

Dear Doug,

Thanks for soliciting feedback on the memo. Members of the AFA cabinet have conferred on the matter and we're presenting our comments here.

We recognize the district has a right and responsibility to establish healthy and safe working conditions and acknowledge that this is no small charge. We also recognize and appreciate your effort to produce a line of reasoning to justify this proposed action. You'll find that we're skeptical of the merits of the proposed action and we advocate for a less intrusive and more proportionate response than the one proposed in the memo. We presume your invitation for feedback represents an acknowledgement that the issue in question is open to rational dialogue and that the decision of the district is not a forgone conclusion. In that spirit, we offer the following remarks and we thank you for your careful consideration of this matter.

- To begin, AFA is generally concerned with the recent proliferation of "guidelines" or other directives (from a number of sources) that incrementally intrude on faculty autonomy and reduce faculty rights. The memo implies a degree of micromanagement that undermines a culture of mutual respect and professionalism. Though we assume this was not the intent, there is an undeniable tone of paternalism in the memo, an implication that faculty and staff are simply incapable of governing themselves and respecting their colleagues.
- We're a bit puzzled by the sense of urgency and attention this relatively minor issue is receiving. We'd prefer the district put its resources and energies into addressing more pressing and ongoing hazards in our common workplaces. Numerous other conditions seem far more pressing<sup>1</sup> and so the sense of urgency and blunt reaction in this case seems, frankly, somewhat farcical. In short, the memo seems to lack appropriate perspective.
- You cite a number of potential practical deficiencies of the items targeted in the memo. Your claim is that they are not effective in meeting the health needs of faculty and staff while posing undue risk to others. However, people who are using exercise balls and treadmills are using these to promote their health and physical wellbeing, and it is likely that some faculty and staff have chosen to use these items on the advice of their physician (or other health professional). Surely, neither Title 8 nor district policy is intended to substitute the judgement of the district's environmental health and safety department for that of adults making health decisions for their own bodies, or of expert health professionals. If there were a consensus in relevant fields of expertise that these items were neither safe nor effective (as, e.g. with tobacco) this might warrant such an action. We are not aware of such consensus. To the contrary, we are aware that health professionals do recommend such items to address the negative effects of desk work and other commonly occurring health issues and the College's own KAD Department uses exercise balls in its classes to support physical conditioning.
- Minimally, any prohibition of these items would demand that accommodations be made for faculty and staff that are acting on the advice of their physician or other relevant health advisor. But this undermines the right of faculty and staff to make their own decisions about healthful practices while at work, and it also raises the problem of verification. One wonders if the perceived risk of these objects warrants the imposition on the personal health privacy of faculty and staff. To be clear, we object to this prohibition and are not recommending a compromise where exceptions be contingent on proof of medical necessity or something of the like. We are confident that our colleagues (both faculty and staff) are capable of managing the limited risks

associated with these products. We believe the concerns of the district would be better met by simply alerting all employees that if they choose to use an exercise ball or treadmill (or any other health-promoting device) at work, they do so at their own risk.

- Another concern pertains to the process for instituting such a prohibition. Your memo draft begins with a report that you've "received inquiries about employees using personal exercise balls in place of their office chairs, and installing personal treadmills in District offices in order to walk while working." But an inquiry is hardly sufficient reason to trigger such a rash response. We assume a perceived risk or hazard must meet specific criteria before the district chooses to institute such a prohibition on faculty and staff. Is there a system for measuring the potential for, and degree of, any given risk before such a prohibition is put in place? It seems that many common office items pose some degree of potential risk, many of which seem to pose a greater potential hazard than the items targeted in the memo. Has there been a specific instance (or instances) where exercise balls and treadmills have caused some serious harm on campus, or is the memo premised primarily on speculation or anecdote? At most, it seems such inquiries justify a study. Only after a balanced consideration of relevant facts and values, and the respectful inclusion of colleagues in that process, should a categorical response be developed and implemented.
- We at AFA are sensitive to the possibility that inquiries such as the one(s) that instigated this action are often more a reflection of the inquirer's bias than some intrinsic property of the ostensive object(s) of the inquiry. Are there some general and consistently applied criteria that determine which inquiries warrant action and which do not? If such criteria exist, we'd appreciate clarification. It seems to us that publication of such criteria to the community would better serve the general purpose of the memo than would a unilateral prohibition on an item by item basis.
- Related to the previous point, we wonder if developing policy through enumeration of particular perceived hazards is an effective approach to ensuring health and safety. Any successful risk reduction plan ultimately depends on the judgement and awareness of individuals. It is neither desirable nor possible to address each potential risk. There are times when a general category of objects or behaviors should be targeted for special treatment. Smoking tobacco on campus seems a case in point. Relevant expert consensus along with the implications for non-smokers and support for the educational mission of the college make this a special case worthy of targeted attention. But exercise balls and treadmills hardly present an analogous case. Supposing we could identify a particular risk factor associated with these items, does this imply that we'd need to develop a risk factor for any number of items that exist in faculty and staff offices? Our concern is that these items are being arbitrarily identified as posing special risk while the general principles this memo is intended to serve are obscured by focus on particulars. Why not simply advise faculty and staff to show good judgement when operating or working around these (and similar) items?
- Though we are concerned with the specific prohibitions in this case, we are especially troubled by the slippery slope this memo invokes. First exercise balls and treadmills and then ... what? We posit that the concerns raised by the initial inquiries are better met with a less authoritarian response, e.g. a suggestion to be cautious when using or working around these items.

- Finally, this prohibition raises serious privacy concerns for faculty and staff. It also threatens to create unnecessary animosity between faculty and staff members, damaging morale and professional cooperation. It's one thing to prohibit such items, it's another thing entirely to enforce this prohibition. Who will report violations? Are faculty and staff expected to monitor the behavior of their colleagues? Will there be routine inspections? What's the end game here? And if there is not meaningful enforcement of the policy, again, it seems vulnerable to arbitrary and capricious application.

In sum, we very much hope you'll reconsider this course of action and choose instead to adopt a more measured and respectful approach. As always, we're happy to discuss any of this with you or anyone else who is involved in these decisions.

1. Some illustrations include:
  - a. The skid plates attached to each stair on the staircases in Emeritus are loose and coming unscrewed. This has been reported long ago and repeatedly but has yet to be fixed.
  - b. The air quality in several buildings (e.g. Emeritus, Shuhaw, and Bech) is quite bad. Perhaps this is due to the age of these buildings, or insufficient maintenance of the air systems.
  - c. Asphalt and concrete in several locations is cracked, uneven, and buckling.
  - d. Hours spent at desks and computers are known to be unhealthy, causing neck and back and hip problems, carpal tunnel syndrome, eye strain, etc. I see that the district offers assistance on this matter. It is a monumental task which I assume will require a sustained effort.
  - e. The college maintains a number of sports programs, most obviously football, that are inherently hazardous and pose considerable risk of traumatic or repetitive brain injury.
  - f. Insufficient lighting in several locations creates risks for faculty and staff, especially during night hours.
  - g. We'd be happy to solicit more examples from our members if that would be helpful.