

**From:** Rodriguez, Raul  
**Sent time:** 05/10/2018 06:31:41 PM  
**To:** Gerard, Debra  
**Subject:** Weekly memo  
**Attachments:** Memo 5-10-18.docx

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Here is my weekly. The appeal by Mr. Valles needs to be attached. Please read it over carefully to make sure that it all makes sense and that I didn't leave out anything important. Thanks.

**Raúl Rodríguez, Ph.D.**

**CHANCELLOR**

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**CONFIDENTIAL**

DATE: May 10, 2018  
 TO: Board of Trustees  
 FROM: Raúl Rodríguez, Chancellor  
 SUBJECT: Weekly Memo

- OEC Bond Question & Update
- Marisa Hernandez Appeal
- Patty Dillon Mediation
- Discrimination Complaint Appeal
- HR Position

### **OEC Bond Question & Update**

After the closed session discussion that we had on the OEC several board meetings back, Peter posed some of the questions that came up regarding the use of bond funds and how that would impact our actions in the event of a sale of the property, a lease of the property, or a demolition of the existing structure to our bond counsel. I have attached a memo from our bond counsel that addresses these issues.

This week I also reached out to Frank Kim, the County Administrator, to discuss the County's position on indemnification and related issues. Mr. Kim and I discussed the interest or lack thereof of the County in the OEC property. He asked me to verify that the site is contaminated and I affirmed that it was. He responded that the County had no interest in a site that had such issues. He indicated that the County has their own contamination issues to deal with and he could not recommend to his board to acquire or even lease such a site. Apparently the County has been sued and paid out large sums to individuals who worked in contaminated sites in the past. He indicated that there was only one supervisor who had any interest in our property and the other four would not be in favor of moving towards a purchase or lease. When I mentioned to him the comment that Judge Carter made alluding to being able to "take care of" the contamination issue, he laughed and said that he doubted the judge would be able to indemnify any of us in regard to the contamination. Mr. Kim said he would speak to Supervisor Spitzer and apprise him of our conversation and inform him of the contamination problem and how that makes our facility a non-starter for the purposes of the County.

### **Marisa Hernandez Appeal**

We learned late last Friday (after my memo was sent out and I had left work) that the appeal that Jeff Thompson, legal counsel (litigator) assigned by ASCIP, made on behalf of the district in the Marisa Hernandez lawsuit was denied by the judge overseeing the appeal. These issues don't normally get picked up by the media. However, there was a very biased and provocative article written in one of the local blogs about this case. The El Don student newspaper is following this issue as well and will

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Raúl Rodríguez, Ph.D.

probably write something negative about it. We will discuss this issue in closed session next Monday and provide you with more information about it. I asked Judy Chitlik to make sure that Jeff Thompson attends the board meeting Monday or is at least available on the phone to brief you all about the case and its importance for all community college districts, not just ours. This case sets a precedent that goes against the current law as we had understood it and ASCIP has a particular strategy that they would like to pursue in the next phase. By the way, any payout that we would have to provide to Ms. Hernandez would not come from the general fund. It would come from the risk management deposit fund. This fund currently has a balance of approximately \$2.1 million. It consists of funds that we receive from various savings on risk management items.

### **Patty Dillon Mediation**

ASCIP is also handling the mediation with legal counsel for Patty Dillon. The mediator pointed out the weaknesses in Ms. Dillon's case and that has caused our ASCIP representatives to believe that the legal counsel for Ms. Dillon is not anxious to try this case. However, as Ruben pointed out in the last closed session, this case is probably at least a \$250k settlement and possibly more. ASCIP has offered to pay for half of any settlement if we agree to increase our threshold to allow them more negotiating room. As a result, we will be requesting that you consider increasing our allowable limit from \$100k to \$200k.

### **Discrimination Complaint Appeal**

Rodrigo Valles, who is a Chicano Studies faculty member at SAC filed a discrimination complaint against Shelly Jaffray, who was his Dean at the time he made the complaint. Rodrigo was counseled by FARSCCD to make the complaint and two other faculty members, Shontel Thornton and Nicole Quinn, made similar complaints around the same time. Like those other two complaints, the investigation into the allegations of discrimination found that there was no basis for the charge of discrimination. Mr. Valles has a legal right to appeal the findings and the determination to the board, which is what he has chosen to do. A copy of his appeal is attached. We may discuss this Monday night or we may wait until the first meeting in June to do so. It depends on how the closed session agenda goes and if we need to push something back. I have a copy of the summary findings if any trustee would like to review the documentation prior to the board meeting.

### **HR Position**

In my last memo, I mentioned that a decision had been made in the hiring of the new position of District Administrator, Institutional Equity, Compliance and Title IX. After a wide search that resulted in a strong pool from which the hiring committee interviewed seven well qualified candidates, including several who are lawyers, the committee selected Ryan Church, who has worked on our personnel issues as an employee of the LCW law firm. Ryan was the unanimous choice of the committee and there is no doubt that he has extensive experience and knowledge pertaining to compliance issues such as Title IX, EEO, and OCR, among others. He will bring a wealth of experience to our team and our hope is that he will help us to diminish our liability in these cases and cause us to reduce our legal expenses vis a vis the increasing number of complaints that we are receiving. I support Ryan's hiring as I am confident in his expertise in this critical and growing area of concern.