

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

Effects of District Emergency Action Due to Coronavirus Pandemic
September 10, 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 largely remotely with partially or fully in-person classes through the end of Fall 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 Fall 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 April 8, 2021, President Chong advised the college community of the following decision: "SRJC will continue to operate the instructional program in a largely remote format in fall 2021, while also allowing an increase in the number of partially in-person courses and the addition of fully in-person courses as are safely possible given District constraints on human, financial and facilities resources." [https://pr.santarosa.edu/fall-2021]

All courses to be offered in Fall 2021 with in-person instruction/activities will be presented to the County Department of Health for review. For these courses, COVID-19 in-person instruction protocols for Fall 2021 will be negotiated between AFA and the District as needed.

On May 18, 2021, President Chong provided the college community the [SRJC Plan for Safe Return to Campus](#) a comprehensive plan developed with guidance from the County of Sonoma and Sonoma County Office of Education, Centers for Disease Control and Prevention (CDC) requirements and Cal/OSHA COVID-19 Industry Guidance: Institutions of Higher Education guidelines to protect the health and well-being of the entire campus community. The plan was previously negotiated between AFA and the District and will be renegotiated as circumstances change and the plan evolves.

Sonoma County Department of Health Services Orders are amended as the COVID-19 pandemic evolves. A list of all orders issued since March 17, 2020 can be found at: <https://socoemergency.org/emergency/novel-coronavirus/health-orders/>.

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 applicable national, State, and County 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 Fall 2021, and nothing in this agreement shall be precedent setting.

A. District Operations. The District's decision to operate the instructional program in a largely remote format, while also allowing an increase in the number of partially in-person courses and the addition of fully in-person courses for the Fall 2021 term is final and will not be changed even in the event that conditions change.

1. Faculty members who are performing their duties remotely will not be required to come to campus before the end of the Fall 2021 term. No faculty member will be required to come to campus in the event that doing so would violate any applicable regulations of a national, State of California, or Sonoma County public health official. 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-19 emergency 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 an emergency, 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.

B. 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 approved and scheduled by the District.

1. Any faculty member who uses a District facility must comply with all applicable local, state and national regulations and protocols negotiated with AFA.
2. Any faculty member coming to District sites must follow the SRJC Plan for Safe Return to Campus and Cal-OSHA-required COVID-19 Prevention Program.
3. 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.

C. Working Conditions During the Remote Period

1. Fall 2021 classes and student services will continue to be delivered through a remote modality unless approved for in-person instruction or allied services.
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 may not be changed during the course of the term without VPAA approval. 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. Instructors will ensure that all remote courses adhere to the requirement for “regular effective contact between instructor and students, and among students”, as outlined in §§55200-55204 of Title 5 of the California Code of Regulations.

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 online 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 [SRJC FERPA \(Family Educational Rights & Privacy Act\) Consent to Release Student Information in Classroom Recordings](#) consenting to being recorded. As set forth in the [FERPA Guidelines for Distance Education Courses](#), when a class recording will be shared with individuals other than students enrolled in that section of the course, the faculty member is required to have each student in that section sign a [SRJC FERPA \(Family Educational Rights & Privacy Act\) Consent to Release Student Information in Classroom Recordings](#) 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 that are not approved for in-person 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 may need to reallocate hours normally reserved for college service and professional development to maintain their remote teaching or student services obligations. In these cases, the faculty member may determine which college service and professional development commitments are essential and participate in those, and nonparticipation is without prejudice.
12. Contract faculty members whose courses can be offered only with some in-person instruction and for which in-person instruction is not scheduled or not possible will have their contract loads met by the District according to Article 32.02.C.2. Disagreements over whether a course cannot be offered will be settled between discipline faculty and the VPAA.

13. **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).

14. **Faculty Privacy Rights.**

- a. 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 a 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.
15. 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.
 16. 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.

D. Faculty Evaluations

1. **Tenure Review evaluations** will be conducted according to the regular contractual process outlined in Article 30.
2. **Probationary adjunct evaluations** will be conducted according to the regular contractual process outlined in Article 14B.
3. **Regular Continuing Evaluations.** Regular faculty members and adjunct faculty members with offer rights may choose one of the following evaluation options.
 - a. Regular continuing evaluation as outlined in Article 14A or 14B.
 - b. Self-evaluation. A continuing faculty member may choose this option unless notified by the end of week 6 that the department chair and supervising administrator have consulted, deliberated, and mutually agreed that there is an evidence-based need for the faculty member to have a regular continuing evaluation instead.
4. Regardless of employment status, faculty members who teach or perform allied services remotely will not be assigned negative evaluation ratings based on their choice or use of specific technologies or on the occasional malfunctioning of those technologies. If technological difficulties impede instruction or allied services, the District will provide technology support services and supporting technology so that the faculty member may perform their assigned duties.

E. 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 Fall 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 E.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 Fall 2021 assignment must notify the department chair and supervising administrator via email before the Priority 1 registration begins for Fall 2021 (June 3, 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 Fall 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 June 10, 2021, and the donated leave received by August 2, 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 August 2, 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. Contract faculty members who decline to teach an assigned class or perform an assigned allied assignment may opt to take a full or partial unpaid leave in lieu of using accrued sick leave, subject to Article 18.06. The faculty member's salary will be prorated by the amount of the unpaid leave, and the faculty member will retain full benefits. Faculty members who go on unpaid leave must notify their department chair and supervising administrator according to the deadlines referenced in Section E.5 of this Side Letter, and submit a written request to the appropriate Vice President for recommendation to the Board of Trustees.
8. 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.
9. 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 E.5 of this Side Letter were met.
10. Contract faculty members may opt to "load balance" beyond the current lower limit of 73% set forth in Article 32.02.C.2. Provided that the total negative contract load balance at the end of the Fall 2021 semester does not exceed 54 percent, the faculty member may carry a load as low as 60 percent for Fall 2021 only. The District retains the right to assign the faculty member a contract load of up to 127% in future semesters or to convert

future overload assignments into contract load (Article 32.02.C.4) in order to reduce the accumulated negative load balance. Faculty members intending to retire before May 31, 2022 will not be eligible to load balance beyond the existing 73% lower limit.

11. In lieu of using paid leaves or load balancing to cover an absence, contract faculty members who have banked load available may use the banked load per Article 32.07.

F. In-person instruction

1. AFA and the District acknowledge that protecting health and safety is the highest priority, and that the District will not offer in-person instruction and services in violation of applicable national, State or County orders and unless it can do so safely.
2. No faculty member will be compelled to perform an in-person assignment.
3. AFA and the District agree to the following process allowing faculty to opt in to in-person instruction and allied services.
 - a. For in-person classes department chairs or program coordinators will
 - i. Survey faculty members to determine which faculty members wish to perform part or all of their assignment in person.
 - ii. Submit departmental requests for in-person classes via a spreadsheet provided by the District
 - iii. Indicate in-person requests on Proof 2 of the Fall 2021 schedule.
 - b. For allied services, department chairs or program coordinators will survey faculty members to determine which faculty members wish to work with students in-person by appointment and inform the supervising administrator.
4. In the event that more faculty want to perform an in-person assignment than there is space available, the length-of-service list will be used to determine who is assigned hourly in-person assignments, and for contract load assignments, departments will follow the normal process for assigning contract load.
5. The District maintains right of assignment in determining how many classes can be safely offered with in-person 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 and allied services take place.

7. In the event that national, State or County 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.

G. 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 December 31, 2021; thereafter, the thirty (30) day time limit to file a grievance will resume pursuant to Article 11.04(B), unless otherwise negotiated.

H. Benefits. Adjunct faculty members who are currently participating in the Adjunct Medical Benefits Program (AMBP) will maintain eligibility for the program during the 2021-2022 academic year, even if the faculty member's load drops below the 40% threshold required by the state-funded program. In order to continue to be eligible to receive health benefits, adjunct faculty members must have an assignment in the District or be on an approved leave during the Fall 2021 enrollment period. All hourly assignments remain subject to Article 16.

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 10 hours for extra work on the Fall 2021 schedule as well as up to an additional 25 hours for other extracontractual work required for the remote transition for Fall 2021.
2. To recognize the additional workload and professional development associated with the transition of traditionally in-person 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 October 31, 2021.
 - a. Preparation.
 - i. Up to 5 hours per course or allied assignment that the faculty member is teaching in Fall 2021 and that the faculty member received compensation for transitioning in a previous semester or term.
 - ii. Up to 15 hours per course or allied assignment that the faculty member is teaching in Fall 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 Fall 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 Fall 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 up to 5 hours of compensation at the base hourly rate if the enrollment at census is greater than 35 students. These additional hours are related to emergency circumstances only and will not apply to future online class size discussions.
 - c. Trainings. Faculty members who participate in trainings of their choice related to Distance Education and online pedagogy may claim up to 12 hours of FLEX Credit or up to 20 hours of compensation at the base hourly rate. Documentation in the form of a certificate of completion, a copy of the course description, or a letter of verification from the course provider is required.
 - d. Development of Online Courses. Faculty members who develop full online courses in the model of the Online College Project per 32.02.H.2 may claim up to 14 hours of compensation at the base hourly rate per course unit.
 - e. Stipends. AFA and the District agree to revisit negotiations over additional COVID-related stipends during the Fall 2021 semester subject to funding availability from the California State COVID-19 Block Grant.
 - f. 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 §21.07.B.

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 Fall 2021 term.

/signature on original/

Sean Martin, President
All Faculty Association

/signature on original/

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