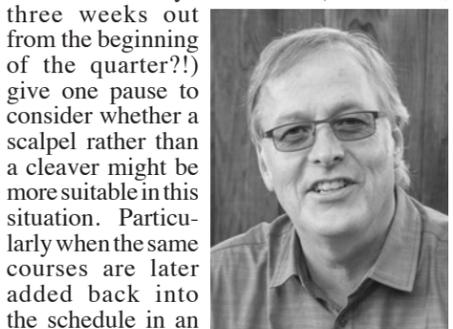


President's Report

The Day the Music (almost) Died

by Tim Shively, *FA President*

Everyone knows that we are in a budget deficit and that both colleges are taking measures to eliminate low enrolled courses in order to raise productivity (i.e. the number of students enrolled relative to the cost of instruction). But the rigidity with which classes have been targeted (practically anything with enrollment under 20) and the preemptive manner in which they are severed (at De Anza, three weeks out from the beginning of the quarter?!) give one pause to consider whether a scalpel rather than a cleaver might be more suitable in this situation. Particularly when the same courses are later added back into the schedule in an effort to recoup enrollment that might not have been lost in the first place if that course with eighteen students would have been allowed to go until just before classes started. Were the students in the cancelled sections consulted, I'm fairly confident most of them would urge administration to delay cancellation until the last possible moment before the beginning of the quarter rather than "giving them plenty of time" to find a replacement course, all of which makes the frequent rhetoric about "students first" ring a little hollow. And the impact upon faculty, particularly part-time faculty, is even more devastating, as they stand to lose not only income from the cancelled classes, but health benefits, eventually reemployment preference, potentially even their residences as they struggle to afford the high cost of living in the Bay Area.



Shively

These cancellations become particularly troubling when "core" courses are cancelled without regard to the time and energy students have invested into completing a course sequence or the impact the cancellations have on the programs in which they are imbedded

(further deepening the impact on faculty). In its "Guidelines for Course Offerings," The De Anza College catalog states that

"Courses that meet major requirements shall be listed in curriculum sheets distributed by each college; and each college obligated under the policy shall meet to ensure those courses are offered at one or both of the two colleges with appropriate frequency.... Special circumstances... may necessitate the continuation of a class below the 20-student minimum. The key factor in making a decision to continue will be based upon program needs: e.g., second or third quarter or second-year sequential courses [and] courses required for an identified major or career subject area.... Other circumstances that warrant exception may be made by the Office of Instruction." (26)

There is no equivocation here—the directive stipulates that the colleges (the Foothill catalog has identical language) shall ensure that such courses are listed, and that the colleges are obligated to offer them. Decisions regarding low enrolled courses will be based upon program needs—not just enrollment concerns. And this has been part of the college catalogs since the 1986-87 academic year. Yet, prior to the start of this quarter, De Anza College, with at least tacit approval of the District and the Board of Trustees, saw fit to cancel MUSI 4B, the fifth in a six course sequence required of all Music majors. While the course was ultimately restored in an eleventh hour stop gap agreement during the first week of classes, and most of the students reenrolled, the situation has potentially dire implications for programs across both colleges, the students who enroll in them and the faculty who teach them.

Ostensibly, it would be the Division Dean overseeing a department or program who advocates for its livelihood, allowing some low enrolled classes to proceed because of the infrequency with which they are offered or their importance to degree requirements. But in the case of De Anza Music, the opposite is the case, the Dean having taken the initiative to cancel MUSI 4B, effectively preventing students from completing the

(see Page 3)

Negotiations Update

Enrollment Uncertainty Slows Negotiations

by Kathy Perino, *FA Chief Negotiator*

Negotiations are at somewhat of a standstill until more about enrollment numbers are known for 2017-18. While committees on each campus and central services work to develop the plan for \$10 million dollars in ongoing budget cuts over the next three years, part-time faculty have already felt the effect of the enrollment decline. The "savings" from the cancellation of low-enrolled classes is not part of the \$10 million budget cut plan. Rather, the part-time instruction budget is a separate category of its own, which unfortunately makes it all too easy to forget.

In Winter quarter alone, De Anza College cancelled 149 courses worth approximately \$1.1 million dollars in instructional costs. These class cancellations reduce the income of each affected individual at an average rate of about \$7300 per class cancelled.

Foothill College reports cancelling over 200 courses in Winter quarter. At an average rate of \$7300 per course, these cancellations account for about \$1.5 million dollars in cuts. Yet even with these cuts, the District reports that the part-time instruction budget is at risk of coming in over-budget for the year. In addition to the savings associated with salary, part-time faculty who participate in the District health benefits plans are at risk of either having to pay for a higher percentage of the health plan cost, say 60 percent rather than 50 or 40 percent, or if their teaching load drops too low, of not qualifying for District-sponsored health benefits at all.

The faculty affected by class cancellations and benefit reductions are sometimes invisible to the full-time employees of the District. As we discuss future budget cuts and the potential for layoffs in the District, we

must all remember that part-time faculty have already had their income significantly reduced if not completely eliminated, and the loss of income may be so severe that remaining in the Bay Area becomes impossible.

Regarding the compensation proposal that *FA* presented to the District in October, the District continues to explore a "golden handshake" but has not shared any preliminary results from the analysis. The consulting group (PARS) has requested additional employee group data from the District. Thus, the wait continues regarding any potential savings from a golden handshake.

Further, faculty are still waiting for the 1.56 percent state COLA to appear in their paychecks. When I tell faculty that, yes, it was part of the state budget and yes, the District did receive that money from the state, faculty are often surprised to learn that COLA is not an automatic pass-through from the state to the employee. Any salary adjustment, including a COLA from the state, still must be negotiated. However, never in the history of Faculty Association/District negotiations has the agreed upon final salary augmentation ever been less than the state COLA.

The compensation proposal made by *FA* in the Fall included the pass-through of the 1.56 percent COLA as well as additional salary improvements for part-time faculty and non-credit faculty. The District informed *FA* that enrollment is down much more than anticipated and until the enrollment crisis turns around, the District cannot afford any salary adjustment, not even the 1.56 percent COLA. *FA* is waiting to hear more about the golden handshake, the newly proposed funding formula included in the Governor's budget released this month, and the plan for other budget cuts before coming to any salary agreement.

Enrollment Update: The class cancellation numbers above are for Winter 2018. The District reports a projected District-wide enrollment decline of 3.3 percent for 2017-18, with Foothill projecting a 1 percent increase (109 FTES) and De Anza projecting a 6.3 percent (968 FTES) decline.



Perino

Register Now For FACCC Conference

Sign up now for this conference in Sacramento on March 4 and 5, which includes workshops on student equity, lobbying, and state politics.

Labor and civil rights icon Dolores Huerta will be the keynote speaker and recipient of the Alumni of the Year Award at this annual Conference.

Last year the FACCC conference sold out well in advance and because *FA* wants to encourage faculty to take advantage of the professional conference and equity funds still available, apply now: registration rates increase after January 31. For the agenda, to register, and to see the schedule, go to <http://www.faccc.org/event/ap2018/>.

Day the Music died . . .

(from Page 1)

subsequent courses of the sequence. To make matters worse, there is no equivalent course at Foothill (not that anyone bothered to check on this beforehand), its Music department having gone through a "downsizing" several years prior. Which leaves Music as a discipline in a pretty precarious position in the District. Unlike the English Dept. in which I teach, where multiple sections of many courses are offered every quarter of the academic year, the impact of course cancellations in a department like Music tends to be structural. It is a department of specializations, with courses focused around not only different instruments, but varied genres, cultural traditions and student interaction (e.g. ensemble classes versus individual instruction). Whereas a student who signs up for a cancelled EWRT 1A class can, with varying degrees of inconvenience, enroll in another section, a student displaced from the one section of, say, "Jazz Improvisation" is not likely to reenroll in "Classical Guitar." In fact, if the student came to the College with the purpose of studying Jazz, they would likely go elsewhere if there is insufficient breadth to the course offerings.

And this is where, I think, the lesson of Music can be instructive for other instructional areas. In paring down course offerings, the District runs the risk of cutting off its nose to spite its face. It is a given that enrollment will attenuate as students move across the courses of a sequence: while some will continue on to that second year of, say, Japanese, they will be fewer than the first year. Simply eliminating those advanced courses effectively disenfranchises students who have demonstrated a commitment to the institution and its programs.

And the more frequently this occurs in a given department, the more likely a program would find itself in viability status, in danger of being eliminated altogether. While the college might eliminate some low enrolled courses or even programs which have fallen out of favor relative to enrollment and other metrics and data, it would also run the risk of developing a reputation as being "thin" in its course offerings, potentially leading more

students—not just those displaced by the elimination of their desired major—to seek classes elsewhere. Perhaps it might benefit not only the students and faculty, but the District as a whole, to offer a helping hand to such programs rather than kicking them while they're down.

As the "sister cousin" of Mathematics, perhaps there's an argument to be made for Music's reclassification as a STEM discipline (if that would only help). But there are also the qualitative aspects of higher education to consider, such as a student's passion for a subject or the transformative experiences of learning, or simply the ability to experiment with courses to find a direction, qualities overlooked in many statewide initiatives to streamline, speed up and otherwise make community colleges more uniform and accountable (repeatability comes to mind). But internal factors also play a role. The "slide" of De Anza Music, an integral part of course offerings since the college's inception in 1967, arguably began in 1974 with the "outsourcing" of Flint Center (once the performance space for Music and other performance oriented programs) to private management firms. And budgeting decisions have had a huge impact, the Dept. losing its full-time classified staff position in the early 2000's. Currently down to 1.8 fulltime faculty members (one of whom is working on reduced contract), it is virtually impossible to adequately maintain, to say nothing of promote, the department's classes and activities.

In a budget crisis, if administrators won't step up to preserve the structure of the district's programs, it's up to faculty in their shared governance roles, to insure program integrity (however thinly programs may be winnowed), to protect against hair trigger elimination of core course offerings (immediately alerting *FA* and the Senates to such efforts), to be, in short, the squeaky wheel(s) rather than being coopted into supporting processes which undermine the solvency of their disciplines and those of their colleagues. This will be even more crucial in the quarters ahead, as reduction scenarios are played out in the scheduling of classes and not just their cancellation.

PT Faculty Retirement Workshop

FHDA Part-Time Faculty Association Retirement Workshop at Foothill College
Friday, March 2, 2018

9:30 a.m.	Coffee and Registration
10:00 a.m.-noon	STRS for Part-Time Faculty in Toyon Room
12:00-1:00 p.m.	Light Lunch (RSVP required)
1:00-2:30 p.m.	Financial Services Vendors in Altos Room, Full-Time faculty also invited

Whys and Wherefores of Union Membership

This is a companion piece to Robert Stockwell's piece in this issue, as well as to the "Important Facts About Your Union" article in the December *FA News*.

Q: By joining the Faculty Association, am I affiliating with a national union?

A: No, the Faculty Association is an independent union. We answer only to our own membership.

Q: How does our union differ from national unions?

Since *FA* is an independent union, it does not pay any membership fees to state or national organizations that might use member contributions for political activities. All dues and agency fees paid to *FA* are used exclusively for operating expenses of the union. *FA* has a separate Political Action Committee (PAC) which is registered and regulated by state law, that supports and directs any political activities. Financial support for the *FA*-PAC comes exclusively through voluntary contributions to *FA*.

FA Legal Counsel Bob Bezemek wrote and submitted an Amicus Brief on differences between state or national unions and local unions. The brief is addressed to one or more Supreme Court Justices in relation to the Janus case, which will be heard and adjudicated during the first half of this calendar year. Bezemek is arguing that small independent unions are able to draw funds from separate, non-member sources for their modest political activities, and thus that it is not the case that all union political activity in this country arises from large unions or from member dues contributions.

Q: What if I simply don't like unions and don't want to join *FA*? Is it optional?

A: You don't have to become an *FA* member, but because *FA* is an agency shop you must pay a service fee equal to the dues paid by the other members (currently 0.6 percent of gross salary—this includes overload, summer and PAA remuneration for full-time faculty, and 0.45 percent of gross salary for part-time faculty). Also, *Article 4.8* provides for an "Objection to Payment of Fees" for religious reasons.

Q: Will *FA* represent me if I'm not a member?

A: Yes, *FA* represents all District faculty. The only differences between a dues-paying and service-fee-paying faculty member are (1) the latter cannot be elected to the *FA* Executive Council, and (2) the latter can accurately claim to not be an *FA* member.

Q: Are *FA* union dues comparable to other districts, and what do I get for my dues?

A: Your dues are far less than most K-14 union members, (members affiliated with CFT or CTA, for example) and are comparable to other independent California CC unions. What you get is a labor agreement that is a model for other California CC unions, a professional, experienced staff that advocates forcefully and effectively for our members, and an organization that works very hard to earn the respect and loyalty of our membership.

PAA Workshops

District faculty are invited to attend a Professional Achievement Award (PAA) workshop, which will cover eligibility criteria, application processes, award amounts, and PAA requirements. Before the workshop, faculty are encouraged to review *Article 38*.

- Monday March 12, 2:00 - 3:30pm in Admin 106, De Anza
- Tuesday March 13, 2:00 - 3:30pm in Admin 106, De Anza
- Wednesday March 14, 12:00 - 1:30pm in Toyon Room, Foothill
- Thursday March 15, 12:00 - 1:30pm in Toyon Room, Foothill

2018 FACCC Tax Deduction

For full-time faculty who worked all three quarters of 2017, the tax deductible amount is \$162.00. For part-time faculty who worked all three quarters of 2017, the deduction is \$45.00 (\$15.00 per quarter).

Janus Poses Staggering Implications If Court Rules Against Unions

by Robert Stockwell, *FA Exec. Secretary*

This is the second in a series of articles on the Janus v. AFSCME case taken up by the Supreme Court, with briefs filed in January, oral arguments scheduled for March, and a decision expected in June. *FA* is focusing attention on this case because it represents a clear and present danger to public sector unions (like *FA*) and the defense of workers' rights throughout the country. If the Janus case is decided as many observers fear it will be against the national union AFSCME and on behalf of defendant Mark Janus, a child support specialist for the Illinois Department of Healthcare and Family Services, it will negatively impact the capacity of public sector unions to represent and defend the rights of workers.

The central question in the case is whether or not public sector unions can collect "fair share fees" (also called "agency fees") to represent non-members in collective bargaining negotiations and contract administration (e.g., grievances) and other matters (e.g., Public Employee Relations Bureau (PERB) hearings, layoffs, disciplinary hearings, etc.).

As Raymond Brennan points out in "Slouching Towards Janus" (December *FA News*), the right of unions to collect "fair share fees" (clearly articulated in *Abood v. Detroit Board of Education* in 1977, defending the rights of public school teachers to maintain a union shop) is an important means by which to prevent "free riders," members who benefit from the union's efforts without paying for the cost of that work. It's important to point out, too, that the *Abood* decision pertains to public unions and includes limits on "fair share fees," such that they cannot be used to cover political expression on behalf of candidates or ideological issues.

Our own union's division between the Faculty Association (*FA*) and the *FA* Political Action Committee (*FA* PAC), which is the political arm of the union funded separately through voluntary contributions by faculty, is an arrangement conditioned by the *Abood* decision. *FA* engages in collective bargaining, contract negotiation, conciliation, and grievance, all work-related, and/or economic, contract-related matters. The *FA* PAC engages in political campaigns and advocates on behalf of the interests of faculty, students, and communities. The plaintiffs in the Janus case are arguing that all union activity is political, and therefore, to require an employee to pay for the activities of the union is to compel that individual to support a particular political perspective, and thus, a violation of first amendment free speech protections.

The focus here is the politics behind Janus, the likely outcome of the case, and what we can do to respond.

Let's be clear from the outset: Janus is not about protecting the First Amendment rights of Janus or anyone else. The Janus case is a Right-wing attack on public sector unions and by extension, all unions, and for that matter, all workers. The defendant's case is being bankrolled by the National Right to Work Foundation and the Liberty Justice Center (the litigation wing of the Illinois Policy Institute), part of a network funded by billionaires and corporate CEOs (principally, the Koch brothers) who use their massive fortunes to tilt the playing field in their favor. The attack on public (and private) sector unions is aimed at weakening opposition to the radical right's political agenda.

Unions have been a democratizing force in our politics. They have defended the rights of workers, improved living standards, and supported progressive policies. It's a cruel and cynical manipulation to say that the Janus case is about protecting the First Amendment rights of Janus to not pay union dues. We will no doubt hear in the months ahead the "wisdom" of why it makes such good sense for individuals to question the value of their union. Wouldn't it be better to keep your money and not pay union dues? Why should you pay for all the protections provided by the union, especially if you can get the benefits anyway without paying for them? Clearly, the more the radical right can conflate union membership with political activity, the more deceptively persuasive their argument becomes, namely, that workers shouldn't have to unwittingly or unwillingly contribute to political activities they disagree with just to make a living.

For the private sector, the calculus is absolutely straightforward. Corporations try to break unions and undermine efforts at unionizing precisely because when workers come together to form and/or support unions, it inevitably results in workers exercising greater power and control over their work environments. Unions provide workers with better pay, benefits, working conditions, and protections that are in direct tension with maximizing profits.

The reality is this: if individuals decide to no longer support unions, then union power will decline, compensation and benefits will decline, and overall standards of living will decline. Stagnant wages, a shrinking middle class, and ever-increasing wealth and income inequality in the United States over the last several decades is in part the result of declining union membership. This decline is the result of

anti-union policies, repression of both public and private union organizing efforts, and an anti-union propaganda campaign waged vociferously by the radical right through media, political parties, think tanks, academia, etc., since the end of Keynesianism and the rise of neoliberalism.

We all need to understand that the Janus case is a wolf in sheep's clothing, part of a much larger political project: one front in the long war by the radical right to reconfigure American politics to better serve the interests of plutocrats. It will make workers weaker in the long run, lower living standards, and exacerbate already unprecedented levels of inequality.

Given the confirmation of Gorsuch and the current composition of the Court, it is likely *Abood* will be overturned. As to what we can do in response to Janus and the likely ruling, *FA* is supporting efforts by our CCCI's legal counsel to develop an amicus brief to be filed with the Court this month which argues that the plaintiffs are confusing "political decisions" with "economic decisions"; that determining employee compensation is not a matter of politics, it's a matter of economics; that voters do not vote on what to pay employees, those decisions are made by administrations and elected school boards, and prohibiting fair share fees has no impact on either; and that the purpose of a fair share fee is to prevent "free riders," employees who benefit from union representation but do not pay for it.

Overall, the brief will argue the system of fair share fees in place for 40 years has worked well and placed a limited burden on government employees'—in our case, public school teachers'—First Amendment rights. Moreover, this limited burden is outweighed by the government's strong interest in having an effective and efficient process to manage the public employee workforce, and a sound system for determining and adjudicating its own employees' employment relations issues. *Abood* created a constitutionally-valid system, and Janus offers no sound basis for destroying it.

We are hopeful the Court will not overturn *Abood*, but we need to prepare for the worst. If the Court overturns *Abood* on the grounds that all union work is "political" and thus that requiring workers to pay "fair share fees" is a violation of First Amendment protections, this would, in essence, make the U.S. a "right-to-work" country, or what might more accurately be called a "right-to-be-abused-by-your-employer-and-fired-at-will-without-protections-and-or-benefits" country.

Let's imagine what this could mean for us at the district. If faculty come to believe they can receive the benefits of the work of *FA* without sharing in paying for those ben-

efits, they could decide to not pay union dues and/or free agency fees. This would reduce the resources available to *FA* to engage in collective bargaining, to defend and protect the contract and faculty rights. Inevitably, this would translate into lower wages, worse working conditions and benefits, and most importantly, to a decline in the educational experience for students. We need to recognize this is a frontal assault on public goods and public institutions, and we need to stand together in solidarity and organize to defend what we hold dear—our students and our commitment to higher education for the common good.

There may be options available to us should Janus come down as feared. For example, we may be able to negotiate a "maintenance of membership" clause in our agreement, designed to bring a measure of predictability in a Janus world, which would stipulate an employee who joins the union does so voluntarily and agrees to remain a member for the duration of the collective bargaining agreement, or three years, whichever comes first. We can advocate for the legislature to adopt a "direct payment system," in which non-member employees who seek and receive union services must pay for them, directly, through payroll deduction. Such a system will mean the employer deducts direct costs and reimburses the union, which will require an amendment to state law, allowing employers to support unions that provide such services.

Perhaps the most important thing we can do is to educate ourselves and our faculty colleagues about the possible implications of this case so that we all see it for what it really is, and remain strong in defense of faculty interests, our students, and our institutions of higher education. *FA* is committed to creating an outstanding work environment that inspires academic and teaching excellence. *FA*'s "top priority is to maintain high morale through a program of salaries, benefits, work standards, conflict resolution and professional renewal" (from *FA* mission statement). Only by maintaining, strengthening, and fortifying our membership will we remain effective as a union. Along with the entire labor community in the United States, *FA* is watching this case very closely, and asking for your help. If you have ideas about what we should do to respond to Janus and wish to get more involved with the union, please seek out the officers and/or your representative to the Executive Council. In addition, please consider becoming a supporter of the *FA* PAC, the political arm of the union. There is much to be done, and we need to stand together in solidarity. We know we can rely on our membership to engage and support our efforts to build solidarity and retain our collective strength.



Stockwell

NEWS

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Letters and articles from District faculty are invited. *FA*, 12345 El Monte Road, Los Altos Hills, CA 94022. Ph: 650.949.7544 Email: ElwellSusanne@fhda.edu Website: <http://fa.fhda.edu>

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