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PROPOSAL
FROM THE CERRITOS COLLEGE FACULTY FEDERATION, AFT Local 6215 TO
CERRITOS COMMUNITY COLLEGE DISTRICT

February 2, 2024

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This proposal from the Cerritos Community College District to the Cerritos College Faculty Federation, AFT Local 6215 (“CCFF”) is expressly made pursuant to the Educational Employment Relations Act and the current Collective Bargaining Agreement between the parties. The following article shall be added to the Collective Bargaining Agreement as set forth below:

NEW ARTICLE:

DUE PROCESS Investigations and Discipline

[Note: Provisionally numbered Article 42, anticipating moving current “Term” provisions to Article 43.]

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42.1 Application of Article: The terms of this Article are intended to ensure that the due process rights of full-time faculty personnel are observed during pre-disciplinary processes, including paid administrative leave and investigations. The terms of this Article are also intended to ensure the due process rights of full-time faculty personnel regarding the as-well-as the issuance of any corrective notice related to a demonstrated failure to meet professional expectations as defined in Article 4: Assignment, that does not involve any suspension/dismissal processes required by the California Education Code. Suspension or dismissal of contract and regular faculty may be issued for any cause enumerated in California Education Code section 87732, and will be conducted in accordance with the procedures provided in the California Education Code section 87660 et seq. Nothing in this Agreement shall preclude the District from utilizing those disciplinary procedures as provided in the Education Code.

42.2 Misconduct Investigations and Representation for All Unit Members

42.2 42.2.1 Misconduct Investigations: The parties acknowledge that the District has the authority and/or legal duty to investigate complaints, reports, observations and/or other credible information from an identifiable source that a unit member has allegedly engaged in some form of misconduct, including allegations that a full-time faculty unit member has violated applicable legal standards, board policies, and/or administrative procedures. The District will conduct the investigation in accordance with applicable Board Policy and Administrative Procedures, as well as any mandatory external requirements imposed by law, such as Title IX and/or Title 5 of the California Code of Regulations.

42.2.1 Notification of Misconduct Investigation: Prior to conducting any investigatory interview or meeting with a unit member subject to a misconduct investigation, the District must send them an Employee Notification Packet no later than ten (10) business days before the member’s appointment for an investigatory interview. The Notification Packet shall include two documents: (1) the Employee Notification Form, which provides unit member

55 the ability to opt out from CCFF notification and representation
56 (see Appendix X attached to this Agreement), and (2) the
57 Summary of Interview Subject Matter, which specifically
58 includes the following information:

59 42.2.1.1 The name of the complainant(s) or individual(s)
60 whose concerns caused the District to initiate an
61 investigation

62 42.2.1.2 What allegedly occurred. The faculty member shall
63 be entitled to a description of the subject matter and
64 the specific alleged conduct or actions at issue in the
65 investigation

66 42.2.1.3 When the incident(s) allegedly occurred. This notice
67 shall be as specific as possible, based on the
68 information available at the time the notice is given

69 42.2.1.4 Where the incident(s) allegedly occurred. The
70 notice shall be as specific as possible based on the
71 information available at the time the notice was
72 given. ~~Notice of Investigation: The District may~~
73 ~~initiate an investigation at any time, and must~~
74 ~~provide notice to the full-time faculty member~~
75 ~~prior to any investigatory interview. The District~~
76 ~~provided notice shall include a statement~~
77 ~~concerning the general nature of the allegations~~
78 ~~under investigation, and shall allow the member~~
79 ~~an opportunity to confer with their representative~~
80 ~~(if applicable) prior to the interview. If the District~~
81 ~~utilizes an outside independent investigator, the~~
82 ~~notice shall include the identity and/or means of~~
83 ~~contacting the investigator.~~

84
85 42.2.2 If, after interviewing the unit member, the District learns of other
86 allegations during the investigation and seeks to re-interview the
87 unit member, the unit member shall be provided with a new summary
88 of Interview Subject Matter document at least five (5) business days
89 prior to the subsequent interview.

90
91 42.2.3 If, prior to interviewing the unit member, the District learns of other
92 allegations it wishes to cover during the interview, the unit member
93 shall receive an updated Summary of Interview Subject Matter
94 document at least five (5) business days prior to the interview.

95
96 42.2.4 Notice of Findings Conclusion of Investigation: The District
97 shall make best efforts to complete the investigation within
98 the timeframe required by the type of complaint, subject to
99 any extensions/continuances required to ensure the
100 investigation is fully and fairly completed. Following
101 completion of the investigation the District shall provide a
102 unit member/respondent with a conclusion of investigation
103 notice which shall include the alleged policy that was
104 violated, the name of the individual(s) who completed the
105 investigation, the name of the individual(s) who filed the
106 complaint, and a summary of findings.

107 42.2.5 Notice of administrative determination: the District shall
108 provide a unit member/respondent with an administrative
109 determination as outlined in appendix XX notice and a
110 summary of findings, in addition to any administrative
111 determination and/or appeal rights as may be required by the

type of complaint.

42.3 ~~Involuntary Paid Administrative Leave: The parties acknowledge that the District may place a unit member on involuntary paid administrative leave consistent with the requirements of Education Code Section 87623~~

~~Consistent with Education Code Section 87623, placement on paid administrative leave maintains all compensation and benefits to which the unit member would have been entitled. It is understood that it is within the District's discretion to place a unit member on paid administrative leave during the pendency of a misconduct investigation. As such, the leave shall be imposed only where the District concludes that the alleged conduct includes: a) acts of retaliation or intimidation; b) acts of serious dishonesty or the destruction of property; c) allegations, which if true, present a reasonable concern for the health and safety of others; d) allegations which if true present a reasonable concern that the unit member's students are suffering educational harm; or e) allegations the nature of which require the immediate preservation of physical evidence which may be compromised if the unit member is not placed on leave.~~

~~During any involuntary paid administrative leave, a unit full-time faculty member shall be entitled to remain in paid status with all benefits intact. In most circumstances, the District will have 90 days from the date the unit member is placed on involuntary paid administrative leave to either initiate disciplinary proceedings or reinstate the member. This period shall run concurrently, and may be extended when necessary, with the period of time required to complete the investigation process.~~

42.3.1 ~~General Notice of Leave: In most cases, the District shall provide written notice at least two (2) business days prior to initiating an involuntary paid administrative leave. The notice will include a statement concerning the general nature of the allegation or allegations related to placement on leave. The notice may be combined with, or issued separate from, notice of investigation as provided under Article 42.4.2.1. The notice shall also include an explanation that while paid administrative leave constitutes a directive to stay away from the workplace, it does not apply to the CCFF office or areas and events that are open to the public. The notice may also instruct the member to remain available to the District for questioning during the employee's regular hours of work.~~

42.4 ~~Notice In Emergent Circumstances: Dependent upon the circumstances, the District may immediately initiate an involuntary paid administrative leave without providing notice pursuant to Article 42.53.1 if the District determines that serious risk of physical danger or necessity arises from the specific allegation or allegations. In these circumstances, the District shall provide written notice, including a statement concerning the general nature of the allegation or allegations related to placement on leave, within five (5) business days of initiating the involuntary paid administrative leave. The notice shall also include an explanation that while paid administrative leave constitutes a directive to stay away from the workplace, it does not apply to the CCFF office or areas and events that are open to the public. The notice may also instruct the member to remain available to the District for questioning during the employee's regular hours of work.~~

166
167 **42.5** Representation Rights: At all stages of misconduct investigation, pre-
168 disciplinary processes, the issuance of any corrective notice, or the initiation of
169 statutory disciplinary proceedings, a full-time faculty unit member shall have the
170 right to request representation from the Federation—CCFF or their own
171 representation. The District and Federation shall provide notice to the other party
172 if a full-time faculty member notifies either party that the member elects to be
173 represented by themselves during these processes. The District shall inform the
174 unit member of their right to CCFF representation or the unit member’s own
175 representative.

176
177 Nothing in this Article shall waive or supersede the District’s, CCFF’s or a unit
178 member’s right to request and receive information and documents as allowed by
179 the EERA, Education Code or other law.
180

181 42.6 Full Time Faculty Corrective Notice Procedures

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183 42.6.1 When problems arise in the performance of assigned duties and responsibilities,
184 the District will attempt to assist the Faculty member in solving these problems through
185 the evaluation process outlined in Article 16.

186
187 No part of the video or audio recording or livestream of a distance education or HyFlex
188 assignment may be used as evidence in or to initiate any type of disciplinary proceeding
189 against the faculty member, nor shall it be accessed and/or utilized to view or review
190 any part of the assignment for any reason, including a response to a complaint.

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192
193 **42.6** 42.7 Corrective Notices: Any corrective notices shall be related to a demonstrated
194 failure to meet professional standards as outlined in Article 4: Assignment.

195
196 **42.7** 42.8 Corrective notices shall be based upon credible knowledge of demonstrated
197 failure to meet professional standards as outlined in Article 4: Assignment
198 misconduct and prior to the imposition of disciplinary sanctions, the District may issue
199 a full-time faculty member a corrective notice for the purpose of remediating observed
200 behavior. In no event shall a corrective notice be based upon unsupported complaints
201 and/or hearsay. Corrective notices must be warranted. Such corrective notices shall
202 be administered progressively. District -imposed corrective notices shall be limited to oral
203 warnings, written warnings, and written reprimands, in the steps set forth below. The
204 following Corrective Notices may be utilized by the District, dependent upon the
205 severity of the misconduct, prior to any statutory processes:

206
207 **42.7.1** 42.8.1 Step One: Oral warning: An oral warning is a verbal
208 communication from the immediate manager regarding the
209 performance of the professionals standards outlined in Article 4:
210 Assignment. The oral warning shall be formally communicated to the
211 Full Time Faculty in a private meeting between the Full Time Faculty
212 and the immediate manager; however the Full Time Faculty shall have
213 the right to have a CCFF representative or their own representation
214 attend the meeting. The meeting shall be confidential. During the
215 meeting the Full Time Faculty shall be made aware of the reason for
216 the warning, shall be provided with specific examples of the issue in
217 performance and may be provided a work plan that shall set forth
218 observable and measurable performance goals.

219
220 42.7.2 Step Two: If an oral warning does not result in corrected performance, a Written Warning may be issued. Counseling Memorandum: The District may issue a counseling memorandum-written warning to document the the performance of the professionals standards outlined in Article 4: Assignment misconduct and memorialize directives include a work plan intended to assist the full-time faculty member in remediating the conduct meeting the desired level of performance of assigned duties and responsibilities as outlined in Article 4: Assignment . Counseling memorandum The written warning will not be placed in the member's personnel file, and shall be kept in a separate confidential file maintained and accessed only by the Vice President of Human Resources. Provided there has been no repetition of similar conduct for a period ~~two~~ of one years from the date of occurrence, the written warning counseling memorandum will be destroyed. The written warning must include (a) a summary of any previous oral warnings on this topic, (b) the specific rule, regulation, policy or procedure violated by the Full Time Faculty, (c) specific examples of the violation, (d) the desired level of performance of assigned duties and responsibilities required along with a work plan for improvement, and (e) the disciplinary consequences that shall result if the Full Time Faculty fails to demonstrate improvement.

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242 42.7.3 Step Three: Written Reprimand: If a full-time faculty member has received a counseling memorandum-written warning for issues of similar performance of the professional standards outlined in Article 4: Assignment conduct within the preceding ~~year~~ two years, the District may issue a written reprimand to document the the performance of the professionals standards outlined in Article 4: Assignment and memorialize a work plan directives intended to assist the full-time faculty member in meeting the desired level of performance of assigned duties and responsibilities as outlined in Article 4: Assignment. Remediating the conduct. Such work plans directives may include a requirement that a member shall participate in a mandatory training, not to exceed two (2) hours, provided that such training must occur during the members assigned time. Any assigned training will be offered in a variety of modalities, when possible. The Full Time Faculty member will sign the reprimand to acknowledge receipt and a copy shall be placed in the member's personnel file, with which the member may attach a statement of rebuttal which shall be permanently attached to the reprimand. The written reprimand shall be removed upon the request of the unit member or CFFF the Federation provided there has been no repetition of similar performance of the professional standards outlined in Article 4: Assignment conduct for a period of four ~~two~~ years years from the occurrence.

266 42.7.4 Throughout the progressive discipline process, when supporting information indicates that improvement is needed, the District may initiate a work plan that should set forth observable and measurable performance goals. Such goals are to be met within a specific, achievable time frame. If such a plan is contemplated, CFFF shall be notified. At the full-time faculty member's request, CFFF shall participate in developing the work plan. Mandatory training shall be included as a part of the work plan only in instances of Step Three: written reprimand.

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275 42.7.5 The District shall not utilize other mechanisms, such as reassignment

276 or mandatory training, as corrective measures. The District reserves
277 the right to require mandatory trainings when necessary for legal
278 compliance, and shall continue to make assignments in accordance
279 with Article 4.
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283 APPENDIX X: EMPLOYEE NOTIFICATION SUMMARY FORM

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285 This Notice is to advise you that the Human Resources Department has initiated an
286 investigation into allegations that you may be involved in possible employee
287 misconduct. Please read this Notice carefully, as it gives you information about the
288 investigation process and your rights during this process.
289

290 First, please note that the District takes a neutral stance when investigating possible
291 misconduct and maintains the confidentiality of employee investigations to the
292 fullest extent possible. No findings of wrongdoing have been made, and no findings
293 will be made prior to completion of the investigation. Further, the investigation will
294 not be closed until after the scheduled date for your interview.
295

296 An interview shall be scheduled no sooner than ten (10) business days after the
297 receipt of the Employee Notification Form and Summary of Interview Subject Matter.
298 The Respondent shall notify the Office of Human Resources of the date and times
299 which they are available to attend the interview.
300

301 Please be further advised that the information received in your interview could lead
302 to discipline. You are entitled to have union representation at that meeting, and to
303 have the Union copied on communications related to this investigation.
304

305 Every effort will be made to complete the investigation within ninety (90) business
306 days, and where this is not possible; you will receive a status update on where the
307 District is in its investigation and when it expects to be completed. Once the
308 investigation is complete, you will receive notice of the findings of the investigation.
309

310 In the event the investigation leads to disciplinary action, you will be afforded all the
311 pre-discipline due process rights to which you are entitled. This includes receiving
312 a copy of the written investigation report. If you do not want CCFF to receive a copy
313 of the written investigation report, please sign below and the District will not forward
314 it to CCFF.
315

316 We also remind you that District policy and law prohibit retaliation of any kind
317 against anyone you believe to have provided information or otherwise cooperated
318 in this investigation, and that such conduct constitutes an independent basis for
319 serious discipline up to and including termination.
320
321

If you do not want CCFF to automatically receive communications, information, and/or reports directly related to your misconduct investigation please sign and date below.

Name _____ **Date** _____

Summary of Interview Subject Matter

This letter includes information about the nature of the reported incident including; the name of the complainant(s) or individual(s) whose concerns caused the District to initiate an investigation, what allegedly occurred, when and where the incident(s) allegedly occurred, and other information regarding the investigation process. Please note that you are considered to be the Respondent in this matter.

The District is committed to a neutral investigation, reports are presumed to have been made in good- faith, and Respondents are presumed not responsible.

An interview shall be scheduled no sooner than ten (10) business days after the receipt of this Summary of Interview Subject Matter. The Respondent shall notify the Office of Human Resources of the date and times which they are available to attend the interview.

For the District:

For the Cerritos College Faculty Federation
AFT Local 6215:

Dr. Mercedes Gutierrez
Vice-President, Human Resources/
Assistant Superintendent

Dr. April Bracamontes
CCFF/Lead Negotiator

Dr. Lynn Wang
CCFF President