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PERB CASE NO. SF-IM-3438-H

FACTFINDING PROCEEDINGS PURSUANT TO  
THE MEYERS-MILIAS-BROWN ACT

UC Law San Francisco

And

AFSCME Local 3299

NEUTRAL FACTFINDER  
PANEL CHAIR  
RECOMMENDATIONS

Issue: Impasse in 2024 Successor Contract Negotiations

September 15, 2025

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FACTFINDING PANEL

Factfinder for the Union:   Factfinder for the Employer:   Neutral Factfinder Panel Chair:

Nicolas Monteiro  
Negotiations Coordinator

David Seward  
Chief Financial Officer.

Nancy Hutt  
Labor Arbitrator & Mediator

APPEARANCES

For the Union:

Owen Li  
Lead Researcher

For the Employer:

Arthur Hartinger, Esq  
Renne Public Law Group

John DiPaolo  
UC College of the Law

## INTRODUCTION

This factfinding arose due to an impasse in collective bargaining under the State of California Meyers-Milias-Brown Act (MMBA) Government Code Section 3505.4 between the UC Law San Francisco and the American Federation of State, County and Municipal Employees (AFSCME), Local 3299. AFSCME filed a request for factfinding with the California Public Employment Relations Board (PERB) on May 27, 2025.

In accordance with Government Code Section 3505.4(b), the parties mutually selected Nancy Hutt as the Neutral Factfinder Panel Chair. The College appointed David Seward, Chief Financial Officer, as the Panel Member to represent the Employer. The Union designated Nicolas Monteiro, Negotiations Coordinator, as the Panel Member to represent AFSCME Local 3299 in the factfinding proceeding.

The factfinding hearing convened on July 28 and July 29, 2025, in a conference room at the College of the Law, 198 McCallister Street, San Francisco, California. The parties had a full opportunity to present and submit relevant exhibits and evidence and discuss and argue the issues in dispute. The parties agreed all the procedural requirements of the impasse had been met, and the dispute was properly before the Factfinding Panel to issue their recommendations to resolve the impasse. After the hearing concluded, the panel members met on August 14, 2025, and successfully narrowed the issues in dispute.

## GOVERNING STATUTE

The MMBA Government Code Section 3505.4(d) sets forth the criteria to be used in the factfinding process:

In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria:

- (1) State and federal laws that are applicable to the employer.
- (2) Local rules, regulations or ordinances.
- (3) Stipulations of the parties.
- (4) The interests and welfare of the public and the financial ability of the public agency.
- (5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours and conditions of employment of other employees performing similar services in comparable public agencies.
- (6) The consumer price index for goods and services, commonly known as the cost of living.
- (7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

## ISSUES AT IMPASSE

Unlike interest arbitration, where a third-party neutral set the terms of a new contract, a third-party neutral chair in a Meyers-Milias-Brown Act (MMBA) factfinding simply provides recommendations. In essence, this makes factfinding an extension of bargaining. Ultimately, the parties must persuade one another of their positions, and the neutral factfinder simply provides an outside perspective to help the parties along.

At the start of the hearing there were 23 issues identified for impasse. By the conclusion of the factfinding sessions, eight articles were identified. They are as follows:

Article 5 - Duration of the collective bargaining contract.

AFSCME proposed a three-year agreement, and the College proposed a five-year agreement.

Article 8 – Job Postings, Transfers, and Promotions

The College has proposed to remove the right to be promoted into supervisory and management positions, provided that minimum qualifications are met but to keep promotion rights with respect to bargaining unit positions. AFSCME proposed the parties contract contain the current contract language, including 10% minimum pay increase and seniority-based hiring for qualified internal applicants.

Article 14 – Layoff, Reduction in Time and Recall

AFSCME has proposed that the College avoid layoffs by offering employees vacant positions for which they can be trained in one year or less including external training with administrative leave. AFSCME also proposed that the College offer both recall/rehire rights and severance, increase the amount of severance to include cost of

Cobra up to 6 months for 6 years of service, and offer continued healthcare for laid-off employees. The College has agreed to increase severance to cover COBRA costs up to 4 months for 12 years of service and reject the remaining aspects of the proposal.

#### Article 19 – Subcontracting

AFSCME has proposed that no subcontracting of bargaining unit work be permitted, and that the College insource currently contracted-out work. The College countered with current contract language.

#### Article 20 – Wages

AFSCME proposed a \$25 minimum wage for all AFSCME employees effective July 1, 2024. The College proposed to implement a \$25 minimum wage within 30 days of ratification. AFSCME has proposed an immediate market inflation adjustment of 5%, annual across-the-board increases of 8%, 7.5%, and 7.5%, and one step increase for each year of a three-year agreement. The College has proposed annual across-the-board increases of 3%, 3%, 3%, 3%, and 3%, and no step increases for the life of a five-year agreement. The College is also proposing a bonus based on merit and changes to the me-too and wage equity language.

#### Article 26 – Healthcare

AFSCME proposed holding employee contributions at 2017 levels but rejected the College's economics package that included duration, healthcare, leave and wages. The College proposed holding employee contributions at 2017 levels as part of this economics package. As an alternative, stand-alone proposal, the College proposed raising the monthly contributions by \$20.00 every year beginning in 2025.

## Article 28 – Holidays

AFSCME has proposed to increase the number of personal holidays from three to eight. The College rejected this proposal but agreed to codify the addition of the Juneteenth holiday.

## Article 29 – Leaves

AFSCME and the College proposed the same vacation accruals; however, the College's offer was part of an economic package that was rejected by AFSCME. The proposals for sick leave were close, but the College rejected that intermittent employees receive up to a maximum accrual of 32 hours sick leave.

## SUMMARY OF FACTS

*American Federation of State, County and Municipal Employees (AFSCME), Local 3299*

AFSCME, Local 3299 comprises of approximately 70 part-time and full-time staff in service/administrative classifications across all departments, in addition to multiple temporary classifications such as proctors.

*UC Law San Francisco*

The UC Law San Francisco is located in the city of San Francisco and serves approximately 975 students and employs 85 full-time faculty and approximately 225 full-time/part-time staff. The College operates independently of the Regents of the University of California and is a separate line-item in the State budget.

### *Negotiations History*

According to the parties, negotiations commenced for a successor agreement on April 17, 2024. Nicolas Montiero, Negotiations Coordinator, served as the Chief Negotiator for the Union and John DiPaolo, General Counsel, represented the College in negotiations. The parties met in eight (8) separate negotiation sessions for an estimated total of 45 negotiation hours. The first was April 17, 2024, and the final negotiation was September 27, 2024.

## **FACTFINDING RECOMMENDATIONS**

### **ARTICLE 5: DURATION**

The current CBA is from July 1, 2017 – June 30, 2024. The Union, without much explanation, proposes a three-year contract. Essentially AFSCME proposes a shorter duration based on macroeconomics, the political environment and wage erosion from recent inflation. The College proposes a five-year duration to maintain fiscal stability amidst current budgetary challenges.

Panel Chair – The Chair opts for a middle-ground approach in light of the uncertainty and lack of clarity surrounding the various proposals currently under discussion. While there are different perspectives on the appropriate duration of the agreement, the Chair emphasizes that the ultimate decision on this issue cannot be separated from the broader context of the parties' economic positions. Specifically, the proposals concerning wages, health benefits, and leave are central to the financial framework of the contract.

The Chair notes that these three economic components will most likely set the tone for the sustainability of the agreement and the predictability that both parties seek. Higher wage commitments, paired with the College's health benefits proposal and the agreed leave provisions, would require a longer timeframe to ensure the likelihood of implementation and to allow both parties to adjust to the financial impact. If the parties align on these economic terms as a package, the Chair recommends a five-year contract. This duration would provide sufficient stability, reduce the frequency of renegotiation, and foster an environment in which both the Union and the College could plan ahead.

However, if the parties do not select the three key economic options then the balance of issues shifts. In that scenario, the Chair recommends a shorter contract of four years. A four-year term would allow the parties to revisit the economic positions sooner, recognizing that the absence of the full package weakens the justification for a longer commitment. The shorter duration would provide flexibility, giving both sides an earlier opportunity to re-evaluate their positions and negotiate adjustments in response to changing financial conditions. In summary, the Chair points out that contract duration is inseparable from the parties' choices on the economic issues of wages, health, and leave. *A five-year contract is recommended if the three economic proposals are adopted together, while a four-year contract is more appropriate if they are not.*

## **ARTICLE 26: HEALTH CARE**

This Article establishes the health benefit programs available to AFSCME employees. To help meet the financial needs of covered employees, the College has paid 100% of the health premium increases since 2017 for the Kaiser and Blue & Gold



plans. In doing so, the College has fully absorbed all premium increases. According to the Union, approximately 90% of career employees elect health care coverage, and among them, 84% choose the Kaiser or Blue & Gold low-cost HMO plans. These plans are considered “affordable” because their employee contribution rates have remained frozen.

Union Position: AFSCME requests that its members’ health care costs remain frozen, emphasizing that this group of employees already receives the lowest compensation. The union argues that an additional \$20 per month—or \$240 annually—would create an unfair burden. Only 53 employees would be affected by the freeze, and two-thirds of them carry single coverage. AFSCME maintains that this proposal represents a cost-effective way to retain and attract employees.

College Position: The College proposes to raise employees’ out-of-pocket health care costs by \$20 per month, noting that these costs have been subsidized since 2017. However, the College states it would agree to continue the freeze on health benefits if AFSCME accepts its proposed wage package, thereby maintaining the current balance.

Panel Chair: Both parties present thoughtful arguments in support of their positions. Because this is an economic matter closely tied to the wage proposals of both sides, the Panel Chair believes health care costs must be considered as part of the broader compensation package. Accordingly, the Chair outlines two economic recommendations: one offering higher wages paired with increased health care contributions, and the other providing a smaller wage increase with no change to health care costs. Neither option is formally recommended over the other; rather, the parties are strongly encouraged to

weigh the trade-offs between wage levels, health coverage, leave and the duration of the contract. (See Article 20.)

## **ARTICLE 20: WAGES**

AFSCME desires to increase its members compensation and other benefits. AFSCME's bargaining unit members believe that they have fallen behind in total compensation compared to other universities within the UC campus system, with regard to wages, hours, and conditions of employment. Further, AFSCME contends that as a result of the current rate of compensation, the College will continue to have problems recruiting qualified new employees and maintaining current employees. As it stands now, the majority of employees have been at the College less than five years. The College states its proposed wage plan is reasonable considering its financial position. Moreover, the College contends that AFSCME's wage proposal is "borderline outrageous" and would necessitate not only layoffs but erode its current financial circumstances.

Union Position: AFSCME's wage proposal relies on an analysis of cost of living and inflation, wages at equivalent positions at comparator employers, the financial condition of the College, and overall compensation and employment terms, which mirror the MMBA. AFSCME proposed all employees receive either a 5% increase or a \$25.00 minimum wage retroactive to July 1, 2024 and across-the-board wage increases to 8% retroactive to January 1, 2025, 7.5% on January 1, 2026, and 7.5% on January 1, 2027. Additionally, AFSCME proposes a step structure with a 3% wage difference between each step that would recognize experience. The Union points out that inflation will remain elevated, based on inflation forecasts. However, the College ignored inflation in its wage proposal and refuses to entertain a step structure.

AFSCME contends that the College has the ability to pay based on several significant factors. First, the core budget of the College consists of state funding and tuition as revenue streams. Approximately 80% of AFSCME'S positions are funded by this core budget, which consistently exceed total expenses. For example, the core budget had \$27 million in surpluses in addition to the operating reserves and endowment fund investments of \$152 million with little spending restrictions. Auxiliary Enterprises and fundraising activities fund approximately 11% while 9% of AFSCME positions are funded by grants. Secondly, the College receives unconditional and increasing base funding and public funding (significant State funding). Lastly, the College receives large windfalls generated from investment returns. The College has the ability to pay AFSCME's requested wage proposal.

AFSCME contends, based on its analysis of specific jobs, that the average gap between comparators (University of California campuses in Northern California and UC Law Schools) varied between 6% and 20% that results on average of \$18,110 annually. The College's proposal argues AFSCME, based on a comment by the College during its factfinding presentation, of 3% across-the-board increases were formulated without consideration of cost of living, inflation or labor market comparators. AFSCME says this would result in locking in past wage erosion and fail to offset future inflation. It points out that the CPI-W for the area rose 33% while wages increased 27%. Moreover, the College failed to take into consideration the CPI-U moved upward by +0.07% and the CPI-W moved upward by 0.8%.

AFSCME presented a wage study using University of California campuses in Northern California and UC Law Schools along with a demonstration of payroll analysis

of the payroll system data. Exhibits were presented that compared pay scale and actual pay information with each title grade and location. Charts, scatterplot charts, showing actual pay versus years of service, argues AFSCME, depict the College is not only behind their counterparts, but substantiates that College employees' wages are not commensurate with years of service or experience. In fact, the College failed to present any wage market information and consistently objected to the comparators utilized rather than accepting that UC campuses and law schools serve similar educational functions in a collective bargaining context and use the same health care, investment, and payroll systems. The arguments by the College are also misleading and out of touch with the MMBA, which requires specific attention to the higher cost of living in the San Francisco and San Mateo counties.

College Position: The College proposes to implement a \$25 minimum wage within 30 days of ratification along with annual across the board increases of 3% for the duration of the contract. The College also proposes a merit-based bonus and changes to the me-too and wage equity language. This overall proposal is based on the interests and welfare of the public and the financial ability of the College to pay. AFSCME'S proposal on wages is offensive.

The annual across-the-board increases of 3% is reasonable given the College's financial position. The College argues the minimum wage increase and 3% balances the compensation with labor costs. The 15% wage increase over the life of the CBA (assuming five years) and the \$25 minimum wage floor are reasonable and supportable by the financial position of the College.

AFSCME proposed a \$25 minimum wage for all AFSCME employees effective

July 1, 2024 and the creation of a brand new step system that would divide each pay band into “3% steps” and at the outset of the new contract award each employee one step increase for each year the employee has worked at the College and a further step increase for each year of a 3-year agreement, up to the maximum of the employee’s pay band. This amounts, in year one alone, to a 13% increase, plus additional step increases for each employee who has been at the College at least a year. The development of a step increase program requires analysis and discussion and should not be before this factfinding panel as there is insufficient information and bargaining on the issue.

The College points out that it is facing financial instability and economic pressures. The budget for 2025-2026 totals \$96.8 million in revenues and \$98.6 million in expenditures. This results in an operating deficit of \$1.8 million (1.9%). Expenditures, based on the budgetary numbers exceed revenues. This means that money to fund the deficit will be drawn from reserves. The College argues this is not a sustainable position over time and would necessitate layoffs. For the College to agree to AFSCME’s proposal would be a clear breach of their fiduciary duty.

The College compared wage increases to the Consumer Price Index for All Urban Consumers (CPI-U). The analysis shows that AFSCME wages lagged CPI by a cumulative 2.75 percent. With the proposed 3% increase, AFSCME members’ wages would be brought roughly in line with CPI. The College is proposing a 15% wage increase over the life of the new collective bargaining agreement, along with a \$25 minimum wage floor. These commitments align with the College’s financial resources while supporting fair and competitive compensation for employees.

The Union's wage survey cannot be validated. Its last-minute submission prevented the College from adequately reviewing and analyzing the data. The survey lacks transparency regarding methodology, comparator classifications, and grading distinctions, making it nearly impossible to interpret. While it incorporates recent wage data, it fails to account for the College's proposed wage increases. Overall, the survey appears skewed to exaggerate disparities. Moreover, it relies heavily on data from other UC campuses that are higher-ranked and better funded, while excluding more relevant comparators such as public agencies similar to a stand-alone law school like the College. This significantly distorts the understanding of the College's financial position.

The issue of healthcare is closely tied to the College's wage proposal. For example, in 2017, the College paid nearly \$600 per month for each employee enrolled in an individual Kaiser health plan. Today, that cost has risen to more than \$800 per employee per month. Throughout this period, the College has absorbed 100% of the health premium increases for both the Kaiser and Blue & Gold plans. In effect, the College is proposing that AFSCME accept the wage package offered, while the College continues to maintain the current level of healthcare support. These subsidies represent a significant benefit to AFSCME employees and should be recognized as an integral part of overall compensation.

Panel Chair: The parties agree on the \$25 minimum wage or 5%, whichever is greater. AFSCME proposes the wage increase be retroactive to July 1, 2024, while the College proposes 30 days from ratification. The Panel Chair recommends the day of ratification for the start of minimum wage or the 5%. The parties remain significantly apart on their

final salary proposals. A central point of disagreement concerns whether AFSCME's proposed wage increases align with the interests and welfare of the public and with the College's financial capacity. The Union contends that current wages are not competitive and asserts that, in comparison with employees at other institutions, AFSCME members are among the lowest paid.

Although AFSCME contends that the College has sufficient reserves to fund the proposed wage increases and that resources could be reallocated to meet this need, the evidence is not completely convincing. This perspective does not fully account for the College's broader financial responsibilities and operational demands. While competitive compensation is indeed critical for retaining talented employees, fostering a sense of value, and demonstrating the College's commitment to its workforce, the record and the College's arguments indicate that these priorities must be balanced against long-term fiscal stability. The College likely lacks the financial capacity to provide the 8% and 7.5% wage increases sought during factfinding. Rising operating expenses, coupled with limited reserves, make it unsustainable to absorb increases of this magnitude. Moreover, while the comparative data cited by the Union offers some context, the universities used as benchmarks differ significantly from the College and are therefore not fully appropriate for comparison.

While both parties present claims with merit, AFSCME's proposed ongoing 7.5% increase exceeds both the COLA and CPI, resulting in wage levels that are considered about average. Furthermore, although AFSCME relied on broader comparators, these

are not necessarily true comparables, and the Union has not met its burden of proof that the College has sufficient unrestricted resources to fund their proposed increases.

The College maintains that it does not anticipate receiving ongoing revenue from state or federal sources at past levels, given current political and economic conditions. While this projection may be reasonable, it is not certain and has not been used in this factfinding process to assess the College's financial position. What is clear, however, is that accepting AFSCME's wage demands would likely undermine the College's ability to meet its financial obligations and could result in operating deficits over the next three to five years. Accordingly, the Union's proposal is not a viable option.

Recommendation: The College's proposed 3% increase does not adequately address the need to remain competitive or to help employees manage the rising cost of living in the Bay Area. Based on the financial data presented during factfinding, a 5% across-the-board increase over the life of the CBA represents a reasonable compromise. This level of increase keeps wages aligned with CPI and COLA while recognizing the College's financial limitations.

#### **ARTICLE 19: SUBCONTRACTING**

Under the collective bargaining agreement Article 19 establishes guidelines for the College to follow when it decides to contract work out. The contract cites examples when contracting out services is authorized. Those circumstances include the need to obtain special services and equipment that are not available internally and the need to obtain special expertise or efficiencies.



Union Position: The proposal states that the College not contract out work if such work is the type performed by AFSCME or if existing and/or new employees in these titles are capable of performing them. It is also proposed that all College insource all contracted out work within thirty days of ratification. Based on the present vague language in Article 19, it is subject to abuse by the College. The Union proposes the use of intermittent and limited appointment types to meet labor needs.

College Position: The College argues the current CBA language is adequate and proposes the status quo. It maintains it needs the flexibility to hire contract employees under the conditions outlined in Article 19.

Panel Chair: The Union asks the factfinder, to essentially change all the contracting-out provisions that have been mutually accepted by the parties for years. The Chair is not prepared to eliminate the College's ability to contract out work on a limited basis where conditions justify such action. The evidence does not demonstrate any abuse of this process by the College. *Accordingly, the Panel Chair recommends adopting the College's position and maintaining the status quo.*

## **ARTICLE 28: HOLIDAYS**

The current CBA identifies fourteen holidays, which are observed by the College. The parties agree to add Juneteenth as a holiday to be observed pursuant to Article 28. Presently there are also three personal holidays per calendar year to be used at the employees' discretion.

Union Position: AFSCME proposes increasing the three personal holidays to five personal holidays in order to honor the diversity of the Union membership and points out that

historically the College shuts down during the days between Christmas and New Year's Day. AFSCME suggests the unilateral change over this period renders Article 23 moot. Since AFSCME members now must use personal holidays to cover the days between Christmas and New Year's Day, it is reasonable to propose two additional personal holidays.

College Position: The College agrees to codify Juneteenth as a holiday but finds the additional personal holiday request as financially unsustainable and a disruption of the operational calendar. Employees have the flexibility to work during the Christmas to New Year's Day period.

Chair Position: Neither side offers much in the way of explanations about the proposals made regarding holidays. The Union, suggesting the change, has not carried its burden of persuasion here for the additional days. Vacation and personal days may be used during the subject week. *The Chair recommends keeping the status quo.*

## **ARTICLE 29: LEAVES**

Vacation Leave: AFSCME and the College agree to the proposed language on *vacation* accruals, although the College's agreement is based on an economic package.

Panel Chair: Regardless of the economic package proposed by the College, the identical reasonable vacation proposals are recommended by the Chair.

### **Sick Leave:**

Union Position: The current contract does not provide intermittent employees with sick leave. The Union proposes that intermittent employees be granted 16 hours of sick leave each calendar year, up to a maximum of 32 hours. Moreover, the Union proposes that

employees who work more than 30 calendar days within a year, temporary intermittent positions, be granted 40 hours of sick leave each calendar year, up to a maximum of 80 hours. AFSCME also proposes that the employee be able to take sick leave to provide care for a domestic partner, registered or not.

College Position: The College proposes 8 hours of sick leave for temporary intermittent employees, up to a maximum of 16 hours. The College also expands the Article to include family bonding leave. The Union's proposal to increase leave is not supported by any comparable data.

Panel Chair: Aside from noting that the Union's proposal for 40 hours of sick leave, up to a maximum of 80 hours, for employees who work more than 30 calendar days within a year in temporary intermittent positions is ambitious; it is also disproportionately excessive relative to the hours typically worked in such positions. The parties' positions on this issue are so far apart that any recommendation by the Panel Chair is unlikely to produce an agreement. It is therefore suggested that AFSCME present a more reasonable proposal that could serve as a basis for productive bargaining. I recommend that an employee who cares for a domestic partner, registered or not, may use sick leave.

Bereavement Leave: The current contract provides up to five (5) days of paid bereavement leave per occurrence but does not specify whether the leave must be taken consecutively or may be used nonconsecutively. The Union proposes that bereavement leave be available on a nonconsecutive basis, consistent with State law. During the factfinding process, the College agreed to allow an additional five (5) days of sick leave to be used for bereavement purposes.

Panel Chair: This section of the Article appears to have been almost resolved between the parties. For clarity, the *recommendation provides for five (5) days of bereavement leave, with the option for an employee to use up to five (5) additional days of sick leave for bereavement purposes. The Article will also specify that bereavement leave may be taken on nonconsecutive days. As accepted by the Panel Chair, documentation may be submitted within thirty (30) days from the employee's first day of return from bereavement leave.*

#### **ARTICLE 14: LAYOFF, REDUCTION IN TIME AND RECALL**

The current contract language places the responsibility for determining if and when layoffs are needed, with the Employer. The provisions of Article 14 also set forth the selection process for layoffs and the notice, recall procedures and rights and severance pay.

Union Position: The Union stresses that layoffs are traumatic for employees and should be minimized to the greatest extent possible. AFSCME seeks contract provisions that protect employees not only from the immediate economic hardship of layoff, but also from the longer-term disruption of forced career changes. Since the ratification of the most recent agreement, the College has initiated two waves of layoffs. Testimony from AFSCME witnesses who had been identified for layoff demonstrated the severe stress and uncertainty associated with the process. Employees reported that their immediate concerns centered on how they would pay bills, whether their healthcare coverage would continue, and how they would manage life-altering career decisions within a short timeframe.

The College has held out job security and protection of bargaining unit work as part of its economic package. The Union submits that the College can mean what it says by adopting small changes to the layoff provisions that would open opportunities for reassignment. Specifically, the Union proposes:

1. Extending the number of days employees have to express interest in open career opportunities; and
2. Allowing transfers that involve up to one year of on-the-job training, supplemented where necessary by external training, so that employees have sufficient time to develop the requisite skills when a layoff requires a career change.

The existing contract provides that employees may be placed into positions outside of their classification if they can become qualified within six months of on-the-job training. The Union's proposed extension to a one-year standard is reasonable and consistent with reality. AFSCME presented evidence of situations where bargaining unit members would have benefitted from the additional training period. Witnesses testified to having already been required to learn new software platforms, cross-train for other titles, and take on duties for vacant positions without formal training. For the sake of consistency, the Union proposes that this one-year standard be incorporated into both Sections 14.3.D and 14.3.F.

On the matter of post-layoff benefits, the Union and the College agree that healthcare coverage is critical for displaced employees. However, the College proposes to restrict coverage to employees who give up their recall rights. The Union submits that

such a restriction is inequitable and unnecessary. Employees should not be forced to choose between the financial protection of severance pay and the long-term security of recall rights. Severance is modest, based solely on years of service, and simply provides a limited buffer against immediate financial catastrophe. Recall rights offer the possibility of return to the College. To require employees to give up one in order to access the other is both unfair and unreasonable.

The Union further notes that, because 70 percent of AFSCME unit members have fewer than five years of service, the financial impact of expanded severance rights on the College would be minimal. Granting both severance and recall rights would provide displaced employees with dignity, while preserving for the College a pool of qualified applicants already familiar with its operations. Such an outcome would be mutually beneficial.

College Position: The College has agreed to increase severance to cover COBRA costs up to 4 months for 12 years. AFSCME has failed to establish a compelling justification for imposing additional restrictions on the College's layoff process. The record demonstrates that the existing contractual provisions are functional and effective. During the current bargaining cycle, the College complied with the established procedures by providing timely notice of potential layoffs. Thereafter, the parties engaged in negotiations and ultimately achieved a mutually agreeable resolution that avoided any layoffs of AFSCME-represented employees. This outcome shows that the current language adequately safeguards the interests of the bargaining unit while preserving the College's managerial rights.

The Union presented no probative evidence of internal or external comparability, no showing that the existing contract language is inequitable or unworkable, and no other relevant considerations that would warrant modification of the status quo. The burden rests on AFSCME, and the Union has not met that burden. Further, the Union's proposed language is vague, overbroad, and likely to give rise to future disputes. The requirement that the College make "every" effort to avoid layoffs is unreasonable. By contrast, the existing contractual provisions are comprehensive, practicable, and have produced demonstrably fair outcomes. In the most recent layoff, the procedures were followed, negotiations succeeded, and no AFSCME-represented employees were laid off. This record confirms the success of the current language.

Panel Chair:

Section 1: The College shall determine when temporary or indefinite layoffs or reductions in time are necessary. Upon notice of layoff the College shall meet and confer with the Union over the effects of the layoff. The language "The College shall make every effort to avoid layoffs" is ambiguous and therefore not recommended.

Section 3.A and 3.B: The Union proposes the section add "Any layoff or other reduction in staffing levels shall comply with this Article." The language seems superfluous. The inclusion of this language is not recommended.

Section 3.D: Recommendation: The exception shall not apply where such skills, knowledge or abilities may be obtained within six months or less of on-the-job training. Any external training is the sole decision of the College. The one-year proposal by the

Union is simply too long to have an employee that needs training in a position and therefore, an unreasonable request.

Section 3.F: The Union proposed to extend the number of days an employee has to express interest in open positions from five working days to fifteen working days. The College proposed to extend the amount of working days from five to ten working days.

Recommendation: Ten working days is a reasonable amount of time based on the operational needs of the College.

Section 4: This section should remain unchanged, with one exception, as the current contract language is both reasonable and workable when considered in the context of Article 14 as a whole. However, the Union's proposal that the College include information regarding COBRA eligibility and reimbursement in its layoff notice is important. Providing such information ensures that employees subject to layoff are fully informed of their rights and options concerning continued healthcare coverage at the moment when clarity and certainty are most needed. This addition is modest, practical, and consistent with the principle of fair notice.

Section 6: The biggest issues in Section 6 are whether AFSCME-represented employees should be required to elect between severance pay and recall rights and the duration of COBRA benefits.

While the Union's focus on the small, overall cost impact of severance is not dispositive, the more compelling point relates to healthcare coverage. In today's environment, access to continued healthcare is of paramount importance. Conditioning



healthcare benefits on the forfeiture of recall rights places employees in an untenable position: they must either accept a modest severance payment and healthcare continuation but forgo the possibility of recall or preserve recall rights at the expense of immediate financial security and medical protection. Such a requirement is unreasonable and inconsistent with equitable treatment in the layoff context given the facts before the Chair under these circumstances.

Recommendation: The more reasonable outcome is to maintain recall rights while allowing for both severance pay and healthcare continuation, with the duration of such benefits determined by length of service. This structure promotes fairness, reflects the realities of the modern workplace, and balances the legitimate interests of both parties.

#### COBRA Benefits

Another area of dispute concerns the duration of COBRA benefits available to employees who elect severance. For purposes of this recommendation, if the parties accept the Chair's proposal to maintain both severance and recall rights, the same standard should apply to COBRA coverage.

The Union's proposal that employees receive one month of COBRA reimbursement for every two years of service, capped at six months, is not accepted as six months is an unreasonable amount of time and a financial burden on the College. The College, by contrast, proposes one month for every four years of service, with a maximum of four months.

The Union's approach more closely reflects the purpose of COBRA continuation benefits, which is to provide displaced employees with a reasonable transition period to secure new employment and alternative health coverage. Testimony established that healthcare coverage is one of the most immediate concerns facing laid-off employees, particularly in light of the economic disruption and health risks underscored by the COVID-19 pandemic. The Union's proposed formula ensures proportionality by linking the duration of benefits to length of service, but, as stated, the six month duration is not an acceptable time frame.

That said, a cap of four months represents a more reasonable balance between employee needs and the College's financial considerations. Accordingly, the *recommended* outcome is that employees receive COBRA reimbursement at the rate of one month for every three years of service, capped at a maximum of four months.

## **ARTICLE 8: JOB POSTINGS, TRANSFERS, AND PROMOTIONS**

Union Position: The existing contract provides bargaining unit employees with the right to be promoted into supervisory and management positions based on seniority, provided the employee meets the position requirements and has a satisfactory performance evaluation. The Union proposes retaining this current language, emphasizing that the College's proposed changes would limit career growth opportunities for AFSCME employees. The College argues that policy decisions and budget evaluations cannot be effectively managed by bargaining unit members, though it simultaneously acknowledges examples of employees who have successfully transitioned into supervisory roles. While the College admits that career growth opportunities are limited for AFSCME employees,

it nonetheless seeks to further restrict these opportunities through the proposed changes to Article 8.

The College has not provided a compelling justification for reducing career advancement opportunities, nor has it demonstrated that the current language is unworkable. The Union maintains that the status quo is fair, workable, and essential to ensuring that AFSCME employees have meaningful access to career advancement within the College.

College Position: The current language deals with positions outside the bargaining unit such as supervisory, manager and director jobs that are “reserved for internal candidates.” It further provides that “Assuming satisfactory job performance on the most recent performance evaluation, qualified applicants will be hired by seniority within the department.” The College asserts that merely meeting the minimum qualifications for performance is not a sufficient basis to evaluate whether a candidate can successfully perform the duties of a position. According to the College, the contract provision, as currently written, affords no discretion to upper management in determining which candidate is best suited for an open position. Instead, the College argues that a more rigorous evaluation process is necessary to assess whether the candidate can assume and perform the higher-level responsibilities associated with the role. Automatic promotion, as contemplated by the current contract language, is viewed by the College as inappropriate for leadership positions, which in their view require a more comprehensive assessment of an employee’s suitability.

Chair Position: Upon review, I recognize the College's concern that supervisory and managerial positions require more than an automatic promotion following a pro forma interview based primarily on seniority. These positions carry significant responsibility and demand leadership, decision-making, and strategic skills that extend beyond satisfactory job performance in a bargaining unit role. The current contract language, while supportive of career advancement, does not fully account for the unique competencies required to succeed in supervisory and managerial positions.

Continuing with the status quo effectively removes management's discretion in making promotions to supervisory and managerial roles. Traditionally, promotion decisions are a core management responsibility, as they involve assessing leadership ability, strategic judgment, and alignment with institutional goals. By tying promotions primarily to seniority and one performance appraisal, the current language shifts that discretion away from management and overlooks the broader competencies required for success in leadership roles.

#### Recommendation

I strongly recommend that the parties develop contract language that balances the interests of both sides. Specifically, the revised language should:

1. Provide discretion to the College in making promotions to supervisory and managerial positions, consistent with its responsibility to select individuals who demonstrate the necessary leadership, judgment, and organizational skills.
2. Preserve meaningful career pathways for bargaining unit employees by ensuring that qualified employees, decided by the College, are given genuine consideration

for promotional opportunities, including opportunities to take on increased responsibility that can prepare them for leadership roles. Seniority does not necessarily need to play a role.

This approach maintains management's rightful authority in promotion decisions while expanding opportunities for AFSCME employees to grow professionally and fairly compete for advancement. The present system does not account for the College's authority to make promotional decisions.

### **NEUTRAL FACTFINDER PANEL CHAIR RECOMMENDATIONS**

This Factfinding Report and its recommendations are respectfully submitted. The settlement terms set forth above to resolve this collective bargaining dispute are in accordance with Government Code Section 3505.4 (d) (1-8). The terms were derived from the facts, data, and evidence provided by the College and Union during this proceeding, with input from the College and Union Counsel and Negotiators, College and Union Panel Factfinders, and the Neutral Factfinder Panel Chair.

*Nancy Hutt      September 26, 2025*

Nancy Hutt  
Factfinder Panel Chair

DAVID SEWARD, Chief Financial Officer

CONCUR. \_\_\_\_\_

DISSENT \_\_\_\_\_

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Re: CONCURRING AND DISSENTING OPINION BY COLLEGE PANELIST DAVID SEWARD  
PERB CASE NO. SF-IM-3438-H  
SEPTEMBER 26, 2025

The neutral factfinder and chair, Arbitrator and Mediator Nancy Hutt, has made valuable findings and recommendations that should serve as a guide for the parties to achieve speedy resolution of the MOU between AFSCME and the College. The College concurs with the majority of the neutral factfinder's report (the Report). I identify below some of the most important elements of the Report.

## 1. Wages

AFSCME's wage proposal *"is not a viable option."*

*"The College likely lacks the financial capacity to provide the 8% and 7.5% wage increases sought during factfinding. Rising operating expenses, coupled with limited reserves, make it unsustainable to absorb increases of this magnitude. Moreover, while the comparative data cited by the Union offers some context, the universities used as benchmarks differ significantly from the College and are therefore not fully appropriate for comparison.*

...

*Accordingly, the Union's proposal is not a viable option."*

Report, pp. 15-16. Notably, the neutral did not recommend implementing a step system.

The College made its last wage proposal July 8, 2024, and the Union has never offered a counterproposal. The College hopes that, with the benefit of the neutral fact-finder's perspective, AFSCME will come forward with a serious and viable proposal on wages.

## 2. Healthcare

There must be a trade-off between the level of AFSCME wage increases and the responsibility of AFSCME members to bear some of the increasing costs of healthcare coverage.

*[T]he Chair outlines two economic recommendations: one offering higher wages paired with increased health care contributions, and the other providing a smaller wage increase with no change to health care costs."*

Report, p. 9.

### 3. Automatic Promotions to Managerial and Supervisory Positions

It is inappropriate for a bargaining unit member to automatically promote into an open supervisor or manager position, without the opportunity for the College to determine whether that candidate can in fact perform well in the role.

*[S]upervisory and managerial positions require more than an automatic promotion following a pro forma interview based primarily on seniority. These positions carry significant responsibility and demand leadership, decision-making, and strategic skills that extend beyond satisfactory job performance in a bargaining unit role. The current contract language, while supportive of career advancement, does not fully account for the unique competencies required to succeed in supervisory and managerial positions.*

Report at 27-28.

### 4. Subcontracting

The College's limited ability to contract out work when necessary should be continued.

*The Chair is not prepared to eliminate the College's ability to contract out work on a limited basis where conditions justify such action. The evidence does not demonstrate any abuse of this process by the College.*

Report at p. 17. 5. Holidays

There is no basis for the Union's proposal to increase the number of personal holidays from three to five.

*The Union, suggesting the change, has not carried its burden of persuasion here for the additional days.*

Report at 18.

## 6. Leaves

The Union's proposal that a temporary intermittent employee be entitled to 40 hours of sick leave upon working 30 days is "*disproportionately excessive relative to the hours typically worked in such positions.*" Report, p. 19.

## 7. Layoffs

The Union proposes changes to the MOU's layoff provisions that are "*ambiguous*",

"*superfluous*" and "*unreasonable.*" Report, p. 23.

For example, the Union proposes that an employee must be retained in a position for which the employee lacks the qualifying skills, knowledge or ability if the skills, knowledge and ability can be gained in one year or less. The College concurs with the neutral factfinder that the timeline proposed "*is simply too long to have an employee that needs training in a position and therefore, an unreasonable request.*" Report, p. 23.

## 8. Other finding and recommendations

The neutral factfinder makes certain findings and recommendations with which the College does not concur. However, the College believes that the neutral factfinder's conclusions, in the whole, provide a balanced framework for resolving the contract. Nothing in this document represents a new offer by the College to the Union, but the College hopes that the Union will join the College in concluding negotiations based on this framework.

NICOLAS MONTIERO, Negotiations Coordinator

CONCUR

DISSENT

AFSCME Local 3299/UC Law San Francisco Fact Finding

### **AFSCME Response To Factfinding Report**

The factfinding panel chair's recommendations endorse a contract settlement consistent with many of AFSCME's principles: rejection of the College's inadequate wage proposals; consideration for maintaining a freeze on healthcare costs for vulnerable workers in low-



cost plans; a contract duration that considers the need for adjustment and re-evaluation; maintenance of provisions related to internal wage equity; recall rights, economic security, and continued healthcare for laid-off employees; expansion of bereavement leave, and higher vacation accruals.

Recommendations fall short, however, on a few important fronts. The report fails to support: annual across-the-board wage increases sufficient to address the high cost of living in the Bay Area and labor market equity; annual experience-based step increases necessary to reward experience and longevity; a retroactive \$25 minimum wage or 5% wage increase to catch up with inflation and comparators; unconditional maintenance of existing health care premium rates; and career advancement.

Although this does not capture the entirety of AFSCME's dissent on the report's recommendations or omissions, AFSCME dissents on particular recommendations as follows:

#### Article 5: Duration

The panel chair recommends either a four- or five-year contract depending on whether proposals related to healthcare, wages, and leave are adopted separately or as a package. AFSCME dissents since a three-year agreement would better allow adjustments to uncertainties in the larger economic context as they unfold, especially given the volatility in inflation.

#### Article 26: Healthcare

The panel chair recommends either AFSCME's proposal to maintain a freeze on employee premiums for Kaiser and UC Blue & Gold plans for pay bands I and II or the College's proposal to allow health insurance premium increases of up to \$240 per year, dependent on the parties' agreeing to adjust wage increases lower or higher, respectively. AFSCME dissents on making the freeze on these premiums conditional on lower wage increases, which are already inadequate. Existing rates for lower wage workers in low-cost plans should be maintained unconditionally in order to control employees' substantial health care costs. Affordable healthcare rates are an important, cost-effective retention tool that the College can easily afford. The College's proposal could more than double premiums within the first year for workers on the most common health plan.

#### Article 20: Wages

Although the panel chair acknowledges the inadequacy of the College's proposed annual across-the-board wage increases to meet rising cost of living in the Bay Area, AFSCME dissents due to the insufficiency of the panel chair's higher proposed ATB. While the proposal is closer to what is needed, it is still insufficient to make jobs competitive with comparators, catch up and keep pace with inflation, reduce turnover, and lift up

employees' wages which are stagnating at the bottom of their pay scales - all measures that are needed to allow employees to support themselves and their families. Similarly, AFSCME dissents on the absence of a recommendation for a 3% step structure, which would help address these same issues while rewarding experience and longevity. Finally, AFSCME also dissents on the lack of retroactivity for the \$25 minimum wage and the absence of an alternative 5% market equity wage increase for those earning close to or more than \$25 per hour. AFSCME concurs with otherwise retaining current contract language.

#### Article 19: Subcontracting

AFSCME dissents on the panel chair's recommendation to maintain the status quo. AFSCME further dissents on the failure to include a specific recommendation to insource any currently outsourced work that is of the type performed by the bargaining unit.

#### Article 28: Holidays

AFSCME dissents on the panel chair's recommendation to maintain the status quo. The panel chair's recommendation fails to acknowledge AFSCME members will now permanently be utilizing personal holidays during the Winter Holiday shutdown instead of being able to take days off in accordance with their individual beliefs and cultures that are not traditionally celebrated.

#### Article 29: Leaves

AFSCME concurs with the Chair's recommendation to adopt the Parties' shared vacation accruals proposals.

AFSCME dissents on the panel chair's characterization of its sick leave proposal for intermittent employees who work at least 30 days in a calendar year as "ambitious" given that it is currently required under state law. The Union's proposal simply brings the College up to the bare minimum requirement for every employer subject to state law. The Union's proposal also acknowledges that not all intermittent employees work 30 days in a calendar year and thus includes language that would allow these employees to accrue a modest amount of sick leave as well.

AFSCME concurs with the panel chair's recommendation that an employee who cares for a domestic partner, registered or not, may use sick leave. AFSCME further concurs with the panel chair's recommendation for five days of bereavement leave with the option for an employee to use up to five additional days of sick leave for bereavement purposes. AFSCME further concurs with the recommendation that bereavement leave may be taken on nonconsecutive days. AFSCME concurs, in part, with the recommendation that documentation may be required within thirty days of the employee's first day of return from bereavement leave. AFSCME partially dissents, however, on the absence of a

recommendation that only requires documentation for the second bereavement leave occurrence within a calendar year.

#### Article 14: Layoff, Reduction In Time, and Recall

AFSCME concurs with the panel chair's recommendation for laid off employees to maintain recall rights as well as severance pay and healthcare continuation, with the duration of such benefits determined by length of service. AFSCME dissents, however, with the panel chair's recommendation that employees receive COBRA reimbursement at the rate of one month for every three years of service, capped at a maximum of four months. The panel chair acknowledges that access to healthcare is of paramount importance in today's world. AFSCME believes a cap at six months is reasonable as it acknowledges the competitive labor market, recognizes the importance of having healthcare, and provides employees subject to layoff with more certainty.

AFSCME dissents on the panel chair's omission of a recommendation under Section 1. The Union's reasonable proposal that "The College shall make every effort to avoid layoffs" serves as a vital framework for this article. AFSCME further dissents on the failure to address the Union's right to grieve the selection of classifications for layoff. These omissions lead to a mischaracterization of the Union's proposal under 3.A and 3.B as 'superfluous' by the chair of the panel. The Union's proposal to add "Any layoff or other reduction in staffing levels shall comply with this Article," combined with the Union's proposal under Section 1, provides important protections for bargaining unit positions.

The Union has proposed to increase the amount of on-the-job training to be offered to employees to enable them to transition into an open position outside of the employee's current classification to one year, supplemented with external training where necessary. While the Union concurs with the chair's recommendation to add external training under this article, the Union dissents on the recommendation that it be limited to six months and the panel chair's recommendation to add "Any external training is the sole decision of the College."

AFSCME dissents on the panel chair's recommendation that an employee have ten working days to express interest in open positions. Layoffs are often traumatic and employees identified for a layoff need more time to make life-altering decisions.

AFSCME concurs in part and dissents in part with the panel chair's recommendation under Section 4. While the Union concurs that layoff notices to employees should include information regarding COBRA eligibility and reimbursement, the College should also be required to provide an explanation for failure to comply with the sixty-day notice requirement.

#### Article 8: Job Postings, Transfers, and Promotions

AFSCME dissents on the panel chair's recommendation to change current contract language on promotions as the facts presented at the hearing failed to demonstrate that the current language is unworkable. The process is far from automatic since employees are required to meet the qualifications for the position, have had a recent positive performance review, and have successfully been interviewed for the position.