

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
SAN JOSE EVERGREEN COMMUNITY COLLEGE DISTRICT
AND THE
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION AND ITS CHAPTER 363

RE: Impacts and Effects of AB 264

The purpose of this Memorandum of Understanding (MOU) is to memorialize the agreement between the San Jose Evergreen Community College District (District) and the California School Employees Association and its Chapter 363 (CSEA) (hereinafter “parties”) regarding impacts and effects to the CSEA bargaining unit regarding California AB 264.

1. The San Jose Evergreen Community College Board of Trustees approved the attached resolution designating Lunar New Year as a holiday within the district starting during the 2023-2024 academic year. (Exhibit 1).
2. Thereafter the Parties opened negotiations for a new 2023-2026 collective Bargaining Agreement between the Parties.
3. In good faith, the parties agreed to modify Article 11 to add the Friday in January prior to Martin Luther King Jr. Day to be recognized as the District’s holiday in recognition of Lunar New Year. The new collective Bargaining Agreement between the Parties was ratified by CSEA membership on October 2, 2023, and approved by the SJECCD Board of Trustees on October 10, 2023.
4. Subsequently, the Governor of California signed into law on October 8, 2023, AB 264 which specifically addresses Community Colleges that opted to add a holiday recognizing Lunar New Year. The law is specific in that it does not permit the increase the number of days districts are closed and further provides that districts that opt to observe Lunar New Year must update their academic calendar to eliminate either Lincoln Day or Washington Day since Lunar New Year replaces one of them. (Exhibit 2 – released on October 18, 2023).
5. The Parties acknowledge that the change to the number of district holidays negotiated during the 2023-2026 negation cycle is no longer permissible under AB 264 and that updates must be made to the 2023-2026 CSEA Collective Bargaining Agreement in order to come into compliance with AB 264.
6. The Parties agree that the District will create a new floating holiday entitled “Diversity Recognition Day” to permit CSEA bargaining unit members to take a paid floating holiday at any time during the academic year. Unit members shall submit a request annually to use the floating holiday following normal procedures for leave requests to the unit member’s direct supervisor. The Diversity Recognition floating holiday must be used within each current fiscal year and is non-cumulative and will not roll over to a subsequent fiscal year if the floating holiday is not used by the unit member. CSEA unit members must note on their attendance records when they took the “Diversity Recognition Day” floating holiday so that it may be tracked by the Payroll Department. The responsibility to make the necessary notation on attendance records is the sole responsibility of each CSEA unit member. The District shall develop and communicate the appropriate leave

code(s) to be utilized by unit members when making notation on attendance records to reflect utilization of the annual Diversity Recognition floating holiday.

7. The Lunar New Year holiday for the academic year 2023-2024 will remain as previously scheduled. The academic and holiday calendars for 2024-2025, 2025-2026 and 2026-2027 will be modified in accordance with this agreement to reflect that Lunar New Year is no longer an official district designated holiday the Friday before the Martin Luther King holiday in January.
8. The language negotiated between the Parties modifying Article 11 that added Lunar New Year as a new holiday in the 2023-2026 CSEA CBA will be changed to comply with the terms of this MOU during the 2027-2030 CBA successor contract negotiating period.
9. Any disputes arising from this agreement shall be subject to the grievance procedures outlined in the parties' collective bargaining agreement.

Dated: November 21, 2023

For the SJECC District:



Shairon Zingsheim (Nov 21, 2023 18:50 PST)

Shairon Zingsheim, Interim Vice Chancellor
Human Resources

For CSEA:



Andrea Lopez, President Chapter 363



Robin Jackson, LRR (Nov 21, 2023 11:48 PST)

Robin Jackson, Labor Relations Representative



SAN JOSÉ - EVERGREEN COMMUNITY COLLEGE DISTRICT

RESOLUTION No. 031423-04

LUNAR NEW YEAR HOLIDAY DESIGNATION

WHEREAS, San José-Evergreen Community College District's (District) values are Opportunity, Equity, and Social Justice; and

WHEREAS, the District's Board of Trustees acknowledges dedicated days, weeks and months that celebrate our diversity; and our District places the highest value on the principles of diversity, equity and inclusion; and

WHEREAS, the five major demographics in the District's service area are African Americans (3%), Asian Americans (40%), Caucasians (24%), Latinx (33%), and Native Americans (1%), per US Census 2020; and

WHEREAS, SJECCD's current diverse student population includes African Americans (4%), Asian Americans (34%), Caucasians (10%), Latinx (44%), and Native Americans (1%); and

WHEREAS, the District currently dedicates holidays that celebrate and commemorate the contributions and sacrifices made to the diversity of social, cultural, educational, spiritual, linguistic, economic, intellectual, artistic significance of our nation and District's communities; and

WHEREAS, The Governor of California, Gavin Newsom, on September 29, 2022, signed AB 2596 recognizing Lunar New Year as an official state holiday, stating, "I am signing Assembly Bill 2596, which authorizes any state employee to utilize eight hours of vacation, annual leave, or compensating time off in lieu of receiving eight hours of personal holiday credit to observe the 'Lunar New Year.' The Lunar New Year celebrates a chance to leave behind the troubles of the past year and invite prosperity and good luck moving forward. Recognizing this day as a state holiday acknowledges the diversity and cultural significance Asian Americans bring to California and provides an opportunity for all Californians to participate in the significance of the Lunar New Year"*; and

WHEREAS, Asian Americans, Native Hawaiians, and Pacific Islanders lack a designated holiday to commemorate and celebrate their significance and contributions to the well-being of American national and local life, which may contribute to continued systemic and institutional discrimination and anti-Asian hate against people of Asian ancestries; and

WHEREAS, [Asian Americans, Native Hawaiians, and Pacific Islanders](#) have played vital roles in shaping the nation—from building the Transcontinental Railroad to advocating for labor law changes to fighting in multiple wars. They made these contributions while also facing persistent discrimination and violence throughout U.S. history; and

WHEREAS, Asian Americans, Native Hawaiians, and Pacific Islanders contributed to the advancement of justice in the U.S. legal system through the case of [Chol Soo Lee](#) which, "exposed bias and injustice in the U.S. legal system—and united Asian Americans, Asian immigrants and Asian nationals in a global, pan-Asian and intergenerational movement to collectively protest the discriminatory treatment of Asians;" and the case of [Fred Korematsu](#) whose conviction was overturned in 2018 as stated by Chief Justice Roberts, "The forcible relocation of U. S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful and outside the scope of Presidential authority;" and the case of [Vincent Chin](#) which ignited a push for Asian American rights. "It was the first time Asian Americans were protected in a federal civil rights prosecution;" and

WHEREAS, Asian Americans contributed to the success of the Hollywood entertainment industry through “[Actors of East Asian descent](#) (who) often faced limited and typecast roles in Old Hollywood, but they paved the way for future generations.” Among these are [Anna May Wong](#), [James Shigeta](#), [Nancy Kwan](#), [Miyoshi Umeki](#), [Keye Luke](#), [Benson Fong and Maylia Fong](#), [Sesue Hayakawa and Tsuru Aoki](#), and [Li Lihua](#); and

WHEREAS, Asian Americans contributed to defending freedom for America through many wartime heroes including “How a Japanese American Regiment Rescued WWII's 'Lost Battalion.' [The Nisei soldiers of the 442nd](#) became the most highly decorated regiment in U.S. military history for its size and length of service;” and

WHEREAS, Asian Americans contributed to the quality of life for Americans through civil rights leaders such as [Yuri Kochiyama](#) whose civil rights work extended to the causes impacting Black, Latinx, and Indigenous Peoples, as well as Asian American communities; and “[Larry Itliong](#), a Filipino American labor leader who organized West Coast farm workers, starting in the 1930s. He became well-known in the 1960s for spearheading the [Delano grape strike](#) and teaming with labor leaders [Cesar Chavez](#) and [Dolores Huerta](#) to demand farm workers' rights. The five-year strike won better pay and benefits for agricultural workers and led to the eventual formation of the United Farm Workers;” and

WHEREAS, Asian Americans contributed to the U.S. aviation industry through people such as [Wong Tsu's](#), “The Chinese-Born Engineer Who Helped Launch U.S. Commercial Aviation,” 10 months at Boeing in 1916-17 led to the fledgling airplane manufacturer's first military plane, first airmail plane and eventually, its first passenger plane;” and

WHEREAS, Asian Americans made “[Groundbreaking Contributions](#)” from disease cures to influential tech to workers' rights, and Asian American innovators have made huge impacts on people's lives; and

WHEREAS, “While Americans with ancestral ties to Asia have made countless significant contributions throughout the country’s history, most have never made it into textbooks. From atomic science, to labor rights, to YouTube, here are a few examples of some of the major advancements made by Asian Americans: Chinese-born physicist [Chien-Shiung Wu, Ph.D.](#) was instrumental in the developing field of atomic science. Two Chinese American brothers originally from Portland, Oregon, Derald W. Sue and Stanley Sue, were influential figures in ethnic minority psychology. Indian American computer architect Ajay Bhatt had a hand in developing a range of computer-related technologies, the one he’s best known for is the Universal Serial Bus—[better known as the USB](#), which became one of the most popular ways of transferring data from one device to another along with Karim, a Bangladeshi-German American. The core team behind YouTube included Taiwanese American Steven Chen. Filipino American physician and pediatric immunologist [Katherine Luzuriaga, M.D.](#), throughout her 30-year career discovered Functional Cure for HIV-Positive Infants. Harvard University student [Amanda Nguyen](#) who wrote the [Sexual Assault Survivors’ Rights Act of 2016](#) provides survivors with [certain guarantees](#), including the right to a rape kit procedure at no cost, as well as the requirement that kits be preserved for 20 years;” and

WHEREAS, while there are many significant holidays among the peoples and cultures within the Asian American communities, the Lunar New Year is one of the most shared holidays across many Americans of Asian Pacific ancestries; and

WHEREAS, [Lunar New Year](#) is a major holiday celebrated in many parts of Asia and in Asian communities around the world. It marks the beginning of the year using the traditional Chinese lunisolar calendar. Typically, Lunar New Year is observed in late January or early February of the Gregorian calendar; and

WHEREAS, Lunar New Year symbolizes the many values upheld by people of throughout the world including hope, family, health, peace, love, joy, community and prosperity; and

WHEREAS, the many students, faculty, classified professionals, and administrators of San José – Evergreen Community College District of Asian American, Native Hawaiian, and Pacific Islander heritages have made numerous contributions of great value to our colleges and community; and

WHEREAS, Asian Americans, Native Hawaiians, and Pacific Islanders, continue shaping our District by preserving the heritage of their ancestors and by contributing to the rich diversity that is our District's strength; and

WHEREAS, these contributions point out the pressing need to continue our collective efforts to complete the integration of the history of people of every race, gender identity, and ethnicity into our curriculum; and

WHEREAS, our District wishes to acknowledge the excellent work of our many faculty, classified professionals, and administrators for participating in educational events that pay tribute to the experiences and contributions of individuals of Asian American, Native Hawaiian, and Pacific Islander heritages; and now

BE IT THEREFORE RESOLVED that the Board of Trustees of San José – Evergreen Community College District acknowledges and supports the designation of Lunar New Year as one of the major District paid holidays for employees beginning in the 2023-2024 academic year.

Presented on this 14th Day of March 2023

Aye:

Nay:

Abstain:

Absent:

Chancellor Raúl Rodríguez, Ph.D.
Board Secretary

Trustee Bob Livengood
Board President

[*GSS 9121 1-20220929193153 \(ca.gov\)](https://gss.9121.1-20220929193153.ca.gov)

APPORTIONMENTS AND ATTENDANCE ACCOUNTING

AB 264 (Ting): Community colleges: Lunar New Year holiday.

Existing Law:

Education Code Section 79020 requires community colleges to close on certain holidays, including February 12, known as “Lincoln Day,” and the third Monday in February, known as “Washington Day.” Education Code Section 88203 also entitles probationary or permanent classified employees to certain paid holidays.

Bill Purpose:

The purpose of this bill is to allow community colleges to observe Lunar New Year.

Requirements Under New Law:

This bill authorizes a community college district, pursuant to a memorandum of understanding with applicable labor organizations, to replace closing on Lincoln Day or Washington Day with Lunar New Year. The bill amends Education Code Section 79020.

Specifically, the bill:

- Authorizes a community college district, pursuant to a memorandum of understanding, to replace closing on Lincoln Day or Washington Day with the date corresponding with the second new moon following the winter solstice, or the third new moon following the winter solstice should an intercalary month intervene, known as “Lunar New Year.”
- Specifies that, when Lunar New Year falls on another holiday, the community college shall observe Lunar New Year on a preceding or following weekday.
- Requires all probationary or permanent employees who are part of the classified service to receive a paid holiday for the Lunar New Year if the governing board of the community college replaces closing on Lincoln Day or Washington Day with closing on Lunar New Year.
- **Does not increase the number of days districts are closed.**

Chancellor’s Office Guidance (*revised as of 10/18/2023*):

Community College districts should determine whether to observe Lunar New Year and make any adjustments to collective bargaining agreements, as necessary. Districts that opt to observe Lunar New Year must update their academic calendar to eliminate either Lincoln Day or Washington Day since Lunar New Year replaces one of these. Colleges are expected to continue reporting their academic calendars as part of their annual MIS data submissions.

The text of this bill is available on the California Legislative Information [website](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB264) (https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB264).