

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

Effects of District Emergency Action Due to Coronavirus Pandemic  
November 25, 2020

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 the Spring 2021 semester, 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 Spring 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 30, 2020, President Chong advised the college community of the following decision: "SRJC will continue to operate the instructional program and student services remotely through the end of the fall semester."

On May 24, 2020, Santa Rosa Junior College received approval from the Sonoma County Health Officer to reopen the Public Safety Training Center and Health Sciences programs under Governor Newsom's Executive Order N-33-20 that designated "Essential Critical Infrastructure Workers" to help ensure continuity of functions critical to public health and safety. As such, training first responders is covered under Sector 8: "Government Operations and Other Community-Based Essential Functions" as an essential workforce where remote work is not practical or allowed by regulations. This includes: "Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors." These programs are approved to remain open through Fall 2020.

On August 4, 2020, Santa Rosa Junior College received approval from the Sonoma County Health Officer to continue in-person instruction during Fall 2020 for courses in programs offered at the Public Safety Training Center and in Health Sciences. The approval also included a limited number of other courses permitted to be offered in a hybrid format with some in-person instruction.

On August 27, 2020, President Chong advised the college community of the following decision: "SRJC will continue to operate most instructional programs and student services remotely through the end of the spring [2021] semester" (see <https://pr.santarosa.edu/srjc-remote-through-spring-2021> ).

On November 5, 2020, Santa Rosa Junior College received approval from the Sonoma County Health Officer to continue in-person instruction during Spring 2021 for courses in programs offered at the Public Safety Training Center and in Health Sciences. The approval also included a limited number of other courses permitted to be offered in a hybrid format with some in-person instruction. COVID-19 in-person instruction protocols for Spring 2021 will be negotiated between AFA and the District for these courses.

As of the date of this side letter, all other in-person higher education is directed to remain closed statewide (see <https://covid19.ca.gov/education/> and <https://covid19.ca.gov/safer-economy/>) except where supporting essential workforce activities (<https://covid19.ca.gov/essential-workforce/> ), including providing "training and instruction for the essential workforce."

In the event that the Sonoma County Department of Health tier status and State orders permit offering additional Spring 2021 course/programs for in-person delivery, AFA and the District will negotiate COVID-19 in-person instruction protocols for all courses/programs approved.

Sonoma County Department of Health Services Orders are amended as the COVID-19 pandemic evolves. A list of all orders issued since March 17 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 Spring 2021.

**B. District Operations.** The District's decision to operate the majority of programs and services remotely through the end of the Spring 2021 semester 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 Spring 2021 semester. 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 mid-semester 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 Spring 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 semester. 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.  
  
Faculty 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.
6. Faculty members will conduct contractual office hours through remote modalities. Office hours may be synchronous or asynchronous.
7. 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.

8. 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.
9. **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.
10. 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 non-participation is without prejudice. Faculty members may use excess hours expended to transition to and maintain remote instruction or services to fulfill flex obligations or for PGI credit.
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. Special Assignments (to maintain contract load for Spring 2021) may include mentoring of new faculty, curriculum overhaul, department-identified work, District-identified projects, or self-proposed projects in support of departments and the District. The special assignment will be mutually agreeable to the faculty member and the District and is subject to VPAA approval. Each hour of an approved special assignment has 0.1632 percent load as specified in Article 32, Table 32-1. The District will provide AFA with a list identifying approved special assignments, the faculty members assigned, and the load for each assignment.
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. **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.
- 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. This Side Letter is not intended to change the terms of the current collective bargaining agreement/contract but is instead a one-time, non-precedent-setting agreement that neither party may use as the basis of a past practice.

#### **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 Spring 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. **Tenure Review.** As with all other evaluations scheduled for Spring 2021, evaluation ratings will be based solely on subject matter content.
  - a. The tenure review process for faculty members in years 2, 3, and 4 will proceed according to the provisions of Article 30.
  - b. Faculty members in Year 1 of tenure review will have formal evaluations in Spring 2021, which will be included in the 2021-2022 tenure report.
  - c. Regular and adjunct faculty evaluations. Regular and adjunct faculty members who are due to be evaluated in Spring may choose among the following options:
    - i. Proceed with the evaluation as usual
    - ii. A supportive observation
    - iii. A self-evaluation
- 3. **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 Spring 2021, evaluation ratings will be based solely on subject matter content.

## **F. Leaves**

1. If extended, the District shall adhere to and provide all leaves required by the Families First Coronavirus Response Act and any other applicable 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 Spring 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 Spring 2021 semester-length assignment must notify the Department Chair and Supervising Administrator via email before the Priority 1 registration begins for Spring 2021 (November 20, 2020).
6. The District and AFA have established a Personal Necessity Faculty Leave Donation Bank. Faculty members who decline to teach an assigned class in Spring 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](#) until December 1, 2020, and the donated leave received by January 22, 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 January 22, 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. The District Human Resources Department will solicit applications for the use of donated leave as well as sick leave donations from faculty members. The District 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 as soon as possible, 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 F.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 Spring 2021 semester does not exceed 54 percent, the faculty member may carry a load as low as 60 percent for Fall 2020 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.

**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. Sabbatical Leaves**

1. Faculty members may postpone currently scheduled sabbatical leaves that are affected by the pandemic. Any faculty member wishing to choose a different semester to take the sabbatical leave must notify their department chair before the schedule is developed for the semester that they were originally scheduled to be on leave. If the 10-percent rule applies for the new semester of the sabbatical leave, the faculty member originally scheduled for the semester will have priority.
2. Faculty members may alter sabbatical projects affected by the pandemic. Faculty members wishing to modify their original sabbatical proposal will notify the co-chairs of the Sabbatical Committee.

**I. Professional Growth Increments (PGI).** Faculty members who are eligible for PGI in 2020-2021 and who did not submit an application during Fall 2020 may submit an application during Spring 2021. If a PGI step is awarded to a faculty member in Spring 2021, the faculty member will receive pay retroactive to January 1, 2021.

**J. 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 May 31<sup>st</sup>, 2021; thereafter, the thirty (30) day time limit to file a grievance will resume pursuant to Article 11.04(B), unless otherwise negotiated.

**K. Benefits.** Adjunct faculty members who are currently participating in the Adjunct Medical Benefits Program (AMBP) will maintain eligibility for the program during the 2020-2021 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 2020 and Spring 2021 enrollment periods. All hourly assignments remain subject to Article 16.

**L. Additional Compensation.** AFA and the District agree to negotiate over compensation for additional workload and professional development related to the transitions of courses and services to a remote modality for the Spring

2021 term.

**M. 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 Spring 2021 term.

**/Signature on original/**

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Sean Martin, President  
All Faculty Association

**/Signature on original/**

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