

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
PALOMAR COMMUNITY COLLEGE DISTRICT
AND THE
PALOMAR COUNCIL OF CLASSIFIED EMPLOYEES, AFT LOCAL #4522**

October 11, 2023

This Memorandum of Understanding (“MOU”) is entered into by and between the PALOMAR COMMUNITY COLLEGE DISTRICT (“District”) and the PALOMAR COUNCIL OF CLASSIFIED EMPLOYEES, AFT Local #4522 (“CCE”), collectively referred to as “the parties” and memorializes agreements between the parties regarding 2023-2024 successor negotiations. Given the recent large number of changes to state laws that impact important parts of the parties' collective bargaining agreement (CBA), negotiations have occurred and concluded over said legal changes which has resulted in the parties entering into agreements that ensure that the CBA is now aligned with law. To eliminate any confusion or ambiguity around how matters that fall within the jurisdiction of the applicable CBA articles will be addressed while the current CBA remains expired and the parties move to conclude 23-23 successor negotiations, the parties agree to implement the tentative agreements reached within 30 days, on the following CBA articles:

ARTICLE 9 – EMPLOYMENT STATUS

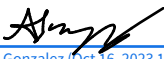
ARTICLE 17 - DISCIPLINE

ARTICLE 21 – LAYOFFS AND REEMPLOYMENT RIGHTS

These tentative agreements are attached to this MOU. This MOU is not intended to be precedent setting nor is it intended to abrogate any rights the parties have, as specified in the Educational Employee Relations Act (EERA) or any and all other applicable laws, as it relates to collective bargaining and ongoing 2023-2024 successor negotiations.

This MOU shall expire the date the parties reach a comprehensive 2023-2024 successor agreement.

Dated: Oct 16, 2023


Anel Gonzalez (Oct 16, 2023 11:30 PDT)
Anel Gonzalez
CCE/AFT #4522 President

Dated: Oct 18, 2023


Joseph Sanchez (Oct 18, 2023 14:29 PDT)
Joseph Sanchez
District Chief Negotiator

ARTICLE 9 - EMPLOYMENT STATUS CCE Proposal #2

The College Council of Classified Employees CFT/AFT Local #4522 (CCE)
Proposal to the
Palomar Community College District (District)
for
2023-2024 Successor Negotiations

July 13, 2023

ARTICLE 9 - EMPLOYMENT STATUS**9.1 Probationary Period**

Effective July 1, 2023, A a newly hired employee will serve in probationary status for ~~one (1) year~~ **six (6) months** from the date of appointment by the Board. The ~~one year~~ **six (6) months** probationary period shall consist of ~~twelve (12)~~ **six (6)** calendar months of paid active service with the District. Time spent on leave of absence without pay shall not apply toward completion of the probationary period. **New employees who were hired between January 1, 2023 and June 30, 2023 shall have a probationary period that ends on December 31, 2023.**

Probationary employees **who successfully complete their probationary period** shall be evaluated two times within that probationary period.

The District may release a probationary employee at any time during the probationary period. In this event, the employee will be given written notice and, at the employee's request, the employee may meet with the Vice President of Human Resource Services or designee, at which meeting the employee may have a CCE/AFT representative present. The District will notify CCE/AFT of employment termination.

An employee who has not completed his/her probationary period and who voluntarily leaves the service of the District, and who is subsequently reemployed as a Classified employee may be required to successfully serve a new probationary period of ~~one (1) year~~ **six (6) months** of active service beginning on the date of the reemployment in such position.

Full-time peace officers or public safety dispatchers who are certified by the Commission on Peace Officer Standards and Trainings will serve in a probationary status for one (1) year from the date of appointment by the Board to that full-time position, as required by law.

9.2 Permanent Employee

A Classified employee who successfully serves and completes the initial probationary period shall be designated as a permanent Classified employee of the District.










CCE Article 9 Employment Status TA

Final Audit Report

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ARTICLE 17 - DISCIPLINE

17.1 General Provisions

The District recognizes that employee discipline must be fairly imposed with adherence to the concept of progressive discipline; provided, however, that the level of discipline initially imposed may vary depending upon the seriousness of the offense. The term “discipline” for the purposes of this Article does not include adverse or negative evaluations or pre-disciplinary corrective measures.

The employee has the right to request representation from the CCE/AFT during disciplinary conferences between the employee and his/her supervisors or managers.

17.2 Steps in Pre-Disciplinary Corrective Measures

In most circumstances the following sequence of pre-disciplinary, corrective measures would be used in order to avoid the need for formal disciplinary measures:

- Informal conference(s) will be held between the supervisor and the employee to discuss: (1) performance standards and behaviors expected on the job; and (2) feedback on problems regarding job performance and behavior.
- Verbal warning(s) will be identified as such at a meeting between employee and supervisor to clarify expectations and attempt to foster increased understanding of the established standards of performance and/or behavior if problems regarding job performance or behavior persist.
- Written warning(s) to be given at a meeting between the employee and supervisor if problems regarding job performance or behavior persist, which will outline the performance and behavioral issues, clearly state expectations relating to performance and/or behaviors, and indicate that failure to improve may result in future discipline.
- Written reprimand(s) outline the concerns, expectations, provide direction, and state future disciplinary consequences, should the previous concerns continue. The written reprimand will be placed in the employee’s personnel file. Prior to the reprimand being placed in the file, the employee will have the opportunity to attach a written response to the reprimand within ten (10)

business days.

17.3 Types of Disciplinary Action

A permanent classified employee may be disciplined by the District for cause (see Article 17.6). The term “discipline” refers to the following disciplinary actions, penalties, and/or settlements: suspension without pay, demotion or dismissal except when such demotion or dismissal is part of a layoff for lack of work or lack of funds. All discipline must be reasonable, timely, and related in severity to the seriousness of the offense.

17.4 Written Notice of Proposed Disciplinary Action

17.4.1 Process and Timeframe for Notice

After consultation with the Assistant Superintendent/Vice President, Human Resource Services, the appropriate Senior or Executive Administrator or designee shall give written notice to the classified employee of the proposed disciplinary action. Such notice shall be served by certified mail or personal delivery to the classified employee at least ten (10) business days prior to the date when discipline may be imposed. Service by certified mail shall be deemed complete on the day of mailing. A second copy of the notice shall be sent to the President or designee of CCE/AFT.

17.4.2 Emergency Situations

In emergency situations where it is deemed necessary to remove the classified employee immediately from the position held, the classified employee shall not lose compensation prior to the date when discipline may commence. Loss of compensation in all cases may occur after the tenth business day following the date the notice was served.

17.4.3 Contents of Written Notice

The contents of the written notice shall include at least the following:

- A statement in ordinary and concise language of the specified acts and omissions upon which the proposed disciplinary action is based. Such statement may incorporate by reference the acts and omissions described in attached memoranda or other attached documents.
- The specific disciplinary action proposed.
- The cause(s) or reason(s) for the specific disciplinary action proposed.
- A copy of the applicable regulation(s) where it is claimed a violation of regulations took place.
- A statement that the classified employee, upon request, is entitled to appear personally before the Superintendent/President or designee with authority to reverse or modify the proposed decision, and who can render an unbiased opinion, regarding the matters raised in the

written notice prior to the end of the ten (10) business days following the date the written notice was served for a pre-disciplinary (Skelly) meeting. The employee shall be informed of the right to CCE/AFT representation at this meeting.

- A statement that the classified employee has the right to respond to the matters raised in the written notice both orally and in writing, including the submission of affidavits, prior to the end of the ten (10) business days following the date the written notice was served.
- A statement that no pre-disciplinary (Skelly) meeting shall be held unless notice is delivered to the Superintendent/President or designee within ten (10) business days after the date the written notice of proposed disciplinary action was served.

17.4.4 Pre-Disciplinary Meeting

In the event that the employee timely requests a pre-disciplinary meeting, such a meeting shall be held upon at least five (5) business days' notification to the employee. At such a meeting the classified employee shall be granted a reasonable opportunity, either in person or in writing, to make any representations the classified employee believes are relevant to the case and put forth any information as to why the intended action should not proceed.

17.5 Review by the Governing Board

17.5.1 Initial Review by Governing Board

- At the conclusion of the pre-disciplinary meeting or after the scheduled time allotted, if the recommendation of the Superintendent/President or designee is to proceed with the disciplinary action, that recommendation shall be carried to the Governing Board for action.
- The action taken by the Governing Board shall be communicated to the employee in writing.
- If the disciplinary recommendation is upheld by the Governing Board, the statement shall include the charges. The employee will also be notified in writing of his/her right to request an evidentiary hearing before the Board, which must be requested within five (5) business days after service of the notice, with a copy sent to the President or designee of the CCE/AFT. The notice shall include a statement that failure to submit the demand for a hearing to the Vice President for Human Resource Services within five (5) business days after service of the notice shall constitute a waiver of the right to an evidentiary hearing before the Governing Board. Attached or enclosed with the written notice of the disciplinary action shall be a card or paper, the

signing and filing of which shall constitute a demand for hearing, and a denial of all charges.

17.5.2 Evidentiary Hearing with the Governing Board

- If an employee files a card requesting a hearing within five (5) business days after service of notice of the Governing Board's action to approve the imposition of discipline, the Governing Board shall set a date for the hearing before the Governing Board itself or shall appoint a hearing officer to hear the matter and make a recommended decision to the Governing Board.
- The hearing normally will be held before the Governing Board or a hearing officer designated by the Governing Board, within forty-five (45) days of the hearing demand. The classified employee shall have the right to appear in person, with counsel, with a CCE/AFT representative and/or such other lawful representation.
- The District will have the burden of proof and shall first present evidence. Normal procedures shall be following: i.e., charging party presentation, defense cross-examination, defense presentation, charging party cross-examination and rebuttal evidence from each party. The hearing will be recorded at the request of either party with such expense being borne by both parties.
- The matter will be heard in Closed Session, unless the employee requests to have the matter heard in Open Session. The Governing Board may deliberate in Closed Session. The Board will take action to accept, amend, or reject the recommended disciplinary action.
- The Board's determination of the sufficiency of the cause for disciplinary action shall be conclusive in all cases.
- A permanent employee who timely requests a hearing on charges against the them shall not be suspended without pay, suspended with a reduction in pay, demoted with a reduction in pay, or dismissed before a decision is rendered after a hearing unless the governing board finds that at the time discipline was imposed at the conclusion of the Skelly process, the District demonstrated by a preponderance of the evidence that the employee engaged in criminal misconduct, misconduct that presents a risk of harm to students, staff, or property, or committed habitual violations of the district's policies or regulations.

- If a hearing on the charges will be conducted by an impartial third-party hearing officer or the governing board the district may stop paying a permanent employee before a decision is rendered after 30 calendar days from the date the hearing is requested in accordance with Educational Code Section 88013.

17.6 Causes for Disciplinary Action

The term “cause” for disciplinary action shall include the following:

- Incompetence or inefficiency in the performance of assigned duties;
- Insubordination, including the refusal to perform assigned duties or the refusal to obey a lawful directive from a supervisor;
- Carelessness or negligence in the performance of assigned duties or in the care or use of District property;
- Discourteous, offensive, or abusive conduct or language toward other employees, students, or the public;
- Dishonesty;
- Drinking alcoholic beverages on the job, or reporting to work while intoxicated;
- Use of narcotics on the job, or reporting to work under the influence. The use of drugs under and consistent with the directions of a physician which does not impair the performance of a classified employee is not prohibited;
- Personal conduct of an unlawful nature or other conduct which a reasonable person would know may have adverse impact on the District;
- Engaging during required work time in political or union activity not authorized by law;
- Conviction of any felony or any crime involving moral turpitude;
- Repeated unexcused absence or tardiness;
- Abuse of any leaves or vacation;
- Falsifying any information supplied to the District, including, but not limited to, information supplied on application forms, employment records, or any other District records;
- Persistent violation or refusal to obey safety rules and regulations made applicable to public schools by the Governing Board or by any appropriate federal, state, or local governmental agency;
- Offering of anything of value or offering any service in exchange for special treatment in connection with the classified employee’s assigned duties, or the accepting of anything of value or any service in exchange for granting

any special treatment to another employee or to any member of the public;

- Willful, negligent or intentional violation of any law concerning the District;
- Abandonment of position;
- Advocacy of overthrow of federal, state, or local government by force, violence or other unlawful means;
- Any other action or lack of action that is detrimental to the District.

17.7 Exclusion of Probationary and Non-Permanent Employees

Probationary employees and other non-permanent classified employees are not covered by any provision in this Article.










CCE Article 17 Discipline TA

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ARTICLE 21 – LAYOFFS AND REEMPLOYMENT RIGHTS

21.1 General Provisions

With regards to layoffs, the District and the CCE/AFT will be consistent with the Education Code and EERA. The determination of the need to layoff shall be made solely by the Governing Board.

21.2 Notice of Layoff

The District shall inform the CCE/AFT of pending layoffs and shall consider input from the CCE/AFT.

The District shall provide CCE/AFT with the reason for the layoff, and identify by name and classification the employees designated for layoff at least seventy (70) calendar days prior to the effective date of any layoff.

A written notice of intent to layoff shall be given to affected permanent unit members no later than March 15 of the year in which the layoff occurs. Notice of pending layoffs and procedures pertaining to layoffs shall be in accordance with the Education Code 88017.

Unit members employed in any grant or specially-funded programs, shall be given written notice of termination not less than 60 days prior to the effective date of their layoff

The District shall notify the affected employees in writing a minimum of sixty (60) calendar days prior to the effective date of any layoff in accordance with Education Code Section 88017.

A layoff notice shall contain:

- A statement of the effective date of the layoff;
- A statement of the employee's displacement rights;
- A statement of the employee's reemployment rights;
- A statement that the employee may be eligible for unemployment benefits;
- A statement of the reason for layoff;
- An up-to-date seniority list of all classifications in which the employee has seniority.

- A statement of the employee's right to a hearing as specified in Educational Code Section 88017

21.3 Computation of Seniority

Seniority is defined as and is based upon length of service with the District as a classified employee. For the purpose of this Article, length of service shall be based upon the unit member's original hire date in classified service. Unit members who move to an equivalent or higher classification accumulate seniority from the date of hire into that classification, and continue to accumulate seniority in former lower or equal classifications in which they have permanent and/or probationary service. Seniority shall accumulate during paid absences.

Any layoff shall take place within a classification. The order of layoff shall be based on hire date within the classification, plus seniority in higher classifications within the classified bargaining unit. The employee who has been employed the shortest time in the classification, plus higher classifications within the classified bargaining unit, shall be laid off first.

The District shall establish and maintain a current and accurate seniority roster indicating an employee's hire date. Such roster shall be available to CCE/AFT and upon request to District employees through the Human Resource Services office of the District.

An employee transferred from one classification to another shall retain his/her seniority in the former classification; seniority in the new classification shall begin on the date of transfer.

In the event of a tie in a classification, preference would be given to the employee with the longest total service with the District. If a tie still exists, the employees will draw lots to determine preference.

No seniority shall be earned during periods of separation from the service of the District except during Military Leave only to the extent required by law.

A permanent employee laid off and subsequently reinstated within thirty-nine (39) months shall maintain the seniority earned prior to the time of layoff.

Any employee who is laid off or retired in lieu of layoff, and is subsequently eligible for reemployment, shall be notified through certified mail by the District as to the date of the opening at his/her last address known to the District. The employee must respond within seven (7) working days of issuance of the letter or be deemed to have declined the offer.

In the event of reclassification, employees in a position that is reclassified will carry forward seniority from the position reclassified.

21.4 Employee Rights

21.4.1 Displacement (Bumping)

A regular employee in the classified service who is laid off and who has previous service in an equal or lower classification shall have the right to

displace an employee with the least seniority in that equal or lower classification.

21.4.2 Voluntary Demotion, Transfer or Reduction in Hours

A regular classified employee being laid off who has no displacement rights may accept a voluntary demotion to a vacant position in a lower classification or transfer to an equal classification, provided that the employee meets the minimum qualifications to perform the duties thereof, and provided further that the Governing Board approved the voluntary demotion. If a position opens in a classification for which the laid off employee meets minimum qualifications, that employee shall have preference over outside and District candidates for that open position.

21.4.3 Assignment as Temporary Employee

Subject to the provisions of Ed. Code 88017, the District retains the right to fill positions with temporary, hourly, and/or short term assignment workers. Laid off employees, if qualified, shall have preference for such positions that have an assignment period of sixty-one (61) days or more, for the duration of their reemployment rights unless three (3) offers of short term employment have been refused by the employee. No seniority will accrue for any short term assignment filled by a laid off District employee.

21.4.4 Retirement in Lieu of Layoff

Regular employees who have been employed at least five (5) years under Public Employees Retirement System and are fifty (50) years of age or older may elect to accept a service retirement in lieu of layoff, voluntary demotion, or reduction in assigned time. Such employees shall, prior to the effective date of the proposed layoff, complete and submit a form to the Public Employees Retirement System provided by the Human Resource Services department for this purpose.

21.4.5 Reemployment Rights

Subject to the availability of a vacant position for which he/she is qualified, the laid off employee has the right to reemployment over outside candidates.

Any employee who is laid off or retired in lieu of layoff, and is subsequently eligible for reemployment, shall be notified through certified mail by the District as to the date of the opening at his/her last address known to the District. The employee must respond in writing within seven (7) working days of issuance of the letter to be deemed to have declined the offer.

Laid off employees are eligible for reemployment in the classification from which laid off for thirty-nine (39) months from the effective date of layoff and shall be employed in the reverse order of seniority. Their reemployment shall have preference over any other method of filling vacancies in classifications incurring layoff. An employee on a reemployment list shall be notified of

promotional opportunities and shall be entitled to apply through the regular selection process.

Regular employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff shall be reemployed in their former classification or to positions in the former classification with increased assigned time as vacancies become available, for a period of thirty-nine (39) months plus twenty-four (24) months. Employees who are demoted in lieu of layoff shall remain on the reemployment list until their rights are exhausted, or until they have regained the assignment from which they were laid off.

Regular employees who are eligible and elect to retire under Section 21.4.4 shall then be placed on a thirty-nine (39) month reemployment list in accordance with this regulation. The District agrees that when an offer of employment is made to an eligible person retired under this regulation, and the District receives within ten (10) workdays a written acceptance of this offer, the retired person shall be allowed sufficient time to terminate his or her retired status with Public Employees Retirement System.

21.4.6 Hearing

- With the exception of unit members employed in any grant or specially-funded programs, A regular permanent employee in the classified service who is laid off may request a hearing to determine if there is cause for not reemploying the employee for the ensuing year in accordance with Educational Code 88017.

21.5 Layoff Procedures

In the event of layoffs of regular employees in the classified service, the following procedures shall be utilized:

- Layoff shall be implemented in inverse order of seniority in the classification in which the layoff occurs. The employee who has been employed the shortest time in the classification, plus higher classifications shall be laid off first.
- In cases where an employee's work history with the District includes position title(s) that may have been changed due to reclassification or organizational modifications, the District will consult with the CCE/AFT in determining seniority for these employees.
- The names of permanent and probationary employees laid off shall be placed upon the reemployment list for the classification from which they were laid off. Names on the reemployment list shall be in the order of seniority.

21.6 Benefits

Employees laid off shall maintain District-paid benefits for the remainder of the

month in which the effective date of the layoff occurs and for one month subsequent. Employees shall be eligible to use up to five (5) days of accrued sick leave for job search purposes subsequent to the notice of layoff, and prior to the effective date of layoff.

Insurance Provision:

- The District shall continue to pay health and welfare benefits for laid off employees according to the following schedule: If the layoff is effective between the 1st and 15th day of a month, paid coverage shall continue for the remainder of that month, plus the following month; if the layoff is effective between the 16th day and the end of the month, paid coverage shall continue for two (2) months thereafter.
- After the benefit continuation provided for in subparagraph a. of this section, the laid off employee may continue participation in District benefit plans at their own expense through COBRA.
- Employees issued a layoff notice shall receive eight (8) hours of paid release time for seeking employment

21.7 Grievance Exclusion

The District and the CCE/AFT agree that any District decision to lay off, as well as its determination of a lack of work or lack of funds for such layoffs, shall be excluded from the provisions of Article 19 of this Agreement covering grievances.










CCE Article 21 Layoff and Reemployment TA

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CCE MOU Legal Changes 23-24 Successor_Final

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