

POLICIES FOR STRENGTHENING LOCAL ACADEMIC SENATES

The following proposal has been developed in response to Section 61a of AB 1725 which reads:

“The Hoard of Governors of the California Community Colleges shall, by January 1, 1990, ...develop policies and guidelines for strengthening the role of the academic senate with regard to the determination and administration of academic and professional matters” (61 a).

THE ACADEMIC SENATE FOR CALIFORNIA COMMUNITY COLLEGES URGES THE BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES TO ADOPT THE FOLLOWING TITLE 5 REGULATIONS:

It is the intent of the BOG to empower the faculties of the California Community Colleges to effectively execute their role as stated in AB 1725. Nothing in these regulations shall be construed to impinge upon the due process rights of faculty, nor detract from any negotiated agreements between collective bargaining agents and districts, nor to detract from the rights and responsibilities granted to academic senates by Title 5 and AB 1725. It is the intent of the BOG to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities assigned by these regulations.

1. Local governing boards shall consult with and rely primarily upon the advice and judgment of the academic senate when adopting policies on academic and professional matters. When the local governing board, or its administrative representatives, do not accept a written recommendation of the college and/or district academic senate, the senate president shall be notified in writing of the action and the reasons therefore. These educational and professional matters include but are not limited to the following:
 - a. Curriculum
 - b. Degree and certificate requirements
 - c. Grading policies
 - d. Educational program development
 - e. Standards or policies regarding prerequisites or other issues related to student preparation and success.
 - f. College and district governance
 - g. Accreditation processes including self study and annual reports.
2. Procedures on matters of academic policy shall be developed and agreed upon jointly by representatives of the local governing board and the academic senate and approved by the governing board, Such procedures include but are not limited to the following:
 - a. Reviewing curriculum, including establishing academic standards and prerequisites and

- submitting courses and programs for approval by the state Chancellor's Office.
- b. Hiring processes for faculty new to the district.
- c. Setting additional qualifications for hiring faculty new to the district including the establishment of equivalencies to the minimum qualifications for hire.
- d. Placing courses within disciplines.
- e. Establishing guidelines and policies for faculty development activities.
- f. Reviewing educational programs and institutional planning.
- g. Approving transfers from administrative positions to teaching positions.

Until joint agreement is reached, the procedures in effect on January 1, 1989 shall remain in effect.

3. The Board of Governors of the California Community Colleges shall provide funds on an annual basis to ensure that, at a minimum, every college and district academic senate has adequate funds, clerical support, information, and faculty assigned time to carry out the tasks assigned to it by statute, regulation and local district policies. Decisions regarding the assignment of faculty time for purposes of carrying out tasks assigned to it by statute, regulation, local district policies and faculty involvement in college governance shall be made by the academic senate.

A formula for providing this support shall be developed by the Board of Governors in consultation with the state Academic Senate on a per FTE basis with a minimum amount per college regardless of PTE level. These funds may be allocated initially from AB 1725 program improvement funds.

4. There shall be participation of the academic senate in the budget development processes of the college and/or district according to a procedure agreed upon by the representatives of the local governing board and the academic senate. Notwithstanding this provision, the participation of the exclusive bargaining representative in the development of the budget is subject to negotiation and agreement between the district and the exclusive representative.
5. Selection of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, including but not limited to those listed above, shall be made by the academic senate. Notwithstanding this regulation, the exclusive agent may seek to appoint faculty members to committees.
6. In the development of policies and procedures, guidelines and recommendations, the local senate shall consult with the exclusive bargaining agent on the due process implications of any of the above.
7. The college and district academic senate shall be provided with copies of all routine and special reports submitted to the Chancellor's Office of the California Community Colleges. Receipt of such copies shall be verified by the signature of the college academic senate president or, in the case of multi-college districts where there is a district academic senate, the signature of the district academic senate president.

STRENGTHENING ACADEMIC SENATES

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Third Reading, Action Scheduled

Background

Assembly Bill 1725 (Chapter 973, Statutes of 1988) enacted a new structure of community college governance by (1) creating the California Community Colleges as a system, (2) delineating the roles of the Board of Governors and district governing boards, and (3) taking initial steps to create a postsecondary governance structure through strengthening the role of faculty and students.

With respect to faculty roles in governance, one of the ongoing responsibilities of the Board of Governors provided in the AB 1725 delineation of functions is to establish:

...minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance... and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards. [Education Code Section 70901(b)(1)(E)] [emphasis added]

The delineation of functions goes on to charge district governing boards to “establish procedures not inconsistent with minimum standards established by the Board of Governors” to implement these various roles of faculty. [*Education Code* Section 70902(b)(7)].

As an implementation activity, AB 1725 also requires the Board of Governors, by January 1, 1990, to develop policies and guidelines for strengthening the role of the academic senate with regard to the determination and administration of academic and professional standards, course approval and curricula, and other academic matters [Chapter 973, Section 61(a)].

This agenda item consists of changes in Title 5 regulations to meet both the Board’s obligation to develop minimum standards and to develop policies and guidelines for strengthening the role of the academic senate. Item 7, entitled “Shared Governance in the California Community Colleges,” is a related item that provides policy guidance in implementing shared governance in the California Community Colleges, at both the local and systemwide levels.

Analysis

The proposed changes in regulations regarding academic senates (Attachment) are modifications and additions to existing regulations of the Board of Governors contained in Sections 53200-

53205 of Title 5 of the *California Code of Regulations*. The key modifications and revisions are as follows:

- Section 53200 of the existing regulations, which defines various terms, is amended to (1) define “faculty” as that term is defined in AB 1725, (2) add a definition of “academic and professional matters,” and (3) add a definition of “collegially.” The definition of “consult collegially” is new, and is drafted so as to enable a governing board, at its own discretion, to rely primarily on recommendations of the senate or to reach mutual agreement with the senate.
- Sections 53202 (Powers), 53204 (Meet and Confer), and 53205 (Duties Assigned by Administration and Governing Board) are repealed, with key portions of their texts being consolidated into a new Section 53203 (Powers).
- New Section 53203 is added to provide a basic statement of the powers of local senates. Essentially, each governing board will be required to adopt policies for the appropriate delegation of authority and responsibility to its college and/or district academic senate. These policies may not be established unilaterally; rather, governing boards will be required to “consult collegially” with senates in establishing such policies. Existing provisions of law (such as Sections 87359, 87360, 87458, and 87615 of the *Education Code*), which fix specific roles for local senates, will continue to apply and will not be affected by this new regulation. Finally, new Section 53203 also contains a provision that enables the academic senate, after consultation, to designate the faculty members who serve on college or district committees.
- New Section 53204 is added to accommodate understandings and agreements between bargaining agents and senates at the local level. The language is drawn largely from the proposal of the statewide Academic Senate. It expresses the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to academic senates.

The package of regulations has been in consultation since January 25, 1990, and was reviewed by the Board of Governors at its May 10-11 meeting. The only significant change in the regulations since that time has to do with the options available to a district governing board when one of its existing policies is legally problematic or fiscally irresponsible. In such circumstances the proposed regulations would essentially allow governing boards to proceed as if there were no existing policy.

Recommended Action

The Board of Governors should approve the regulation changes set forth in the Attachment and adopt the following resolution:

Be it resolved that the Board of Governors of the California Community Colleges, acting under the authority of Section 70901(d) of the *Education Code*, delegates authority to the

Chancellor of the California Community Colleges to adopt, on behalf of the Board, regulations which have previously been reviewed and approved by the Board, and which are set forth in the Attachment.

In accordance with the delegation of this authority, the Chancellor shall make provisions for holding a public hearing regarding the adoption of the regulations, including provisions for notice of the hearing to the general public as prescribed by Section 206 of the Rules and Standing Orders of the Board of Governors. The Chancellor shall make copies of the text of the proposed regulations, as endorsed, available to the public as required by Section 206. The Chancellor shall have the authority to hear and consider testimony and written comments regarding these regulations. The Chancellor shall adopt the regulations as endorsed by the Board in this resolution only if, in the Chancellor's opinion, no substantive changes are necessary, as determined on the basis of any written or oral testimony offered.

Pursuant to Section 208 of the Rules and Standing Orders of the Board of Governors, these regulations shall become effective 30 days after adoption by the Chancellor unless, within that 30 day period, at least two-thirds of the community college district governing boards vote in open session to disapprove the regulation. Written verification of governing board disapproval must state the basis for the disapproval and include the text of any governing board resolution related to the disapproval. Verification of disapproval must be sent to the Board of Governors, postmarked no later than 30 days after the regulations are adopted by the Chancellor.

Staff Presentation: *Thomas S. Nussbaum, Vice Chancellor*
Legal Affairs and General Counsel

ATTACHMENT

Revisions to Existing Title 5 Regulations on Academic Senates

Subchapter 2. Academic Senates

1. Amend Section 53200 as follows:

53200. Definitions.

For the purpose of this subchapter:

- ~~(a) “Faculty” means those certificated persons who teach full time in a Community College or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.~~
- (a) “Faculty” means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code, and for which minimum qualifications for hire are specified by the Board of Governors.
- (b) “Academic senate” and “faculty council”, and “faculty senate” means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters. For purposes of this subchapter, reference to the term “academic senate” shall also constitute reference to “faculty council” or “faculty senate.”
- (c) “Academic and professional matters” means the following policy development and implementation matters:
 - (1) Curriculum, including establishing prerequisites and placing courses within disciplines
 - (2) Degree and certificate requirements
 - (3) Grading policies
 - (4) Educational program development
 - (5) Standards or policies regarding student preparation and success
 - (6) District and college governance structures, as related to faculty roles
 - (7) Faculty roles and involvement in accreditation processes, including self study and annual reports
 - (8) Policies for faculty professional development activities
 - (9) Processes for program review
 - (10) Processes for institutional planning and budget development, and
 - (11) Other academic and professional matters as mutually agreed upon between the governing board and the academic senate.
- (d) “Consult collegially” means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:
 - (1) Relying primarily upon the advice and judgment of the academic senate: or
 - (2) That the district governing board, or such representatives as it may designate, and

the representatives of the academic senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.

NOTE: Authority cited: Sections 66700 and 70901, 71020, 71062, and 71079, Education Code. Reference: Sections ~~71079 and 72292~~, 70901 and 70902, Education Code.

2. Amend Section 53201 as follows:

53201. Academic Senate or Faculty Council.

In order that the faculty may have a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, an academic senate ~~or faculty council~~ may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700, ~~71020, 71062 and 71079~~, and 70901, Education Code. Reference: Sections ~~71079 and 72292~~, 70901 and 70902, Education Code.

3. Amend Section 53202 as follows:

53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate ~~or faculty council~~:

- (a) The full-time faculty of a community college shall vote by secret ballot to form an academic senate ~~or faculty council~~.
- (b) In multi-college districts, the full-time faculty of the district colleges may vote on whether or not to form a district academic senate. Such vote shall be by secret ballot.
- (c) The governing board of a district shall recognize the academic senate ~~or faculty council~~ and authorize the faculty to:
 - (1) Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate ~~or faculty council~~.
 - (2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate ~~or faculty council~~.
- (d) The full-time faculty may provide for the membership and participation of part-time faculty members in the academic senate ~~or faculty council~~.
- (e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate or faculty council, with the same functions as stated in subsection (b) of Section 53200 and Section 53201.

NOTE: Authority cited: Sections 66700, ~~71020, 71062, and 71079~~, and 70901, Education Code. Reference: Sections ~~71079~~, 70901 and 70902, Education Code.

4. Repeal Section 53203.

53203. Powers.

~~After consultation with the administration of its community college, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.~~

~~**NOTE:** Authority cited: Sections 71020, 71062, 71079, Education Code. Reference: Section 71079, Education Code.~~

5. Repeal Section 53204.

53204. Meet and Confer.

~~Upon request of the academic senate or faculty council, and subject to Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the Government Code relating to public meetings when applicable, the governing board or such board members or administrative officers as it may designate shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.~~

~~**NOTE:** Authority cited: Sections 66700, 71020, 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.~~

6. Repeal Section 53205.

53205. Duties Assigned by Administration and Governing Board.

~~An academic senate or faculty council may assume such responsibilities and perform such functions as may be requested of it by the administration of its community or the governing board of its district maintaining its community college.~~

~~**NOTE:** Authority cited: Section 66700, 71020, 71062, and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.~~

7. Add Section 53203.

53203. Powers.

(a) The governing board of a community college district shall adopt policies for the appropriate delegation of authority and responsibility to its college and/or district

- academic senate. Among other matters, said policies, at a minimum, shall provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. This requirement to consult collegially shall not limit other rights and responsibilities of the academic senate which are specifically provided in statute or other regulations contained in this part.
- (b) In adopting the policies and procedures described in subsection (a), the governing board or its designees, shall consult collegially with representatives of the academic senate.
- (c) While in the process of consulting collegially, the academic senate shall retain the right to meet with or appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.
- (d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:
- (1) In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.
 - (2) In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.
- (e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to subsection (a) of this section.
- (f) The appointment of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

8. Add Section 53204.

53204. Scope of Regulations.

Nothing in this subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.