

ARTICLE 8

Association Rights

8.1 No Reprisals

The Association and the Board agree that no reprisals ~~shall~~ **will** be taken against any person who legally exercises rights guaranteed by law or this agreement, or who executes responsibilities imposed by law or this agreement.

8.2 Negotiations with Other Organizations

The Board and its authorized representatives agree not to negotiate with any other organizations or individuals, including the Academic Senate, upon matters for which ACE is the exclusive representative, on matters within the scope of bargaining. ACE agrees that neither it nor its authorized representatives shall negotiate privately or individually with any person or persons not officially designated by the Board as its official representative in matters upon which ACE is the exclusive representative within the scope of bargaining.

8.3 ~~Meetings and Use of Facilities~~

ACE shall have the right to use District facilities at reasonable times in accordance with the District regulations and procedures and State Civic Center Act provisions. Use of such facilities shall not interfere with or interrupt normal District operations. ACE agrees to leave facilities used in a clean and orderly condition or compensate the ~~District for special janitorial/maintenance work required, at cost.~~ No member shall be released from his/her assigned duties to attend ACE meetings without the District's consent, in advance, unless specifically provided for in some other provision of this agreement.

8.4 ACE Business and ACE Meetings

Business:

A reasonable number of duly authorized representatives of the Association may transact official business on campus property at times other than their scheduled duty assignments. ~~Reasonable access to members will be accorded provided it does not occur during member's hours of scheduled assignments and does not interfere with normal District operations.~~

Meetings:

No member shall be released from his/her assigned duties to attend ACE meetings without the District's consent, specifically the college President, in advance, unless specifically provided for in some other provision of this agreement.

8.5 Notification

ACE shall provide in writing or electronically to the District, specifically the Associate Vice-Chancellor of Human Resources or designee, each semester, by September 15 and February 15, and updates as required, the names of the duly authorized ACE representatives ~~authorized to discuss official ACE business with members.~~

8.6 **Bulletin Boards/Mailboxes/E-Mail**

8.6.1 ACE shall have the right to use institutional bulletin boards, and mailboxes, and e-mail subject to reasonable regulations and laws, including but not limited to Education Code Section 7054, without charge. As specified in Education Code 7054, District funds, services, supplies or equipment shall not be used for the purpose of urging the support or defeat of any ballot measure or candidate.

8.6.2 All communications must be dated and contain ACE identification as the originator/distributor.

8.6.3 With advance approval by the College President to the ACE President, audio-visual equipment not being required for District use may be used on campus for ACE business. ACE shall assume any damage or repair costs.

8.7 **Information to Association**

8.7.1 **Board Agenda/Minutes**

The District shall furnish the ACE President five (5) copies of all official Board minutes and five (5) copies of each agenda packet ~~to ACE~~, excluding all confidential information or materials as defined by applicable law. Such materials shall be furnished to ACE no later than the time they are furnished to the Board.

8.7.2 **Policies and Regulations**

8.7.2.1 The District ~~will~~ shall provide ~~ACE copies~~ the ACE President a copy, simultaneous with distribution to management, of any changes, additions, alterations or deletions in order to maintain one (1) book of Board Policies and one (1) copy of Administrative Regulations.

8.7.2.2 Written materials governing conditions of employment of members of the unit, such as rules, procedures, guidelines, or work requirements that are distributed by the District or colleges to members or groups of members shall be provided to ACE.

8.7.2.3 The District ~~will~~ shall provide once annually, one month after the beginning of the ~~Academic Year~~ Fall semester, a list of regular/contract members, and home addresses, ~~and telephone numbers~~ on record with the District, ~~for associate faculty, six (6) weeks after the beginning of the Academic year.~~ The District shall provide the name and home address of any additional

regular/contract members, whose employment commences after that date. The District shall provide once annually, six (6) weeks after the beginning of the Fall semester, a list of associate members and home addresses on record with the District. The District shall provide the name and home address of any additional associate members whose employment commences after that date. These listings may be transmitted in electronic form. ~~A member (regular, contract, or associate) who does not want their home address or phone number on such a list shall notify the Director of Human Resources in writing annually by the first Friday in September. The District will update, by additions and deletions, six (6) weeks after the Spring Semester begins.~~ **Pursuant to Government Code Section 6254.3, a member (regular, contract or associate) may request in writing that his/her address and telephone number be removed from any mailing list unless exclusively needed by the District to contact the member.** ACE agrees **that** it shall indemnify and hold **the** District harmless from any liability from any and all claims, demands, lawsuits or other actions arising from implementation or compliance with the terms of this section by the District. **(Government Code Sec 3546 (e)(f))**

8.7.2.4 Upon request, ACE shall be provided with (1) copy of materials and data which is made available to the public, without charge. Requests for more than one (1) copy, or requests for materials or data in formats not usually issued, shall be charged to ACE in an amount not to exceed costs.

8.7.2.5 ~~The District shall provide, a~~ **At the time of submission to the Board, the District shall provide to the ACE Budget Analyst one (1) copy, of each preliminary, tentative and publication budget packet; one (1) copy of “CCAF-311, CCAF-320 and CCFS-350A;” and access to all financial data system reports from which the data is taken. one hard copy each and to the ACE Secretary one electronic copy, if available, each of CCAF-311, CCAF-311Q, CCAF-320, and CCFS-350A. The District shall make available all financial data system reports from which the data is taken.**

8.7.2.6 Other budget/study data prepared by the District for general usage may be made available upon request to and approval by the Chancellor or designee.

8.8 **Association/District Consultation**

Parties agree relationships may be facilitated by consultation meetings. Either party may request a consultation meeting where they believe a resolution of a problem or problems may be feasible. The party requesting such a meeting shall, in writing, submit an agenda to allow understanding of the problem to be discussed, and the date, time and place requested. The receiving party shall, within three (3) workdays, notify of agreement or non-agreement to such a meeting. Such meeting shall not be unreasonably denied. All meetings shall be held during ACE attendees' non-duty hours. Neither party shall have more than three (3) representatives at any such meeting unless mutually

agreed to prior to the meeting. It is agreed these meetings are not to be used or intended to bypass the grievance procedure and shall not constitute any invitation to re-negotiate any provision of this agreement.

8.9 **ACE Released/Reassigned Time**

8.9.1 **Released/Reassigned Time to Attend Negotiations**

Whenever possible, negotiation meetings shall be arranged outside the scheduled assignments of all ACE negotiating team members; when necessary ~~A~~ a maximum of five (5) members shall be released from their regular work duties, with no loss of pay or benefits, to attend negotiation meetings with **the District**. ~~Management when scheduled during working hours of the members involved. The District shall provide ACE with .2 release time, per semester, for each of a maximum of four negotiators.~~

~~ACE Negotiator must submit to the District the names of the courses and the numbers of the sections which the negotiator could have taught if it were not for negotiations. This must be submitted by the first Friday in May.~~

8.9.2 **Released/Reassigned Time for Grievances Processing**

The ACE grievance officers, if not a classroom instructors, may **shall** be released from regular work duties with no loss of pay or benefits to accompany a grievant to present a grievance. Whenever possible, meetings ~~will~~ **shall** be arranged outside the scheduled assignment of all parties.

8.9.3 **Released/Reassigned Time and Reimbursement Compensation**

~~8.9.3.1 Two full-time equivalents (FTE), per year, shall be provided to the Association, to be paid for by the Association.~~

~~8.9.3.2 The cost of the first 1.5 FTE will be paid by the Association at 50% of Step 1 of the Associate Faculty rate. The remaining FTE will be calculated at step 1 of the lecture rate.~~

~~8.9.3.3 Release time will not be provided if the District reasonably determines the department will be impaired.~~

The District shall provide .80 FTEF of total released/reassigned time in each semester (1.60 FTEF per academic year) for negotiations at no cost to ACE.

ACE may purchase additional released/reassigned time up to a maximum of 2.80 FTEF in each semester (5.60 FTEF per academic year) for ACE operations at a cost to ACE equal to the average associate faculty member's salary.

The average associate faculty member salary shall be provided by the Fiscal Services Office.

ACE shall provide members' names and the released/reassigned time to the Associate Vice-Chancellor of Human Resources, in writing, prior to September 15 for the Fall semester and prior to February 15 for the Spring semester.

No more than one faculty member may be assigned a maximum of 1.00 FTEF per semester (2.0 FTEF per academic year) of ACE released/reassigned time or a combination thereof in any capacity.

8.10 **Copies of Agreement**

The District agrees to print and publish a sufficient number of copies to provide each member a copy of the agreement. ACE may purchase additional copies, up to two hundred (200) in number.

8.11 **Representation/Service Fee**

8.11.1 The District shall deduct the amount of the fair share service fee from the wages and salary of regular/contract and associate employees as follows: (1) Regular/contract members – 1% of regular salary and (2) Associate members - \$20 per semester. Thereafter, the employee shall, as a condition of continued employment, be required to either join the Association or pay the fair share service fee (See Representation Form in Appendix xx). The amount of the fee shall not exceed the dues that are payable by members of the Association and shall cover the cost of negotiations, contract administration, and other activities of the Association that are germane to its functions as the exclusive bargaining representative. Fair share service fee payers shall have the right to receive a rebate or fee reduction upon request to the ACE president, of that portion of their fee that is not devoted to the cost of negotiations, contract administration, and other activities germane to the Association's function as the exclusive bargaining unit. Members who are temporarily assigned to an administrative position, who are on voluntary leave without pay, and members who are on laid-off status, shall be exempt from these provisions.

8.11.2 Any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to join, maintain membership in, or financially support any employee organization as a condition of employment, except that such employee shall be required, in lieu of a service fee, to pay sums equal to the service fee either to a nonreligious, non-labor organization or charitable fund exempt from taxation chosen by such employee. (Government Code Section 3546) Payment of membership dues, service fees, or contributions to scholarship funds shall be made by payroll deduction.

~~8.11.1 The District and ACE recognize the right of members to form, join and participate in lawful activities of member organizations and the equal, alternative right of members to refuse to form, join and participate in employee organizations. Neither party shall discriminate against a member in the exercise of these alternative rights.~~

~~8.11.1.1 Accordingly, membership in ACE shall not be compulsory. A member has the right to choose either: (1) to become a member of ACE; or (2) to pay to ACE a fee for representation services; or (3) to refrain from either of the above courses of action upon the grounds set forth in Section 8.11.3.2 that follows below.~~

~~8.11.1.2 Unit Members' Obligation to Exclusive Representative~~

~~A member employed for a semester or a full school year who does not qualify as for an exemption as set forth in Section 8.11.3.2 below, and who has not voluntarily made application for membership in ACE within thirty (30) days of either the beginning of the fall semester or the date upon which said member has been employed by the District, whichever is later, must, as a condition of employment in the District, pay annually or monthly, to ACE, a representation/service fee in exchange for representation services necessarily performed by ACE in conformance with its legally imposed duty of fair representation on behalf of said member. A member employed for less than one semester (short term) who does not qualify as an exemption as set forth in Section 8.11.3.2 below, and who has not voluntarily made application for membership in ACE within two (2) days of the date upon which said member has been employed by the District, must, as a condition of employment in the District, pay the representation/service fee for the time period they are employed.~~

~~8.11.1.1 Definition of Representation Fee~~

~~The representation/service fee to be collected from non-ACE members shall be equal to, but not exceed, the periodic dues and general assessments of ACE.~~

~~8.11.3.1 Representation/Service Fee Schedule~~

~~The District and ACE agree that each member shall pay his/her fair share for representation services. The District and ACE agree that the representation/service fee schedule set forth constitutes the appropriate determination of the fair share of the representation/service fee for each class of bargaining unit members. Members who are temporarily assigned to an administrative position, who are on voluntary leave without pay, and members who are on laid-off status, shall be exempt from these provisions. Within ten (10) days of the member's return to paid faculty status, the member shall once again fulfill requirements of Section 8.11.1.1 herein.~~

~~8.11.3.2 Members Exempted from Obligation to Pay~~

~~Any member may be exempted from payment of any representation/service fees to ACE if that person is a member of a religious body whose traditional tenets or teachings include conscientious objections to joining or financially supporting an "employee organization" as defined in Section 3540.1(d) of the Government Code. Members seeking such exemption will be required to submit to ACE and the District a notarized letter signed by an official of the bona fide religion, body or sect certifying that person's membership and the date the membership was initiated. If the exemption is granted, ACE shall notify the member and the District in writing and shall require that, as an alternative to payment of a representation/service fee to ACE, the member shall pay an amount equivalent to such representation/service fee to:~~

- ~~a. West Valley Mission Community College Scholarship Fund~~

~~Scholarships from the "West Valley Mission Community Scholarship Funds" shall be awarded to students of the District on the basis of need and scholastic achievement only. The fund, including earned interest, shall be administered by ACE for this purpose. A list of scholarship endowed accounts to which members may contribute is available in the Advancement Foundation Office~~

- ~~8.11.3.3 As provided in Government Code Section 3548.3, if a member who qualifies under Section 8.11.3.2 requests the assistance of ACE in using the conciliation and grievance procedure set forth in Article 48, or in representing the member in individual issues related to terms and conditions of employment, ACE may charge the member for the reasonable cost of providing these services.~~

~~8.11.2 Payment Method~~

~~Any members who are not exempted from payment under Section 8.11.3.2 above may pay annually, at the beginning of each school year before the end of the first pay period of District employment or re-employment, the properly determined representation/service fee directly to ACE; or~~

- ~~8.11.2.1 As an alternative to the annual payment method, in accordance with Section 8.11.2 of this agreement, a member may voluntarily sign and deliver to the District within thirty (30) days of either the beginning of the fall semester or the date said member was employed by the District, a written authorization to deduct the properly established representation/service fee as defined in Section 8.11.3 above. Upon the receipt of a voluntary authorization duly completed and executed, the District will deduct from the pay of members and pay to ACE the normal and regular monthly representation/service fee.~~

- ~~8.11.2.2 In the event that a member who is not exempted from payment under Section 8.11.3.2 does not pay annually the representation/service fee directly to ACE pursuant to Section 8.11.4, or does not voluntarily sign and deliver to the District an authorization for monthly payment of the representation/service fee, ACE shall require in writing that the District deduct from the pay of the member and pay ACE the normal and regular monthly representation fee without the approval of the member. In such case, the District shall begin~~

~~automatic payroll deduction as provided in Education Code Section 87834 for the representation/service fees. There shall be no charge to ACE for such mandatory representation/service fee deductions.~~

~~8.11.2.3 Prior to making such a payroll deduction pursuant to Section 8.11.4.2, ACE shall certify to the District in writing that the member whose pay is to be affected by the deduction has (1) not joined ACE; (2) not voluntarily tendered the amount of the representation/service fees defined herein; and (3) has not qualified for an exemption under Section 8.11.3.2 herein. ACE shall also notify the member in writing that, due to the member's failure to fulfill any of the above three (3) requirements, ACE has requested the District to begin automatic payroll deduction of the representation/service fee. ACE shall provide the District with a copy of said written notice to the member. Thereafter, the District will begin making automatic deductions.~~

~~8.11.2.4 The District shall immediately notify ACE if any member revokes a payroll deduction form required by this article, or if it has knowledge that an academic member has failed to comply with this article.~~

~~8.11.2.5 Upon receipt of notice from the District pursuant to Section 8.11.4.4 that a member has revoked his or her payroll deduction, or if a member has otherwise failed to comply with the requirements of this article, ACE shall notify each member involved that compliance with this article is a condition of continued employment as specified in Government Code Section 3540.1(k)(2) and that, if he or she does not comply, he or she will be dismissed from employment with the District as required by this article. Such notice shall be sent to the member by certified mail with a copy to the Director of Human Resources.~~

~~8.11.2.6 If any member who has been sent the notice prescribed by Section 8.11.4.5 does not, within 30 days from the date of the notice, either authorize the deduction of dues, service fees or scholarship contributions, or pay directly to ACE the full amount due for the academic year, ACE may send a written request to the Chancellor, with a copy to that member, that the member be dismissed. Upon receipt of the request, the District shall commence disciplinary action either to dismiss the member for cause or, if the member is an associate member, to terminate the member's re-employment preference, if any, and all associated service credit.~~

~~8.11.34.7~~ The District is under no obligation to make payroll deductions for periods during which a member is either terminated from employment or not on the District's payroll for any reason, including, but not limited to, layoff and voluntary leave of absence **without pay** for more than thirty (30) days.

8.11.4~~8~~ Upon the re-hiring of any member, or upon the recalling of a member from layoff status, the District shall treat such member as a new member, in terms of service fees.

8.11.5 **Hold Harmless and Indemnify Provision**

ACE shall hold the District harmless, and shall fully and promptly reimburse the District, for any fees, costs, charges or penalties incurred in responding to or defending against any claims, disputes or challenges which are actually brought against the District in connection with the administration or enforcement of any section in this article pertaining to representation/service fee.

8.11.5.1 Upon notice that the District is going to seek indemnification ~~or~~ and be held harmless under this provision, ACE shall have the right to meet with the District regarding the reasonableness and merit of any claim, demand, suit, or action for which the District seeks indemnification, and shall attempt to agree whether any such action listed above shall be compromised, resisted, defended, tried, or appealed.

8.11.5.2 In determining whether or not such actions shall be compromised, resisted, defended, tried or appealed, the District ~~will~~ **shall** defer to ACE interests if the District does not have a distinct and separate legal interest in the disputed matter.

8.11.5.3 The District shall not be entitled to be reimbursed for any costs for which ACE was not properly notified and provided the opportunity to discuss as set forth herein; nor ~~will~~ **shall** the District be entitled to any reimbursement when the District's efforts in defending against such action would be duplicative, or when the District does not have a separate and distinct interest to defend.

~~8.12~~ **Reassigned Time** *(Note, new language added to Article 21.3)*

~~Twelve and one third FTE (185 hours) of assigned time shall be distributed between the colleges each semester. One FTE shall be given to the Health Occupations program each semester. The division of the remaining eleven and one third FTE between the colleges will be computed as part of the District budgeting process. Each college administration, in consultation with the Division Chairs Council, may distribute assigned time in a manner which best meets the needs of each college. The division between the colleges of this assigned time will be computed and revised, if necessary, each year. ACE will be notified in writing by May 12 of any change in distribution for the following year.~~