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Roger Marheine, President
PASADENA CITY COLLEGE
FACULTY ASSOCIATION
1570 East Colorado Boulevard, CC204
Pasadena, CA 91106

Dear Roger:

The Faculty Association has requested an Opinion Letter regarding the role of the Faculty Association in the creation of Department Chairs, as well as the extent to which individual faculty members should be involved in that process. The starting point for understanding the legal framework with respect to Department Chairs is Education Code Section 87610.1(e), which states:

"Any employees who are primarily engaged in faculty or other bargaining unit duties, who perform 'supervisory' or 'management' duties incidental to their performance of primary professional duties shall not be deemed supervisory or managerial employees as those terms are defined in Section 3540.1 of the Government Code, because of those duties. These duties include, but are not limited to, serving on hiring, selection, promotion, evaluation, budget development, and affirmative action committees, and making effective recommendations in connection with these activities. These employees whose duties are substantially similar to those of their fellow bargaining unit members shall not be considered supervisory or management employees."

The importance of this Education Code provision is that work typically performed by Department Chairs is faculty bargaining unit work. The Government Code Section cited in the above quote is part of the law administered by PERB to protect the right of faculty to bargain collectively. In plain English, the Department Chair work currently being considered at Pasadena City College is faculty work. Therefore, the Faculty Association, and only the Faculty Association, can bargain about the working conditions of Department Chairs.

PERB has consistently recognized Department Chairs as faculty members not administrators. Just as two examples, both Santa Monica College and the Los Angeles Community College District have Department Chairs who are part of the faculty bargaining unit, even though the Chairs make assignments of faculty.

Consequently, although individual faculty members are free to express opinions about the proper role of Department Chairs, the District cannot make any deals with individuals or even

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departments. Only the Faculty Association, as the elected exclusive representative of the faculty, can bargain the actual working conditions of Department Chairs.

I understand that departments are holding retreats to discuss the role of Department Chairs. Faculty members should feel free to express their opinions about the role of Department Chairs. However, no one should feel pressured to agree to or with any particular proposals. In fact, it would be expressly illegal for the District to reach any sort of agreement through these retreats or any other sort of individual consultation.

Agreement with respect to Department Chairs can only be reached through the collective bargaining process between the District and the Faculty Association.

Please let me know if you need anything more from me on this issue.

Very truly yours,



LAWRENCE ROSENZWEIG

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