is teaching in Summer 2021 and that the faculty member received compensation for transitioning under 2.a.i or 2.a.ii.
 - iv. Total hours claimed may not exceed 35 hours per faculty member for Summer 2021 (instructional and allied assignments combined).
 - b. Larger classes. Faculty members with online classes that were not offered by that faculty member online prior to Summer 2020 may claim additional hours of compensation at the base hourly rate based on the following enrollment at census:
 - i. Five hours of additional compensation for classes with 35 to 44 students at census;
 - ii. Ten hours of additional compensation for classes with 45 or more students at census.
 - iii. Related to emergency circumstances only and will not apply to future online class size discussions.
 - c. FLEX credit. A faculty member may claim up to 12 hours of FLEX credit during academic year 2020/21 for excess hours worked beyond those claimed for pay in a. or b. above.
 - d. PGI units. Contract faculty members eligible for PGI may claim PGI equivalent for hours spent completing Professional Growth activities related to the transition of courses (12 hours = 1 unit of PGI), minus the number of hours claimed for pay and FLEX credit.

PGI Applicants will identify the appropriate category of equivalency for PGI in §21.07.

- i. Time spent learning how to use Canvas and other remote learning tools will qualify under category §21.07B.

Required Documentation: No certificate is required under this agreement. Applicant will report in their PGI Application each tool learned along with the hours spent learning the tool.

- ii. Authorship, creation, or development of instructional materials (e.g. producing online videos, recording lectures, instructional documents) will qualify under §21.07.I.5.

Required Documentation: Copy of, or link to, original work.

- iii. Time spent conducting independent study, tutorials or training videos (e.g. Canvas Video Tutorials on the Distance Education webpage) will qualify under category §21.07.J.3.

Required Documentation: No certificate or travel request form is required under this agreement. Applicant will report in their PGI Application each independent study activity, tutorial or training completed along with the hours spent in completing the activity, tutorial or training.

- J. Additional Negotiations.** AFA and the District agree to continue negotiations over additional matters within the scope of representation as well as impacts and effects of District decisions affecting matters within the scope of representation as needed for the Summer 2021 term.

/signature on original/

Sean Martin, President
All Faculty Association

/signature on original/

Dr. Frank Chong, Superintendent/President
Sonoma County Junior College District