

CHAPTER XVIII

SHARED GOVERNANCE POLICIES

ARTICLE I

ACADEMIC SENATE AND BOARD OF TRUSTEES

SHARED GOVERNANCE POLICY

18100. COLLEGE ACADEMIC SENATE: The faculty of each college in the District may organize a College Academic Senate for the purpose of faculty government and to establish formal and effective procedures for participation in setting policies on academic and professional matters. The Board of Trustees recognizes such faculty groups as representatives of faculty opinions and as a consulting body on the college campus.

Adopted 12/18/96  
Amended 01/09/02

18101. DISTRICT ACADEMIC SENATE: The Board of Trustees recognizes the District Academic Senate, composed of various representatives of the College Academic Senates, and will consult collegially with it on academic and professional matters common to the District.

Adopted 12/18/96  
Amended 01/09/02

18102. SHARED GOVERNANCE: The Board of Trustees recognizes and affirms its obligations to consult collegially with the District Academic Senate when adopting policies and procedures on academic and professional matters. The primary function of the District Academic Senate, as representative of the faculty, is to make recommendations to the Board of Trustees (or designee), with respect to District level academic and professional matters.

Adopted 12/18/96  
Amended 01/09/02

The primary function of the College Academic Senates, as representatives of the college faculty, is to make recommendations to the administration of the college and the Board of Trustees.

Adopted 12/18/96  
Amended 01/09/02

18103. DEFINITIONS:

- A. "Faculty" means those academic employees of the District who are employed in positions that are not designated as supervisory or management for the purposes of the Educational Employment Relations Act, encompassed in Government Code section 3540 et seq., and for which minimum qualifications for hire are specified by the Board of Governors for the California Community Colleges.
- B. "District Academic Senate" means the Academic Senate for the Los Angeles Community College District.
- C. "College Academic Senate" means the Academic Senate of each of the colleges in the Los Angeles Community College District.
- D. The generic term "academic senate" means either or both the District Academic Senate or the College Academic Senates.
- E. "The Board" means the Board of Trustees of the Los Angeles Community College District.
- F. "The District" means the Los Angeles Community College District.

Adopted 12/18/96  
Amended 01/09/02

G. "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 Board and the academic senate.

H. "Consult collegially" means that the Board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion by:

Adopted 12/18/96  
Amended 01/09/02

1. Relying primarily upon the advice and judgment of the academic senate; or
2. Agreeing that the 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, regulations, or policy of the board effectuating such recommendations.

Adopted 12/18/96  
Amended 01/09/02

18104. COLLEGIAL CONSULTATION PROCESS

- A. The Board through the collegial consultation process shall rely primarily on the District Academic Senate concerning the following District level academic and professional matters:
  1. Curriculum, including establishing prerequisites and placing courses within disciplines;
  2. Degree and certificate requirements;
  3. Grading policies;
  4. Policies for faculty professional development activities;
  5. Processes for program review; and
  6. Faculty roles and involvement in accreditation processes, including self-study and annual reports.
- B. The Board shall reach mutual agreement with the District Academic Senate on District level

Adopted 12/18/96  
Amended 01/09/02

academic and professional matters by written resolution concerning the following policy areas:

1. Educational program development;
  2. District and college governance structures as related to faculty roles;
  3. Processes for institutional planning and budget development;
  4. Standards or policies regarding student preparation and success; and
  5. Other academic and professional matters as are mutually agreed on by the Board of Trustees and the District Academic Senate.
- C. In order to facilitate the consultation process, there shall be regularly scheduled meetings, including but not limited to:
1. The District Academic Senate President and the Chancellor.
  2. Between District Academic Senate Executive Committee and Chancellor's Cabinet; and
  3. Other meetings that the District Academic Senate and/or the Chancellor find will effectuate the consultation process.
- D. All recommendations on academic and professional matters which have been developed through collegial consultation with the District Academic Senate shall bear the signature of the District Academic Senate President.

Adopted 12/18/96  
Amended 01/09/02

18105. RECOMMENDATIONS OF THE DISTRICT ACADEMIC SENATE

- A. Recommendations from the District Academic Senate to the Board shall be in writing and conveyed to the Board usually through the Chancellor.
- B. In instances where the Board elects to rely primarily upon the advice and judgment of the District Academic Senate, the recommendations of the District Academic 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 Board or its designee, upon written request of the Academic Senate to the Board shall promptly communicate its reasons in writing to the District Academic Senate.
- C. In instances where the Board elects to provide for mutual agreement with the District Academic Senate, and agreement has not been reached, existing policy shall remain in effect unless continuing 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 Board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

Adopted 12/18/96  
Amended 01/09/02

18106. APPOINTMENT OF REPRESENTATIVES

- A. The appointment of faculty members to serve on District committees, task forces, or other groups dealing with academic and professional matters

Adopted 12/18/96  
Amended 01/09/02

shall be made, after consultation with the Chancellor or his or her designee, by the District Academic Senate. Notwithstanding this section, the faculty collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups. Nothing in the foregoing shall affect the right of the faculty collective bargaining agent to appoint faculty members to committees pursuant to existing or future collective bargaining agreements.

- B. The appointment of faculty members to serve on college committees, task forces, or other groups dealing with academic and professional matters shall be made, after consultation with the College President or his or her designee, by the College Academic Senate. Notwithstanding this section, the faculty collective bargaining representative may seek to appoint faculty members to college committees, task forces, or other groups. Nothing in the foregoing shall affect the right of the faculty collective bargaining agent to appoint faculty members to college committees pursuant to existing or future collective bargaining agreements.

Adopted 12/18/96  
Amended 01/09/02

18107. RIGHT TO APPEAR BEFORE THE BOARD. The Academic Senate shall retain the right to meet with or to appear before the Board with respect to the views, recommendations, or proposals of the academic 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 Board.

Adopted 12/18/96  
Amended 01/09/02

18108. COLLECTIVE BARGAINING AGREEMENTS AND DUE PROCESS RIGHTS. Nothing in this chapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any collective bargaining agreements.

Adopted 12/18/96  
Amended 01/09/02

18109. DELEGATION OF AUTHORITY.

- A. For purposes of consulting collegially with the District Academic Senate, the Board designates the Chancellor as its representative. For purposes of consulting collegially with the College Academic Senate, the Board designates the College President acting under the authority and supervision of the Chancellor. The Board reserves the right to designate additional or alternative designees at any time.
- B. College policies for collegial consultation with College Academic Senates shall be submitted to the Board for approval. The Board reserves its right to approve, disapprove or supersede college agreements reached under those policies.

Adopted 12/18/96  
Amended 01/09/02

18110. GUIDELINES FOR IMPLEMENTATION. For purposes of interpretation of this chapter, the Board adopts the attached Guidelines for Implementation of Sections 53200 to 53204 of Title 5 of the Administrative Code of California. These guidelines were agreed upon by the Community College League of California and the statewide Academic Senate for California Community Colleges.

Adopted 12/18/96  
Amended 01/09/02

**GUIDELINES FOR IMPLEMENTATION OF  
SECTION 53200-53204 OF TITLE 5 OF THE  
ADMINISTRATIVE CODE OF CALIFORNIA**

**The Role of Academic Senates in the California Community Colleges**

1. QUESTION: What needs to be done to implement the new regulations to strengthen local academic senates?

The senate and the local board or its designee (usually the chancellor, or president and senior administration) need to “consult collegially” on the development of a new district policy for board action to implement the new regulations. This policy can be very general (i.e. a statement that the district will operate according to the provisions of Title 5, Sections 53200-53204) or more specific in terms of how the district carries out the regulations. Different boards and districts may include different amounts of procedural detail in district policies. (However, see recommendations in the third and fourth answers.)

2. QUESTIONS: In adopting new policies on academic and professional matters, does the governing board have to meet directly with the senate?

No. The governing board and the senate may each designate appropriate representatives as their voices in the mutual development of policies on academic and professional matters, on a blanked basis or on a policy-by-policy basis. It is the responsibility of the designees to communicate with their respective constituencies on an ongoing basis so as to best represent them in the development of policies.

3. QUESTION: The regulations list ten areas defined as “academic and professional matters.” The local board must adopt procedures identifying how it will “consult collegially” in these ten areas. Those procedures include either to “rely primarily upon the advice and judgment of the academic senate” or to “reach mutual agreement.” Must a local board select only one procedure for addressing all ten of the identified academic and professional matters or can there be a different approach used for the different matters?

Either one of the procedures can be used to address each of the ten areas defined as academic and professional matters; the procedure need not be the same for all ten. It is recommended, although not required, that the specific procedure selected be identified in policy for each of the ten “academic and professional matters.”

4. QUESTION: Who decides which of the two processes in the regulations (“rely primarily” or “mutual agreement”) should be used on a given issue?

The local governing board. However, it is recommended that the ten categories of academic and professional matters listed in the regulations be the subject of local discussions during the initial implementation of the regulations so that all concerned will know in advance which issues will be dealt with according to which process. These may then be included in adopted policy.

5. QUESTION: If the governing board chooses the option to “rely primarily” on the advice of the academic senate in any of the ten defined areas of “academic and professional matters,” is the board required to accept the recommendation of the senate?

No. Title 5 regulations clearly state that in most cases under the “rely primarily” option the recommendation of the academic senate will be adopted. However, there are conditions under which the local board may need to make a decision different from the senate’s recommendation. (See next Question and Answer)

6. QUESTION: A district governing board which chooses the “rely primarily” procedure is normally supposed to accept recommendations of the senate in any of the ten defined areas of “academic and professional matters” unless there are “exceptional circumstances” and “compelling reasons.” What do these mean?

The regulations do not define the terms “exceptional circumstances” and “compelling reasons,” and these terms are not intended to have a legal definition. These terms mean that boards must usually accept senate recommendations, and that in instances where a recommendation is not accepted the board’s decision must be based on a clear and substantive rationale which puts the explanation for the decision in an accurate, appropriate, and relevant context.

Boards tempted to reject a recommendation might, instead, ask the senate to reconsider the recommendation in light of the issues that have not been resolved to the board’s satisfaction.

7. QUESTION: A district governing board which chooses the “mutual agreement” procedure is supposed to reach written agreement with the senate in any of the ten defined areas of “academic and professional” matters. When may the board act if it is not able to reach mutual agreement with the academic senate?

If there is no existing policy, the regulations say the board may act without reaching mutual agreement if there are “compelling legal, fiscal, or organizational reasons” why it must do so. Again, the word “compelling” is not defined in the regulations and is not intended to have a legal definition. It means that in instances where mutual agreement with the senate is not reached, a board decision must be based on a clear and substantive rationale which puts the explanation for the decision in an accurate, appropriate and relevant context.

8. QUESTION: When there is an existing policy, is the board permitted to act without mutual agreement?

No. If there is an existing policy, that policy simply stays in effect until mutual agreement is reached. However, there may be cases when the existing policy “exposes the district to legal liability or causes substantial fiscal hardship.” In these circumstances, a board may act without reaching mutual agreement provided that it has made a good faith effort to reach agreement and has “compelling legal, fiscal, or organizational reasons” to act (as the term “compelling” is described in question 7 above) without waiting any longer for agreement.

9. QUESTION: The “mutual agreement” procedure appears to contain de facto ability to block changes in policy when an existing policy is in place by failing to agree to needed action. What would happen if this occurs?

It would be bad faith to use the regulations in order to block changes in policy when an existing policy is in place by failing to agree to needed action. A senate faced with a board which refuses or fails to

Participate or consult constructively in the attempt to reach mutual agreement may choose to use the complaint process delineated in question 18. On the other hand, if the senate attempts to use the regulations process to block board action by refusing or failing to participate or consult constructively, it is unlikely that either the Chancellor or a court would object to a board which takes action without mutual agreement under those circumstances.

10. QUESTION: Can the local board choose the academic senate to be the organization that represents faculty in matters that have previously been collectively bargained or are within the legal scope of bargaining? Can the local board accept recommendations from the academic senate or reach agreements with the academic senate which contradict a collective bargaining agreement?

The answer to both questions is no. The governing board may not legally delegate to the senate any responsibilities or functions which belong to the exclusive representative. AB 1725 did not change collective bargaining law (i.e. EERA, Government Code Section 3540 et sec.) nor the legal scope of bargaining. The regulations specifically point out that nothing in the Board of Governors' regulations may be construed to "detract from any negotiated agreements between collective bargaining and district governing boards."

11. QUESTION: Can a board and union through a collective bargaining agreement change a policy previously adopted by a board based upon recommendation of the academic senate or mutually agreed to with the academic senate?

Yes. Matters appropriately within the scope of collective bargaining may be negotiated between collective bargaining representatives and district governing boards regardless of previous policies.

12. QUESTION: May the collective bargaining agent delegate matters within the scope of bargaining to the local senate and may the senate delegate matters within the scope of the ten defined areas of "academic and professional matters" to the collective bargaining agent?

Yes, to the extent permitted by collective bargaining laws. The regulations state that the intent is to "respect agreements between academic senates, and collective bargaining representatives..."

13. QUESTION: Must the district consult collegially on the administrative organization chart of the college?

No. How the administration is organized may be a matter for shared governance but is outside the scope of the district's responsibility to "consult collegially" with the senate.

14. QUESTION: Another one of the ten areas of "academic and professional matters" is "processes for institutional planning and budget developments." Does this regulation relate to the institutional plans and budgets themselves, or only to the process by which plans and budgets are developed for presentation to the board?

The regulation relates only to the process. The academic senate's role is in helping to shape the processes used for developing the plans and budgets to be acted upon by the governing board. The board is not required to either "rely primarily" on the senate's recommendations or reach agreement with the senate on the plans and budgets themselves.

15. QUESTION: If a local board violates the regulations, will the state Chancellor's Office intervene and/or investigate the case for possible noncompliance?

Probably not. While the Chancellor's Office will probably not become involved in a single issue within a college district, if a district board develops a pattern of violating the regulations, the Chancellor's Office has the authority to enforce compliance.

16. QUESTION: Do these regulations have the force of law?

Yes. If a district board does not make a good faith effort and does not ultimately abide by these regulations it would be in violation of law.

17. QUESTION: What powers do the Board of Governors have to enforce Title 5 regulations such as the ones on strengthening local senates?

Education Code Section 70901 mandates that the Board of Governors establish minimum conditions entitling districts to receive state aid. Currently there are some 15 minimum conditions that districts must meet in order to receive state funds. The Board of Governors can withhold funding from any district that does not meet established minimum qualifications. One of these minimum conditions is adoption of procedures consistent with sections 53200-53204 of the Administrative Code. Thus one of the minimum conditions that districts must substantially meet in order to receive state aid is to strengthen local academic senates as per the new regulations.

18. QUESTION: If a local senate feels that it has exhausted all sincere internal efforts to work cooperatively with the local governing board and believes the new regulations continue to be ignored, what remedies can be sought?

First, the statewide Academic Senate should be contacted for useful advice and direct support. Also, the Senate can make some initial contact with the Chancellor's Office to seek informal resolution if possible. The Academic Senate has established a Standards and Practices Committee that will become increasingly active in documenting, publishing and assisting in the resolution of senate role issues.

Secondly, if the local academic senate believes that there is clear and consistent noncompliance, the local senate may contact the Legal Affairs Office of the Chancellor's Office.

19. QUESTION: Does the term "rely primarily upon the advice and judgment of the academic senate" meant that the governing board should not receive and consider the advice and judgment of others on issues of "academic and professional matters?"

No. Indeed, there are other regulations and laws which address the participation of the public, students, staff and unions in district governance.

20. QUESTION: Should the advice and judgment of the academic senate be accorded greater weight than the advice and judgment of other groups and constituencies in connection with "academic and professional matters?"

Yes. Subject to questions 10, 11, and 12, the intent of the regulations is to ensure that, while all relevant constituencies should have the opportunity to participate, boards must accord the greater weight to academic senates in "academic and professional matters" by "consulting collegially" with the senates, as described in these guidelines.