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**Community College Council**

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**Unfair Labor Practices**

**Employer** unfair practices are specified in EERA Sec 3543.5. It is unlawful for a school employer (this includes community colleges) to:

* interfere with the exercise of rights conferred by the act on employees or their unions
* refuse to meet and negotiate in good faith with the recognized representative of the employees
* interfere with, dominate, or discriminate among employee organizations
* refuse to participate in impasse procedures

**Employee organization** unfair practices are specified in EERA Sec. 3543.6. It is unlawful for an employee organization to:

* cause or attempt to cause an employer to commit an unfair practice
* coerce, discriminate against, threaten reprisals, or in any way interfere with employees in the exercise of rights conferred by the act
* refuse to meet and negotiate in good faith
* refuse to participate in impasse procedures

**Duty to Bargain**

The test of whether an employer or an employee organization has failed in its duty to bargain hinges on two issues:

* Was the topic within the scope of bargaining
* Did the parties negotiate in good faith

**Scope**

Topics within the scope of representation are called *mandatory* subjects of bargaining. If either party proposes a change in a mandatory subject of bargaining, the parties must negotiate on the proposal until either:

* agreement is reached;
* the proposal is withdrawn; or
* required impasse resolution procedures have been exhausted

The parties are permitted to negotiate about subjects that are not within scope. Such subjects are called *permissive* or *nonmandatory* subjects of bargaining. The parties may not insist on proposal which are permissive subjects of bargaining to the point of impasse.

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Scope under EERA is determined by the "Anaheim" test. Under the test, a subject is negotiable if it is one of the items listed in EERA Sec. 3543.2. If it is not a listed subject, the subject is still negotiable if:

* it logically and reasonably relates to wages, hours, or an enumerated term and condition of employment;
* it is of such concern to management and employees that conflict over the subject is likely and the mediatory influence of collective negotiations is the appropriate means of resolving the conflict; and
* the employer's obligation to negotiate would not significantly abridge its freedom to exercise managerial prerogatives that are essential to the achievement of the district's mission.

It should also be noted that a bargaining agreement is not permitted to replace, set aside, or annul a provision in the Education Code.

Good Faith

"Good faith" bargaining requires active participation in bargaining with an intention to find a basis for agreement; sincere effort to reach a common ground; and binding agreements on mutually acceptable terms.

The types of conduct that tend to prove bad faith include:

* Going through the motions without any real effort to reach agreement. This is generally called *surface bargaining.*
* Failure to exchange reasonable bargaining proposals or make counterproposals.
* Delaying tactics in scheduling bargaining sessions such as cancelling or missing meetings.
* Not giving negotiators at the bargaining table sufficient authority to reach agreement.
* Presenting "take-it-or-leave it" bargaining positions.
* Union attempting to bargain directly with members of the governing board and bypassing the designated management negotiator. The union may advocate its point of view at a public meeting of the governing board on a subject under negotiation, but may not attempt to negotiate on the topic.
* Refusing to reduce an agreement to writing.
* Not explaining the reasons for bargaining positions.
* Unwillingness to make any concessions.
* Conditioning agreement on economic matters on agreement on noneconomic matters (such as ground rules).
* Conditioning bargaining on withdrawal of unfair labor practice charges and grievances.
* Failure to inform the union of relevant information not requested.
* Reneging on tentative agreements.
* The withdrawal of proposals.
* "Unlawful pressure tactics" by the bargaining agent - striking without adequate notice to the employer of the intent to strike and intermittent (off-and-on) or partial strikes (coming to work, but refusing to perform certain duties).

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* Employer communicating directly with employees during negotiations unless its communication is factually accurate, is not intended to derogate the exclusive representative's authority, and is not an attempt to frustrate the bargaining process.
* Employer making unilateral changes in the terms or conditions of employment by reaching a special agreement with individual employees.

Some conduct is automatically considered bad faith bargaining. Examples of "per se" refusals to bargain in good faith include:

* **Unilateral Action:** A unilateral change in a working condition that is a mandatory subject of bargaining. PERB has said that a change is unlawful as a failure to bargain only if it has a generalized effect or a continuing impact on the terms and conditions of employment. A unilateral change might not qualify as an unfair labor practice and still be a violation of the contract. Contract violations are not handled as unfair labor practices, but rather as matters of the grievance process and perhaps the courts.
* Failure to negotiate the effects of a change that is not within scope **but has** an impact on subjects within scope. If the subject is outside the scope of bargaining, such as a decision to lay off employees, the parties still must negotiate over the **effects** of the decision that have an impact on matters within scope.
* A categorical denial by the district to negotiate on a released-time proposal
* A strike before completion of impasse procedures unless provoked by the employer's unfair practices (such as bad faith bargaining) or if the union's overall conduct shows that it was acting in good faith.

**Employer Domination**

It is an unfair labor practice for an employer to "dominate or interfere with" or to contribute financial or other support to a union, or "in any way encourage employees to join any employee organization in preference to another."

An employee council or forum may be unlawful if the employer is involved in selecting officers, scheduling meetings, setting agendas, and providing released time, stationery, copying facilities, or meeting rooms.

Cases of Interest

* Unlawful for employer to set up organization to represent employees. *Antelope Valley CCC (1979) PERB No. 97, 43 CPER 87*
* Unlawful for employer to sponsor "teacher forum" to discuss matters within the scope of bargaining. *Oak Grove S.D (1986) PERB No. 582, 70 CPER 60.*
* Employee council formed to improve communications among employees was employee organization and thus it was unlawful for the employer to deal with the council even on matters outside scope because it **undermined the union.** *Redwoods CCD (1987) PERB 650, 76 CPER 84.*

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Bypassing the Exclusive Representative
Cases of Interest

* It was found that a university newsletter about a pay increase was an unlawful communication with employees during negotiations. *CSEA v CSU (1989) PERB no. 777-H, 83X CPER 16.*
* **Direct Dealing:** It is an unfair labor practice for a direct to negotiate with individual employees to provide terms of employment that differ from those provided in the collective bargaining agreement, without giving the union notice or the opportunity to negotiate. *lake Elsinore S.D. (1987) PERB No. 646, 75X CPER 13.*

**Unilateral Changes in Conditions of Employment**

* An employer must given the union advance notice of any proposed changes in conditions of employment (even if not covered in the collective bargaining agreement) and an opportunity to bargain before taking unilateral action. A change is unlawful as a failure to bargain only if it has a generalized effect or a continuing impact on the terms and conditions of employment. A unilateral change in the agreement would be a violation of the agreement. PERB does not enforce collective bargaining agreements.
* The employer's duty to bargain on unilateral changes of conditions of employment is triggered by the union's demand to negotiate, which must put the employer on notice but need not be in any particular-form. Requests to negotiate effects of managerial decision must be specific. *Newman Crows Landing USD (1982) PERB No. 223, 55 CPER 62.*

The obligation to negotiate the effects of nonnegotiable decision by the employer includes the requirement that there be reasonable time to negotiate between announcement and implementation of the decision. *Compton CCD (1989) PERB No. 720, 80X CPER 14.*

* Union's waiver of the right to bargain must be intentional, demonstrated in "clear and unmistakable" contract language (most "zipper" clauses do not meet this standard), or in behavior waiving reasonable opportunity to bargain over decision not already firmly made by the employer. *Los Angeles CCD (1982) PERB No. 252, 55 CPER 71.*

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Protected Activities

Employees are guaranteed the right to form, join and participate in the activities of their union. These rights are called "protected activities".

It is an unfair practice for an employer to:

* Impose or threaten reprisals on employees
* to discriminate or threaten to discriminate against employees
* otherwise interfere with, restrain, or coerce employees

in the exercise of "protected activities".
Cases of Interest

* The evidence that tends to prove unlawful motivation for employer's action against employee includes inadequate investigation before taking action, shifting justification, failure to follow usual procedures, timing in relation to protected union activities, and harsh treatment. *Baldwin Park USD (1982) PERB No. 221, 54 CPER 69.*
* An employer speech is unlawful if it contains threat or reprisal or promise of benefit to employees such that it interferes with or discourages exercise of the right to choose representative. *Rio Hondo CCD (1980) PERB 128, 46 CPER 68.*
* Evidence tending to prove unlawful motivation includes indication of employer antiunion animus, disparate treatment of employees, employer knowledge of employee's union activity, action inconsistent with employee's prior record. Retaliation against employee/union officer also violates union rights. *San Joaquin Delta CCC (1982) PERB No. 261, 56 CPER 77.*

M. Hittelman
3/2/93

Sources: *Pocket Guide to Unfair Practices, California Public Sector,* December 1992 (California Public Employee Relations Program, Institute of Industrial Relations, University of California, Berkeley)

*The Duty to Bargain in Good Faith in California's Public Sector ,* January 1990 (Institute of Industrial Relations, University of California, Berkeley)

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**Community College Council**

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M. Hittelman
2/5/93

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LOCALS

Antelope Valley

Butte

Cabrillo

Coast

Coastline

Golden West

Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

San Diego

City

Mesa

Miramar

San Diego Adult

S.D. Naval Technical

San Francisco

San Mateo

Canada

Skyline

San Mateo

Santa Rosa

State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

**Unilateral Action by District**

In *United Professors of Marin. Local 1610, CFT/AFT AFL-CIO v Mann Community College District* [Case No. SF-CE-1524, PERB Decision No. 1092, March 21, 1995] the Public Employees Relations Board (PERB) ruled that the "District violated section 3543.5(b) and (c) of the Educational Employment Relations Act (EERA) by **unilaterally implementing a policy of placing former managers on the certificated salary schedule and later refusing the United Professors of Marin, Local 1610, CFT/AFT, AFL-CIO's (UPM) request to negotiate** the issue."

PERB noted that:

* "A unilateral change in terms and conditions of employment within the scope of representation is a per se refusal to negotiate" *[NLRB v Katz* (1962), *Pajaro Valley v Unified School District* (1978), *San Mateo County Community College District* (1979)]
* PERB decided in *Glendora Unified School District* (1991) that "To establish a **unilateral change,** the charging party must show that:
1. the employer breached or altered the parties' written agreement or own established past practice;
2. such action was taken without giving the exclusive representative notice or an opportunity to bargain over the change;
3. the change is not merely an isolated breach of the contract, but amounts to a change of policy (i.e., has a generalized effect or continuing impact upon bargaining unit members' terms and conditions of employment);
4. the change in policy concerns a matter within the scope of representation."

PERB decided in *Anaheim Union High School District* (1981) that a matter not specifically enumerated in EERA is in fact **negotiable under EERA** section 3543.2 "if:

1. it is logically and reasonably related to hours, wages or an enumerated term and condition of employment,
2. the subject is of such concern to both management and employees that conflict is likely to occur and the mediatory influence of collective negotiations is the appropriate means of resolving the conflict,
3. the employer's obligation to negotiate would not significantly abridge his freedom to exercise those managerial prerogatives (including matters of fundamental policy) essential to the achievement of the District's mission." The California Supreme Court approved this test in *San Mateo City School Dist. v Public Employment Relations Bd.* (1983).

One of the issues that arose in the Marin case was whether the matter should have been **deferred to arbitration** under the collective bargaining agreement. In *Lake Elsinore School District* (1987) PERB ruled that **"it has no jurisdiction over matters involving conduct arguably prohibited by a provision of the collective bargaining agreement until the grievance machinery of the agreement, if it exists and covers the matter at issue, has been exhausted either by settlement or by binding arbitration."** PERB found in the Marin case that the conduct by the district "was not arguably prohibited by the language of the agreement" and thus was properly before PERB.

The general rule for going to binding arbitration first is found in the "Steelworkers Trilogy" decisions by the United States Supreme Court. The Court found that "An order to arbitrate the particular grievance should not be denied unless it may be said with positive assurance that the arbitration clause is not susceptible to an interpretation that covers the asserted dispute. Doubts should be resolved in favor of coverage."

The California policy parallels the U.S. policy. The California Supreme Court ruled in *Posner v. Grunwald-Marx (1961)* that "the federal rule to the effect that in such cases all disputes as to the meaning, interpretation and application of any clause of the collective bargaining agreement, even those that prima facie appear to be with out merit" are properly the subject of arbitration also holds under California law.

In *O'Malley v. Wilshire Oil Co.* (1963) the California Supreme Court ruled, citing one of the Steelworkers Trilogy cases, that "In the absence of any express provision excluding a particular grievance from arbitration, we think only the most forceful evidence of purpose to exclude the claim from arbitration can prevail, particularly where, as here, the exclusion clause is vague and the arbitration clause quite broad."

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May 11, 1995

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**Part-Time Seniority and Upgrading**

LOCALS

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Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista -

San Diego

City

Mesa

Miramar

San Diego Adult

S.D. Naval Technical

San Francisco

San Mateo

Canada

Skyline

San Mateo

Santa Rosa

State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

Is it legal to negotiate a part-time seniority system or an upgrading provision? Yes since successful service is a **job-related criteria** and continued employment does not create the need to fill a "new position."

Experience can not be the sole criteria for picking a part-time employee above an outside applicant for a new (permanent) position but it can be a strong criteria among others.

One of the advantages to a district to continue the employment of a part-time employee in his or her position is that the district is not, under this circumstance, required to do a full search in order to fill the position.

I have included below relevant sections of Title 5 and the Chancellor's Office Guidelines. Particular note should be taken as to the definition of "business necessity" and "new opening". The Chancellor's Office believes that a "new opening" occurs when an existing part-time teaching assignment is to be filled by a person who did not previously hold the position. If a position is "new", then the district must do a full and open recruitment. **Districts that do not have a seniority system for continuation of part-time assignments could be required to advertise, search, interview, etc. for each part-time position, each semester, since under this circumstance it could be argued that every part-time position is a "new opening.".**

**Title 5, Chapter 4, Article 2, Section 53021.** Recruitment.

1. Community college districts shall undertake a program of verifiable affirmative action recruitment of qualified members of historically underrepresented groups In all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, the chief executive officer: and all other executive/administrative/managerial positions.
2. "Inhouse or promotional only" recruitment shall not be used to fill any new opening except when:
3. the pool of eligible district employees has achieved proportionate representation and the district has an upward mobility program which is included in the faculty and staff diversity plan approved by the Chancellor;
4. the position is being filled on an interim basis (not to exceed one year) to allow for full and open recruitment; or
5. justified by "business necessity" as defined in Section 53001(c).
6. If a district believes justification exists for use of the "business necessity" exception, it shall so notify the Faculty and Staff Diversity Advisory Committee established pursuant to Section 53005 and the Chancellor at least ten (10) working days prior to offering the position to a candidate.
7. Even where in-house or promotional only recruitment is permitted pursuant to subsection (4), all qualified district employees shall be afforded the opportunity to apply.
8. For purposes of this section, a new opening is not created when:
9. there is a reorganization or series of transfers that does not result in a net increase in the number of employees;
10. a position which is currently occupied by an incumbent and is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;
11. the faculty in a division, or department elect one faculty member to serve as a chairperson for a prescribed limited term; or
12. the position is filled by a temporary appointment using recruitment procedures authorized by other provisions of law.

**NOTE:** Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 871 00 et seq., Education Code.

**Title 5, Chapter 4, Article 1, Section 53001(c).** Business Necessity. **"Business Necessity"** means circumstances which justify an exception to the requirements of Section 53021 because compliance with that section would result in substantial additional financial cost to the district or pose a significant threat to human life or safety. Business necessity requires greater financial cost than does mere business convenience. **Business necessity does not exist where there is an alternative that will serve business needs equally well.**

**Guidelines for Section 53021**

This section requires each district to undertake a program of affirmative action recruitment to attract members of historically **underrepresented groups. It also generally prohibits filling any position through 'in-house" or 'promotional only" hiring.** This is essentially a re-enactment of former Section 53021, but some clarifications have been added.

In order to comply with this section, a district must first determine whether the position to be filled is a **"new opening."** The concept of a "new opening" is somewhat difficult to define. The easiest approach is to list those situations in which a "new opening" **is not created.** These include:

1. undertaking a reorganization or series of one or more transfers or reassignments that does not result in a net increase in the number of employees. This includes situations where an employee dies, retires, resigns, or is terminated and the district chooses to redistribute the workload rather than hiring a new person to perform the work;
2. upgrading, reclassifying, or renaming a position which is currently occupied by an incumbent without significantly altering the duties being performed by the individual;
3. electing one faculty member in a division or department to serve as chairperson for a prescribed limited term;

4. making a temporary appointment using procedures authorized by any of the following Education Code Sections:

1. 87422 (Temporary Academic Exchange Employees);
2. 87480 and 88109 (Emergency Hire in Case of Work Stoppage);
3. 87482.5 (b) (Day-to-Day Substitute Employees);
4. 88003 (Substitute, Short-term, or Temporary Employees Who Are Not Part of the Classified Service); and
5. 88106 (Provisional Employees).

5. filling the position with an employee who has resigned, been laid-off, or has been terminated and has reappointment or reemployment rights pursuant to Education Code Sections 87744 to 87746 or 88127 et seq.,

6. assigning overload (including teaching during summer and intersessions) to existing full-time employees; and.

7. **assigning a part-time faculty member to teach a class in a discipline in which he or she has previously taught without a substantial break in service. It is the recommendation of the Chancellor's Office that the break in service should not be in excess of one year.**

[Note: It is, however, the **opinion of the Chancellor's Office** that a **"new opening" is created when a new teaching assignment is to be given to a part-time employee or when an existing part-time teaching assignment is to be reassigned** because the person who previously performed that work takes a leave of absence, relinquishes the assignment, retires, or otherwise leaves district employment. However, it must be emphasized that this subject was not fully discussed during the development of the regulations and it is anticipated that the effect of these regulations on part-time faculty will be further clarified as time goes on.

It should be recalled that the guidelines for Section 5000 explain that existing collective bargaining agreements will not be affected by the recent changes to the regulations. Thus, a district could continue to use a partial hiring preference for part-time faculty which was negotiated consistent with the earlier version of Section 53021. **(See the discussion of seniority in the guidelines for Section 53024.1)**

Of course, even if one of the above exemptions applies, the district always has the option to open up the position **and conduct** full recruitment. The exemptions are intended to identify situations in which a district may, **but need** not, fill a position on **an** in-house basis.]

While this is not an exhaustive list, if the position does not fit into one of these categories, then it probably is a "new opening." **Where a "new opening" is created, the regulation requires full and open recruitment,** with a focus on historically underrepresented groups. "In-house" or "promotional only" hiring is permitted only if one of the exceptions listed in subsection (b) is applicable. These are:

1. the pool of eligible district employees has achieved proportionate representation and the district has an upward mobility program which is included in the faculty and staff diversity plan approved by the Chancellor,
2. the position is being filled on an interim basis (not to exceed one year) to allow for full and open recruitment; or
3. promotional only hiring is justified by "business necessity" as defined in Section 53001(c). Subsection (c) of the new regulation adds that using this "business necessity" justification requires notice

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to the Chancellor and the district's Faculty and Staff Diversity Advisory Committee at least ten working days prior to filling the position.

Note that exemption (2) is only intended to dispense with the necessity for open recruitment when an interim appointments **made pending a full search. This provision does not, in any way, broaden the circumstances under which temporary hiring is permissible.** In particular, hiring of temporary faculty is limited to those situations authorized in Education Code Sections 87478 to 87482.5.

Another new provision is subsection (d), which states that even where in-house or "promotional only" hiring is permissible, all qualified district employees must be afforded an opportunity to apply.

Finally, it should be noted that the requirements of this regulation can be satisfied by filling positions from a time-limited list or pool of persons qualified to perform a particular job, where the list was previously established through full and open recruitment involving appropriate outreach to historically underrepresented groups.

**Title 5, Chapter 4, Article 2, Section 53024(a)** All screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, shall be ...

(3) based solely on job-related criteria, provided that, when a particular candidate who meets the minimum qualifications for the job is also a member of an historically underrepresented group, this membership may be taken into account as one factor in the final selection process where this would further achievement of the goals as set forth in the district's faculty and staff diversity plan; and ...

**Title 5, Chapter 4, Article 2, Section 53024(d). Seniority or length of service may be taken into consideration only to the extent it is job related, is not the sole criterion,** and is included in the job announcements consistent with the requirements of Section 53022.

**Guideline for Section 53024(d)**

**Subsection (d)** states that seniority or length of service may be taken into consideration only to the extent it is job related, is not the sole criterion, and is included in the job announcement. **Thus, it is permissible for a district to negotiate a collective bargaining agreement which makes seniority a factor in the hiring process where it is clearly job related.** Indeed, a 1990 Chancellor's Office legal opinion held that "Given the interpretation of the Rodda Act by the Public Employment Relations Board, which the California Supreme Court has accepted as correct, **such a partial preference system is negotiable."** However, contract provisions which limit hiring only to existing employees would be permissible only under the circumstances described in Section 53021 and the guidelines accompanying that section.

Prepared by Martin Hittelman
February 2, 1994

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**Right to Names and Addresses**

The right of labor organizations to obtain the home addresses, phone numbers and names of all members of a bargaining unit is a well established right under collective bargaining law.

The Public Employment Relations Board (PERB) has ruled that under the Education Employment Relations Act, employers are required to disclose to collective bargaining representatives information relevant to their representation of unit employees. The relevant cases are *Azusa Unified School District* (1983) and *Stockton Unified School District* (1980). *San Diego Teachers Association v. Superior Court* (1979), *Georgetown Holiday Inn* (1978), *Prudential Insurance Co. of America v. NLRB* (1969), *Autoprod, Inc.* (1976), *Sumner Home* (1976), *Emro Marketing Co.* (1984), and *Reserve Enterprises, Inc* (1974) are National Labor Relations Act related decisions that aid in the interpretation of EERA.

To refuse to provide addresses, wage rates, etc. in an unfair labor practice. Some districts have apparently said that such information should be confidential. Confidentiality cannot justify an employer's refusal to provide them. The union has the right to such information in order to communicate with the employees - a purpose which is a union's right and it's obligation. The union has an obligation to communicate with members and non-members regarding agency fee provisions, the contract, procedural rights, etc. PERB has ruled in favor of the union in *Mt. San Antonio Community College* (1982) and *Compton Community College Federation of Employees v. Compton Community College District* (1987).

In 1992, the Public Records Act (AB1040) was amended to restrict access to home addresses and telephone numbers. An exemption from the restriction was granted to unions under EERA, pursuant to "regulations and decisions of the Public Employees Relations Board" (6254.3(a)(3) of the Government Code). The changes in the Public Records Act which provides that names and addresses are not "public information" did not negate an employer's obligation to provide this information to unions under EERA.

M. Hittelman

11/10/92

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**Free Speech in the Schools**

*First Amendment rights, applied in light of the special characteristics of the school environment,* ***are available to teachers and students.*** *It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the school house gate.* Tinker v. Des Moines School District (1969) 393 US 503

In 1969 the United States Supreme Court ruled that a school district could not prohibit high school and junior high school students from wearing black arm bands in class to express their opposition to the United States policy in Viet Nam. The court recognized that a *"silent, passive expression of opinion unaccompanied by disorder or disturbances .."* could not be curtailed by a school district. For a district to be able to justify a prohibition of such expression, the district *"must be able to show that its actions was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint."* To prohibit such expression *"without evidence that it is necessary to avoid* ***material and***

***substantial interference*** *with school work or discipline, is* ***not constitutionally***

***permissible."***

In 1987, the courts reconfirmed the above ruling, while at the same time allowing a principal to censure articles written in a journalism class and published in a school-run newspaper (Hazelwood School District v Kuhlmeier 484 US 260). The court saw the newspaper as a part of the school curriculum. The court noted that the newspaper was not a "forum for public expression" but rather a school-sponsored publication. It ruled that the school district had the right to control a school-sponsored publication.

A central issue of the right of a district to restrict speech seems to revolve around whether the expression is an activity that *"students, parents, and members of the public might reasonably perceive to bear the imprimatur of the school .."* If the in-class expression of a political belief by a teacher reasonably leads to the perception that the political statement is the official position of the district; then that activity might qualify, under limited circumstances, for legal curtailment by a district. Otherwise speech is protected.

The perception of imprimatur of the school depends on the age of the student. The wearing of a political button, for example, might be perceived by a third grader to be a statement by the school itself. By college, the wearing of a political button by a faculty member could not reasonably be perceived by students as carrying the endorsement of the college. By junior high school most students understand that teachers are people with their own views on everything from clothing to political beliefs.

The California legislature has addressed the issue of free speech of students in the public colleges and universities of California. Education Code Section 66301. *"(a) Neither the Regents of the University of California, the Trustees of the California State University, nor the governing board of any community college district shall make or enforce any rule subjecting any student to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged in outside a campus of those institutions, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article 1 of the California Constitution."* This section of the Education Code clearly allows students to wear political buttons in class - and by extension, faculty as well..

Martin Hittelman

President, Community College Council, California Federation of Teachers

April 19, 1995

[based on a paper by Robert Bezemek entitled "Don't Push My Button")

opeiu:537afl-cio

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SEIU Local 535 v Ventura County Community College District

Administrative Law Judge (All) ruled on July 1, 1994 that the Ventura Community College District violated section 3543.5(d) of the Educational Employment Relations Act (EERA). The District violated the Act by unlawfully supporting classified senates and dealing with the senates on negotiable topics. The All ruled that the actions of the district had the effect of **interfering with the right of the SEIU to represent its members** and thus was also in violation of section 3543.5(b).

Section 3543.5 states that is shall be unlawful for a public school employer to do any of the following:

1. Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.
2. Deny to employee organizations rights guaranteed to them by this chapter.
3. Refuse or fail to meet and negotiate in good faith with an exclusive representative.
4. Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.
5. Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3548).

The ALJ ruled that the classified senate was a "employee organization" under EERA. The criteria used by the ALJ to determine whether the classified senate was an "employee organization" resolved around whether:

* it includes public school employees among its members
* it has as one of its primary purposes the representation of those employees in their relations with the public school employer

In Oak Grove (1986), PERB ruled that a faculty forum established "to improve communications and solve problems" and where negotiable subjects were discussed qualified as an employee organization. In Redwoods, PERB ruled that an employee group could "engage in mere discussion with management, rather than make recommendations to

management" or actually make decisions without management approval without violating EERA. In the Ventura case, the classified senate was part of the shared governance structure and thus was a participant in making recommendations to management.

The AL.1 pointed out that the classified senates had constitutions and by-laws. They had elected officers and conducted regular meetings. They were not merely discussion or brainstorming groups or committees with the full power to make final decisions. He ruled that they were representational bodies composed of employees and were clear rivals to the union.

The All rejected the district argument that somehow the Board of Governors of the California Community Colleges had changed the rules when they enacted minimum standards for shared governance. He pointed out that the Board of Governors displayed a clear understanding of the status of exclusive representatives. In particular, the BOG regulations specifically prohibit unlawful support and the intrusion of staff committees into negotiable subjects. The regulations **"show sensitivity to the rights of exclusive representatives and make clear an intent that shared governance should not intrude upon collective bargaining relationships."**

The district violated 3543.5(d) when it:

* gave released time to classified senate representatives and not to union
* provided free copy machine use to classified senate when it made the union pay
* gave classified senates exclusive right to appoint classified employees to committees
* the district not only granted the classified senate a representational role (a violation of the exclusive representation power of the union), but openly favored senate positions

In the Ventura case there was no evidence presented that management had helped set up the classified senates. If this had been proved, the district would have been in violation of domination by the employer.

Martin Hittelman
September 15, 1994

opeiu:537aflicio

February 1, 1995

Leon Marzillier

AFT College Faculty Guild

Dear Leon,

I have just finished reading Walter Kaufman's decision in the LA Valley Theater Arts arbitration case. I was disturbed by his statement that "it is not invariably recognized that the union may itself be the grievant in the absence of clear contractual authorization." This statement is not true in California under the Educational Employment Relations Act. PERB decided in the case of *Mt. Diablo USD* (1990) No. 844, 87 CPER 75 that the Exclusive Representative has a statutory right to file grievances in its own name and to arbitrate grievances without the grievants' consent.

It is also clear that the union may file a grievance under the specific terms of LACCD faculty contract. The union has not waived, through negotiations, its statutory right to file a grievance in its own name. A grievance is defined as a "formal written complaint alleging that there has been a misinterpretation, misapplication or violation of a specific item of this Agreement or of a written rule or regulation of the Los Angeles Community College District." This language does not mention an aggrieved party - only that some item of the contract or LACCD rules or regulations have been violated. The grievant need not be an injured party under the LACCD contract as a grievant is defined as "a member or groups of members of the Faculty Unit." Clearly the union itself is a "group of members of the Faculty Unit." Kaufman notes that the district did not object to the union being the grievant - and this further illustrates that there is no question in LA that the union can be the grievant.

We might wish to make Kaufman and our other arbitrators aware of the Mt. Diablo decision.

I don't think that Kaufman's statement regarding the ability of the union to grieve in any way affected his decision in the Valley Theater Arts case but it might in some future case.

yours Tr-41y,



Marty Hittelman

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**Administrative Evaluation and Libel**

Education Code Section 87663(i): "Governing boards shall establish and disseminate written evaluation procedures for administrators. It is the intent of the Legislature that evaluation of administrators, include, to the extent possible, faculty evaluation."

Question: Are there legal restrictions which would affect the distribution of the final evaluations, or the "raw data" from the evaluation form?

Threshold question: Are the documents "public records". If so, then the laws affecting the disclosure of public records apply.

Government Code 6254 speaks to the issue of records which are exempt from disclosure requirements. In particular, a local agency (such as a community college district) is not **required** to disclose "personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy" (6254(c)). This section of the code does not address the issue of whether a local agency **may** disclose the information if it wishes to.

At the end of this section, the following sentence occurs: "Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law."

Brian L. Carr, Deputy County Counsel for the County of Santa Clara, concluded in 1990 that administrator evaluations are not public records and thus are exempt from **mandatory disclosure** in accordance with the Public Records Act.

He also seemed to indicate that evaluations could be expected to be made available to supervisors and others who would have a professional interest in the evaluation. The Board of Trustees could look at the evaluation in closed session pursuant to Government Code Section 54957.

Government Code 54957 speaks to the right of a legislative body of a local agency (such as the board of a community college district) to hold closed sessions which deal with certain topics (including the evaluation of employees). It does not address the issue of whether a local agency can meet publicly to discuss these topics.

The question that Mr. Carr then addressed is whether the faculty, etc. that participated in the evaluation would be **entitled** to view the final evaluation or the raw data from the forms. He

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then advises against all persons on the faculty or all persons filling out forms having access to the information because of possible liability, even though the law is not clear on the question. The less general the distribution (to the evaluation team, etc.), the less the district puts itself in jeopardy of suit for invasion of privacy.

The First Amendment of the California Constitution states that "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy. " Mr. Carr believes that the release of an evaluation could result in a violation of the right to privacy. The courts test the right of privacy against the publics right to know. In *Braun v. City of Taft* (1984, 5th District) 154 Cal App 3d 332, 201 Cal Rptr 654, the court found that some information might have been embarrassing to the individual and although personal it was not secret and could be released. The question is basically whether the public interest served by not making the record public outweighs the public interest served by disclosure of the record. It is a balance between the right of privacy and the right of the public to oversee the actions of government employees.

Libel is defined as a "false and unprivileged" publication of a writing which "exposes any person to hatred, contempt, ridicule ... which has a tendency to injure him in his occupation." Mr. Carr believes general circulation of administrative evaluations could subject the district to lawsuit based on libel - although truth is not subject to libel.

Defamation Law

In *Milkovich v. Lorain Journal Co. , 58 LW 4846 (US SupCt 1990),* the Court said "the governing test in cases of defamation is an analysis of the 'totality of circumstances surrounding the utterance, rather than a rigid attempt to categorize a particular statement of fact or opinion."

There is no "wholesale defamation exemption from anything that might be labeled 'opinion.' Instead, the court must make an independent judgment whether particular statements can reasonably be interpreted as stating actual defamatory facts about an individual."

Further, the Court stated, "Where a statement of 'opinion' on a matter of public concern reasonably implies false and defamatory facts regarding public figures or officials, those individuals must show that such statements were made with knowledge of their false implications or with reckless disregard for the truth. Similarly, where such a statement involves a private figure on a matter of public concern, a plaintiff must show that false connotations were made with some level of fault. "

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**Summary of defamation law:**

A defamation suit must generally allege:

1. the defamatory character of the communication,
2. publication of the communication to a third party,
3. that the communication refers to the plaintiff,
4. the third party's understanding of the communication's defamatory character, and
5. injury.

Communications are defamatory if they tend to harm an individual's reputation in such a way as to lower that individual in the eyes of the community or to discourage third persons form associating or dealing with him or her.

Truth is a complete defense. However, since the law presumes that any alleged defamatory statement is false, the person must be able to prove his/her statements.

Labeling a negative statement as "an opinion" is not a defense to a defamation claim. For instance, a person cannot escape liability for accusations of a crime or immorality simply by adding the words "I think." An opinion can be defamatory if it implies an allegation of undisclosed defamatory facts as its basis. Even if a speaker states the facts upon which he/she bases his/her opinion, if those facts are either incorrect or incomplete, or if his/her assessment of them is erroneous, the statement may still imply a false assertion of fact, and thus may be defamatory.

Source for Defamation Law: West's Legal Alert for Educators and School Board Members (October 10, 1991).

Martin Hittelman
5/21/92

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**Retirement Health Benefits**

Does the contract clause of the constitution protect negotiated retirement benefits?

* In *Olson v. Cory* it was found that pension rights are a part of compensation. They are rights which are vested upon acceptance of employment. Once vested, they can't be eliminated without unconstitutionally impairing the contract obligation.
* In *Thorning v. Hollister,* the same analysis was applied to find that retirement health benefits are also a part of compensation which vests upon acceptance of employment and cannot be eliminated without unconstitutionally impairing the contract obligation.
* In *Allen* and other cases, it has been held that vested benefits can be reasonably changed **prior to retirement,** but only for the purpose of keeping a system flexible in light of changing conditions and maintaining the integrity of the system. Moreover, any disadvantageous changes to the benefits must be offset by comparable advantageous changes to the benefits which are provided to the individual employee.

What is vested? This depends on what the agreement required when the employee was hired or at retirement. Some issues to consider when determining what is actually vested are:

* Did the agreement require full employer payment of benefits at retirement, a percent of the cost borne by the district, a set amount of money paid by the district, or that the district pays based on the least costly carrier?
* Did the agreement state the level of coverage (dependent eligibility, drug coverage, deductible requirements, etc.), the carrier, or the same plan as current employees?

Can these vested contract rights be waived by unions or bargained away?

* If the retirement health benefits were established prior to collective bargaining, the exclusive representative cannot bargain away or waive these vested constitutional rights without individual consent from individual retirees.
* In *Hauser, Bokunewicz, and Terpinas,* all cases regarding collective bargaining in the private sector, vested retirement benefits conferred in collective bargaining could not be altered by subsequent negotiations.
* Retirement health benefits cannot be reduced in exchange for salary or other compensation unless the individuals with the vested rights consent.

In a recent case, *Contra Costa Community College Retirees Association v Governing Board of the Contra Costa Community College District,* the decision did not address the issue whether retirement health benefits which exist only by way of collective negotiations (this case concerned promises made prior to collective bargaining) can result in contractually vested rights which cannot be impaired without violating the state or federal contract clause. However, based on the federal private sector cases (where the state and federal constitutional contract clauses do not apply) it would appear that there is no reason that collectively bargained benefits would not vest, but one would have to look at the language in the agreement to determine what exact promise was made.

Marty Hittelman

12/07/93

(above discussion based on decision in *Contra Costa Community College Retirees Association v Governing Board of the Contra Costa Community College District,* California Superior Court, Sept. 1993 and correspondence with Katherine J. Thomson of the Law Offices of Robert J. Bezemek.)

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LOCALS

Antelope Valley

Butte

Cabrillo

Coast

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Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

San Diego

City

Mesa

Miramar

San Diego Adult

S.D. Naval Technical

San Francisco

San Mateo

Canada

Skyline

San Mateo

Santa Rosa

State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

Notes on San Mateo Federation of Teachers v San Mateo Community College District Case No. SF-CE-1414, PERB Decision No. 1030, December 28, 1993

Findings of the Public Employment Relations Board (PERB)

* The PERB administrative law judge (All) found that the district violated the Educational Employment Relations Act (EERA) section 3543.5 by refusing to provide the San Mateo Federation of Teachers, AFT Local 1493, a **reasonable amount of released time for meeting negotiating and processing grievances. PERB reversed this finding.** PERB found that *"the statutory provisions concerning released time are applicable at the onset of first time negotiations in order to ensure the ability to get to the negotiating table and in subsequent years when there are no controlling provisions of released rime from prior agreements in operation."* PERB found no evidence that the Federation informed the District that it would not bargain over reasonable released time because it was a **statutory right to reasonable released time.**

**PERB member Caffrey dissented on this point.** He concluded that the district was in violation of section 3543.1 by refusing to grant more released time. He concluded that the amount of released time granted to the Federation did not satisfy the "minimum released time standard" (Anaheim Union High School - 1981) and by refusing to award additional released time, the District had adopted a policy which "is unyielding to changing circumstances" (Magnolia School District - 1977) and creates a "dominance over the process" which was rejected by PERB (Anaheim). The District had, he ruled, interfered with the Federation's right to represent its members in violation of section 3543.5(b). Caffrey pointed out that the EERA section 3543.1(c) does not contain a provision limiting the statutory right to reasonable released time to periods when an MOU is in effect (as do the Dills Act and HEERA).

* The PERB All found that the district violated EERA section 3543.5 by refusing to negotiate in good faith about released time. The PERB board agreed with the ALJ's finding that the District refused to bargain in good faith on the issue of released time, in violation of EERA section 3543.5(c).
* The PERB ALT found that the district violated EERA section 3543.5 by **conditioning a final agreement on the Federation's waving the right to a reasonable amount of released time. PERB reversed this decision.** PERB ruled that although there is a statutory right to reasonable released time under EERA, insistence upon negotiations on such a mandatory subject of bargaining is not a per se violation of the duty to bargain. PERB found that there is no violation based on the theory of conditional bargaining of a mandatory subject of bargaining.
* The PERB AU found that the district violated EERA section 3543.5(e) when it failed to participate in impasse procedures in good faith. The PERB affirmed the All's finding that the District, during mediation, violated EERA section 3543.5(e) by refusing to participate in the impasse in good faith.

Notes

PERB has ruled that EERA section 3543.1(c), *"A reasonable number of representatives of an exclusive representative shall have the right to receive reasonable periods of released time without loss of compensation when meeting and negotiating and for the processing of grievances",* created a statutory right to released time. PERB has also determined that released time is a mandatory subject of bargaining (Magnolia School District - 1977). PERB has found that reasonable released time is not to be left "entirely to the vagaries of negotiations" (Anaheim Union High School District - 1981) .

PERB, in this case, decided that it *"does not believe that it was intended under EERA that employees would be accorded special privileges relative to released time; that is, be afforded the protection of bargaining the matter as a mandatory subject of bargaining and, regardless of the degree of good faith bargaining which occurs, be given the right to attack an agreement previously reached with the employer through the unfair practice process only because the quantity may not be equal to the average surrounding jurisdictions or some other empirical standard."*

Bob Bezemek, (510) 763-5690, was the Attorney for the San Mateo Federation of Teachers.

M. Hittelman
January 19, 1994

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Staff Development Funds - Right to Negotiate

Unions have the right to negotiate proposals which deal with establishing and administering staff training and development. This right is well established (see San Mateo City School District (1981) and Jefferson School District (1980) as examples). Some things to consider when negotiating on staff development are:

* The fact that the Education Code mandates the creation of a fund for staff development does not preclude negotiations over the operation of the staff development program.
* The Rodda Act prohibits negotiations only when provisions of the Education Code would be "replaced, set aside, or annulled by the language of the proposed contract clause." (San Mateo City School District 1981).
* Unless the "statutory language ... clearly evidences an intent to set an inflexible standard ... the negotiability of such proposal is not precluded." (San Mateo City School District 1984)
* Composition of committees is negotiable as is the amount of money to be awarded to any given unit member, the terms and conditions of the award, and similar matters.
* Training is reasonably related to safety, job performance, evaluation, quality of service, grievance procedures, and potentially to wages and is therefore negotiable.
* If a Education Code Section required an advisory committee composed of various constituencies, the union could still negotiate over the number of individuals on the committee, the number of unit representatives compared to other representatives, and the design of the particular plan which meets the needs of the unit.

Martin Hittelman
March 25, 1994

based on advise from Robert J. Bezemek
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**Maternity, Parental, and Family Medical Care Leaves**

**Education Code:** Section 87766. The governing board of a community college district shall provide for leave of absence from duty for any academic employee of the district who is required to be absent from duties because of pregnancy, miscarriage, childbirth, and recovery therefrom. The length of the leave of absence, including the date on which the leave shall commence and the date on which the employee shall resume duties, shall be determined by the employee and the employee's physician.

Disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment by any school district.

Except as provided herein, written and unwritten employment policies and practices of a community college district shall be applied to disability due to pregnancy or childbirth on the same terms and conditions applied to other temporary disabilities.

This section shall be construed as requiring the governing board of a community college district to grant leave with pay only when it is necessary to do so in order that leaves of absence for disabilities caused or contributed to by pregnancy, miscarriage, or childbirth be treated the same as leaves for illness, injury, or disability.

**San Diego:** a **maternity** leave may be taken, without pay, upon giving birth for up to six weeks (eight for C-section deliveries). Those faculty members who do not have sufficient full-salary sick leave or **those who prefer not to use their full-salary sick leave** for the purposes of maternity leave may use half-salary sick leave for this 6-or-8 week time period. A faculty member who is the parent of an infant up to the age of six months may be granted a **parental leave** of up to six months without pay. A faculty member may be granted a continuous leave of up to four months without pay to **care** for a parent, child, or spouse who has a serious health problem, or because of a serious health condition that makes the faculty member unable to perform the functions of the position. A faculty member may take an **adoption/child placement leave** for up to four months without pay in order to make final

arrangements to adopt a child, or to arrange for the placement of a child of the faculty member in foster care.

**Los Angeles:** a **maternity** leave is an unpaid leave which may be granted for a maximum period of two semesters. No salary is paid while on maternity leave; however, for the period of time during which the employee is physically disabled and unable to perform her regular duties due to pregnancy, miscarriage, childbirth and recovery therefrom, she is permitted to utilize her illness leave. An employee may request that a maternity leave be terminated and file for a formal illness leave. A person may take a **parental leave** for a period of one or two semesters and may extend the leave for a total of six semesters for any given minor child. The leave is available to an employee who is a parent or legal guardian for his/her minor child (under 18 years of age). No salary is paid by the District for the period of service covered by this leave except in the case of the birth of a child or the arrival of an adopted child. In this case a maximum of twenty paid working days shall be granted. Such paid leave will be subtracted from •

accumulated illness leave. A **family illness** leave is granted to an employee who is needed at home because a member of the immediate family is ill. The leave shall not be granted for more than four semesters. No salary will be paid by the District.

**San Francisco:** Under the **maternity** leave policy, a unit member who is absent from duties because of disability caused by or contributed to by pregnancy, miscarriage, childbirth or recovery therefrom shall have the right to utilize sick leave, unpaid leave or partially paid sick leave (after exhaustion of full sick leave days). To utilize these leave provisions after the delivery date, the employee shall be required , within six weeks post delivery to provide a physician’s statement as to the expected length of disability/ability to return to work. These provisions are not intended to be used as child care leave. **Child care** leave is an unpaid leave which shall commence on the date certified by the employee's physician that she is able to return to work.

**Cabrillo:** Upon request by the unit member and approval of the Governing Board, leave without pay or other benefits shall be granted to a unit member for preparation for **child bearing and for child rearing.** Use of child bearing preparation leave does not preclude subsequent use of pregnancy disability leave. The duration of the leave shall consist of no more than twelve consecutive months. An extension leave may be granted for up to twelve months.

**Ventura:** A **home responsibilities** leave may be granted to a faculty member to care for his/her immediate family member whose health temporarily requires the full-time attention of the faculty member. The leave is unpaid and may be granted for up to one year. The leave may be extended for another year. A faculty member is eligible for a **parental** leave when said absence is due to pregnancy, convalescence from childbirth or adoption of a child. The leave is a paid leave of up to fifteen working days. Any additional days of absence required due to pregnancy, or convalescence following childbirth, or adoption shall be granted without pay. Any faculty member who is required to absent himself from his duties because of birth or adoption of a child shall be granted **paternity** leave without loss of pay for a period not to exceed fifteen working days. These leaves are for absence due to illness or injury resulting from pregnancy (which fall under illness leave).

**Glendale:** After the period of disability, the employee shall, upon written request, be placed on an unpaid status for purposes of **infant care,** for the remainder of the school year in which the childbirth occurred, and may at the discretion of the District be extended as much as two school years.

Comparable unpaid leave for the purpose of infant care shall be made available to an employee who is the father of a newly-born child. Unpaid leave may be granted for the purpose of **elder care** for up to two school years. A leave of absence for **home responsibilities** may be granted to permanent

employees only, for the purpose of child care, adoption, and care of members of the immediate family for health reasons. The leave may be granted for the remainder of the school year in which it is requested and may be renewed only for the following school year.

Marty Hittelman

11/15/93

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*4'1C of the California Federation of Teachers, AFT, AFL-CIO*

Community College Council

1200 W. Magnolia Blvd. / Burbank, CA 91506
December 7, 1992

818/843-8226 FAX 818/843-4662

To: Locals

From: Marty Hittelman

Subject: Definitions of Grievance

Los Angeles

1. Grievance. A grievance is defined as a formal written complaint alleging that there has been a misinterpretation, misapplication or violation of a specific item of this Agreement or of a written rule or regulation of the Los Angeles Community College District.

The Grievance Procedure is not for the adjustment of complaints relating to any of the following:

1. Any and all matters relating to the selection and/or hiring of employees, except hourly rate seniority and summer session priority.
2. Suspensions and dismissals for which review procedures are provided by the Education Code.
3. The review of final Peer Evaluation Reports or final Administrative Evaluation Reports in which the overall evaluation indicates that the employee is "Satisfactory ."
4. The review of a written open non-confidential reference submitted in conjunction with a selection or evaluation for a position.
5. Accusatory statements or charges relating to the professional fitness or moral fitness of an employee. However, a Notice of Unsatisfactory Service which is not a basis for further disciplinary action may be grieved.

2. Grievant: A grievant is a member or group of members of the Faculty Unit.

Note: The Los Angeles contract also has a provision that states that "This Agreement is not intended to modify or replace by any of its terms the rights of every faculty member in the bargaining unit under the law. Both parties agree to comply with state and/or federal law." This provision makes state and/or federal law violations by the district grievable under the contract.

Note: The above definition does not say that the person has to be adversely affected - only that a grievance occurred. It should also be noted that violations of written rules and regulations (not contained in the contract) can be grieved.

Cook County Community Colleges, Chicago

1. A "grievance" shall mean a complaint by a faculty member:

1. that there has been as to him a violation, misinterpretation, or inequitable application of any of the provisions of this agreement or;
2. that he has been treated unfairly or inequitably by reason of any act or condition which is contrary to established policy or practice governing or affecting faculty members.

Antelope Valley

Definitions and General Provisions

1.2.1 Grievance

A grievance is a complaint by any employee who is a member of the certificated bargaining unit

alleging that the employer (AVCCD or its representatives) has violated a term of the written employment

contract agreed to by the Board and the recognized certificated bargaining agent. A grievance may be filed by a member of the unit on his/her own behalf or **by the Federation on behalf of the Federation or on behalf of a member(s) of the unit.**

Note: The right of the union to file a grievance is clearly spelled out. It should be noted that in *Mt. Diablo* USD, No. 844 (1990) and in *South Bay Union S.D* No. 791 (1990) (PERB), it was ruled that the exclusive representative has the statutory right to file grievances in its own name, to arbitrate grievances without grievants' consent-and that the union is not required to bargain over a proposal that it waive those rights. Statutory rights are not mandatory subject of bargaining. The PERB decision in *South Bay Union S.D* was sustained in 1991 by the California Appellant Court.

**Ventura**

16.2 A. A grievance is a written complaint alleging that there has been a **refusal to apply** this Agreement or a misinterpretation or misapplication of the terms of this Agreement.

16.2.B. For the purposes of this procedure, a grievant may be an individual faculty member, except the Federation may file a grievance on Article 17, Federation Rights. Any grievant shall be entitled to a Federation representative at any stage of the grievance procedure.

Note: The language allowing a grievance for refusing to apply the contract is a nice provision.

**Los Rios**

1.1 A grievance shall be a complaint by:

1. a unit member that she/he has been adversely affected by a **misinterpretation, misapplication or violation** of the provisions of this Agreement, or
2. **LRCFT that LRCFT** has been adversely affected by a misinterpretation, misapplication or violation of rights directly affecting it or as a co-filer with **an individual grievant.** In the event LRCFT has a grievance directly affecting it, the grievance shall be filed at the campus level-or District level, whichever is appropriate.

**San Francisco**

1. Grievance - A formal written allegation by a grievant that the grievant has been adversely affected by a violation of a specific article, section or provision of this Agreement.

1.1. Grievance as defined in this Agreement shall be brought only through this procedure.

1.2 Actions to challenge or change the policies, rules, regulations, or administrative rules or regulations not contained in this agreement, or, on matters not within **the scope of bargaining must be undertaken** under those process then in effect.

1. Grievant
2. Any unit member with a grievance;
3. **Any group of Unit members having the same grievance.**
4. Local 2121 where there is a specific union right alleged violated, e.g. use of bulletin boards, use of equipment, union parking permits, etc.

Note: A group with a common grievance is a cost saving device that some districts do not allow.

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Shared Governance in AFT Local Contract

Many locals have negotiated language into their contracts which address issues of shared governance on campus. Most deal with the composition of committees and AFT representation. Some contracts address and guarantee a role for the Academic Senate. Here are some examples of the kind of language currently contained in local contracts:

Ventura District Contract

The Federation shall have the right to appoint a member to the following list of District and

college committees:

A. DISTRICT- WIDE COMMITTEES

1. DCAS and DCI
2. Staff Development
3. Sabbatical Leave
4. DACAA
5. Information Systems Policy
6. Institutional Research
7. Wellness/CAP
8. AB1725 Steering
9. Flex Day

B. MOORPARK COLLEGE COMMITTEES

1. Fiscal Planning (Budget)
2. Student Services
3. Academic Affairs
4. Staff Development
5. Campus- wide Shared Governance

C. OXNARD COLLEGE COMMITTEES

1. President's Cabinet
2. Budget Development
3. Curriculum
4. Staff Development

D. VENTURA COLLEGE COMMITTEES

1. Academic Affairs
2. Staff Development
3. Student Affairs
4. Administrative and Fiscal Affairs (Budget)
5. Campus Use and Development
6. Planning (Shared Governance)

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Compton Faculty Contract

The Compton Community College Federation of Employees (CCCFE) shall have the right to appoint one representative as part of the faculty component to the following college standing advisory committees:

Affirmative Action, Budget, Curriculum, Student Disciplinary Review, General Education.

Occupational Safety and Health, Petition, Institutional Advisory, Institutional Planning.

All such college standing advisory committees shall maintain records of all meetings and recommendations. Copies of such records shall be forwarded to the college President and the President of the CCCFE.

The CCCFE shall have the right to appoint one representative to full-time screening committees.

Los **Angeles Faculty Guild Contract**Committees

1. Each campus shall establish a budget committee which includes representation from the faculty. The number of AFT faculty representatives in such budget committee shall be equal to the number of faculty representatives designated by the Academic Senate.
2. Each campus and the District shall establish an affirmative action committee which includes representation from the faculty. At least one member of each committee shall be chosen by the AFT to represent the AFT. The committee shall meet a minimum of two (2) times per semester. The committee shall submit an annual report on the progress of affirmative action hiring to the campus President, the District, and the AFT.
3. Each campus shall establish a curriculum committee the majority of whose members are faculty members selected by the faculty. At least one member of this committee shall be chosen by the AFT to represent the AFT. The Chair of this committee shall be a faculty member.
4. If the District establishes a budget committee, it shall include representation from the faculty. The number of AFT faculty representatives in such budget committee shall be equal to the number of faculty representatives designated by the Academic Senate.

Note: Committees addressed in the contract include Work **Environment, Summer Session, campus Academic Senate committee for distribution of convention attendance funds, and benefit advisory.**

**Glendale Faculty Contract**

Section 9. Consultation Procedures

1. Committees: The Guild and the Academic Senate shall each have the right to appoint an employee to serve as a representative on any College committee in the areas of **student personnel services, curriculum and instruction, campus development, planning and facilities.** Excluded are those committees dealing with management functions, confidential matters, personnel matters and collective bargaining matters. Budget- related committees are dealt with in paragraph B below. Nothing in this Article shall preclude the appointment of any other employees to committees.
2. Budget Development: Attendance by Guild and Academic Senate representative(s) shall be permitted when department heads, deans, division chairs or others with budget responsibility make their

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initial budget presentation to the Superintendent/President, when budget review hearings are conducted by the Superintendent/President and at comparable presentations or hearings. The foregoing notwithstanding, meetings between the Vice President, Administrative Services and the Superintendent/President are excluded, as are administrative retreats and Superintendent/President's Cabinet meetings.

1. Administrative Consultation: In any situation where there is a proposed Board policy change which has not been the subject of prior consultation with the Guild, or which has not been the subject of consideration by one of the committees which has a Guild appointed member, or which has not been the subject of consideration by the Academic Senate (including but not limited to the use of the College Governance Process), the Guild shall have the right, upon request, to meet and consult with administration prior to final adoption. At least two weeks shall be allowed for such consultation, except in emergency situations. It is understood that appearance of such a matter on a Board Agenda shall constitute notice to the Guild.
2. It is agreed that prior to subcontracting any educational services, the District shall consult with the Guild as provided in this Article.

**Los Angeles Staff Guild Contract**

1. Worksite and District-Wide Committees

If a College President, Division Head, the Chancellor, or the Board of Trustees appoint a campus/worksite and/or District-wide advisory committee for **accreditation, budget, planning/development, sexual harassment, AIDS education, staff development, and/or affirmative action,** the AFT College Staff Guild shall be entitled to have at least one of its members appointed to the. committee by the AFT Staff Guild.

If the AFT Staff Guild is asked to participate in any other committee (including selection), the appointment shall be made by the AFT.

1. Classified Service Committee

The District agrees to establish a classified service committee to study the District's procedures and policies concerning applications, examinations, eligibility, appointments, promotions, demotions, dismissals, resignations, compensation with classifications (including a study of gender equity), job analyses and specifications, public advertisements of examinations, job qualifications, and career ladders. The committee shall include one AFT representative.

1. Released Time

The bargaining unit member(s) of the committee shall have released time to carry out the

obligations of this article.

**Coast Classified Contract**

The Federation shall appoint at least one classified representative to all District or collegewide committees consisting of classified, faculty and administration and additional representatives, as requested by the committee.

The Federation appointees shall serve on one District or Collegewide committee (including their subcommittees) and may serve on other committees with approval by their immediate supervisor.

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The District will provide the opportunity for a representative of the Federation to talk with new employees during the orientation process to explain the role of the Federation and the provisions of this Agreement.

**Coast Faculty Contract**

The District and the Federation encourage and favor periodic meetings between the District and the Federation representatives to discuss mutual problems not concerned with specific grievance but with the overall relationship between the parties to this Agreement. Such meetings shall be arranged at the mutual convenience of the District and Federation representatives concerned.

1. Educational Objectives Consultations. Upon the request of either party, the District and the Federation agree to meet and consult on the definition of educational objectives and other matters that would facilitate the implementation of this Agreement. Except by mutual agreement, the parties shall be limited to two (2) participants per meeting.
2. District and Federation Relations. The Vice Chancellor for Human Resources and the CFE (Faculty Unit) President shall meet on a regular basis, no less than once each month, to discuss matters that are subject to collective bargaining and that will further the educational goals of the District.
3. College and Federation Relations. The Federation shall designate a Federation Officer as a campus representative and an alternate at each College and notify the College President in writing of such selection and replacement. The representative and the College President, or his/her designee, may meet regularly about matters of mutual concern and shall meet at the request of either party.

**El Camino Contract**

Academic Senate. The El Camino College Academic Senate, which is chartered to provide the faulty with a formal and effective procedure for participation in the formation of District policies on academic and professional matters, will continue that role as is outlined in District Policy 4139, adopted August 7, 1972. The Policy may be amended by the Board of Trustees when such amendment is recommended jointly by the District and the Academic Senate. The Academic Senate shall have no jurisdiction concerning matters specifically delegated to the Federation or to any joint District-Federation committee by terms of this Agreement.

Curriculum. The district shall adopt a Curriculum Review and Approval Policy, which will provide for the responsibility and the authority of the Academic Senate to consider and make recommendations on curriculum matters. Until such a policy is adopted and implemented, curriculum review and approval will be governed by the provisions of Article IV, Section 2 of the Agreement of January 1, 1985, as extended to December 31, 1986. The District Curriculum Review and Approval

Policy will incorporate the following provisions:

Textbook Adoption. The procedures for textbook adoption and cancellation shall continue as forth in District Policy 6133, adopted March 14, 1966 and as amended April 28, 1980. The District shall consult with the Federation as to any changes in this policy.

District-Federation Consultation. The Vice President - Instruction and the President of the Federation will meet upon the request of either person to discuss the definition of educational objectives

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of the College and matters that would facilitate the implementation of this Agreement. By mutual agreement, they may include other persons as participants in any such meeting.

note: committees addressed in the contract include a **college load review committee, divisional load committee, screening committee for full-time faculty hires, calendar committee, sabbatical leave committee, college conference committee, and insurance benefits committee.**

**Los Angeles Faculty Guild Contract**

This Agreement shall modify, replace or add to any policies, rules, regulations, or procedures of the Board and the District which shall be contrary to or inconsistent with any provisions of this Agreement. The Board or its representatives shall take no action to adopt or modify any written policy, rule, regulation or procedure governing conditions of employment in effect at the time of this Agreement's execution and which is not superseded by this Agreement without consulting with the AFT in a good faith effort to reach agreement.

The AFT shall be entitled to representatives at all Board meetings and shall be allowed to speak on any item on any agenda in accordance with existing Board rules. AFT shall be furnished Board agendas and minutes at the same time as such are made available to the public.

**San Francisco Contract**

The District shall mail to the Union office one (1) copy of all official Board **minutes** and one (1) copy of each Board agenda "packet" excluding all confidential information or materials and defined by applicable law. This material shall be furnished to the Union no later than the time they are furnished to the Board. Four (4) additional copies of the Board agenda "packet" shall be made available to the Union on request.

District shall provide Union, without cost, at the time of submission to the Governing Board: (1) One copy of CCFS-311, 311(q), 311(L), CCAF 320; (2) One copy of "Community College President's Study" (ACCCA); (3) One copy of "CCSF Faculty Load Report" (when available): One copy of "Self-Study and Team Accreditation Reports"; One copy each of "Preliminary, Tentative, Publication and Final Budget in adopted form.

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**Education Code**

**70900. Creation of California Community Colleges and Board of Governors**

**There** is hereby created the California Community Colleges, a postsecondary system consisting of community college districts heretofore and hereafter established pursuant to law and the Board of Governors of the California Community Colleges. **The board of governors shall carry out the functions specified in Section 70901 and local districts shall carry out the functions specified in Section 70902.**

**70901. Board of governors; duties; rules and regulations; delegation; consultation**

1. The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, **local authority and control** in the administration of the California Community Colleges.
2. Subject to, and in furtherance of, subdivision (a), and **in consultation with community college districts and other interested parties** as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, **perform the following functions:**

(1) **Establish minimum standards as required by law,** including, but not limited to, the following:

1. Minimum standards to govern student academic standards relating to **graduation requirements and probation, dismissal, and readmission policies.**
2. Minimum standards for the employment of academic and administrative staff in community colleges.
3. Minimum standards for the formation of community colleges and districts.
4. Minimum standards for credit and noncredit classes.
5. 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 opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those

districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

1. Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, **identify the total revenue needs for serving educational needs within the mission,** the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvement, % and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

1. To the extent authorized by law, establish the method for determining and allocating the state general apportionment.
2. Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) **Coordinate and encourage** interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) **Review and approve** all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Carry out other functions **as expressly provided by law.**

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full

authority to adopt rules and regulations necessary and proper to execute the functions specified

in this section as well as other functions that the hoard of governors is **expressly authorized by statute to regulate.**

d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule **delegating that power** to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) **In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation** with institutional representatives of community college districts so as to ensure their participation m the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

**70901.5. Rules and regulations**

(a) The board of governors shall establish procedures for the adoption of rules and regulations governing the California Community Colleges. Among other matters, the procedures shall implement the following requirements:

1. Written notice of a proposed action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption. The regulations shall become effective no earlier than 30 days after adoption.
2. The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the **costs or savings to any state agency,** the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.
3. The board of governors shall ensure that all proposed regulations of the board meet the standards of "necessity," "authority, "clarity," "consistency," "reference," and "nonduplication," as those terms are defined in Section 11349 of the Government Code. A district governing board or any other interested party may challenge any proposed regulatory action regarding the application of these standards.
4. Prior to the adoption of regulations, the board of governors shall consider and respond to all written and oral comments received during the comment period.
5. The effective date for a regulation shall be suspended if, within 30 days after adoption by the board of governors, at least two-thirds of all governing boards vote, in open session, to disapprove the regulation. With respect to any regulation so disapproved, the board of governors shall provide at least 45 additional days for review, comment, and hearing, including at least one hearing before the board itself. After the additional period of review, comment, and hearing, the board may do any of the following:

(A) Reject or withdraw the regulation.

1. Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The regulation shall be treated as a newly adopted regulation, and shall go into effect in accordance with those procedures.
2. Readopt the regulation as originally adopted, or with those nonsubstantive, technical amendments deemed n to clarify the intent of the original regulation. If the board of governors decides to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interests it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to any appeal within the California Community Colleges.
3. As to any regulation which the Department of Finance determines would create a state-mandated local program the board of governors shall not adopt the regulation until the Department of Finance has certified to the board of governors and to the Legislature that a source of funds is available to reimburse that cost.
4. Any district or other interested party may propose a new regulation or challenge any existing regulation.

(b) Except as expressly provided by this section, and except as provided by resolution of the board of governors, the provisions of Chapter 3.5 (commencing with Section 11340) Part 1 of Division 3 of Title 2 of the Government Code shall not apply to regulations adopted by the board of governors.

**70902. Governing boards; rules and regulations; duties; authority, delegation**

1. Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board.", The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board **may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.**

The governing board of each community college district shall establish such rules and regulations **not inconsistent with the regulations of the board of governors and the laws of this state** for the government and operation of one or more community colleges in the district.

1. In furtherance of the provisions of subdivision (a), the board of each community college district shall do all following:
2. Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, **as required by law,** establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the board of governors for **review and approval.**
3. **Establish policies for and approve courses of instruction and educational programs.** The educational programs shall be submitted to the board of governors **for approval.** Courses of instruction that are not offered in approved educational programs shall -

he submitted to the hoard of governors **for approval.** The governing hoard shall establish policies for, and approve, all courses that are offered in approved educational programs without referral to the hoard of governors.

1. **Establish academic standards,** probation and dismissal and readmission policies, and **graduation requirements not inconsistent with the minimum standards adopted by the board of governors.**
2. Employ and assign all personnel not inconsistent with the **minimum standards** adopted by the board of governors and establish employment practices, salaries, and benefits for all employees **not inconsistent with the laws of this state.**
3. To the extent **authorized by law,** determine and control the district's operational and capital outlay budgets. The governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.
4. Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.
5. Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given consideration, and the right to 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.
6. Establish rules and regulations governing student conduct.
7. Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.
8. In its discretion, receive and administer gifts, grants and scholarships
9. Provide auxiliary services as deemed necessary to achieve the purposes of the community college.
10. Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.
11. Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.
12. **Participate in the consultation process** established by the board of governors for **the development and review of policy proposals.**
13. In carrying out the powers and duties specified in subdivision (b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.
14. Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule **delegating the power** to the district's chief executive officer or any other employee or committee as the governing board may designate; provided, however, that the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

El Camino: The Academic Senate is written into the contract with a role outlined in a District Policy. The Policy may he amended by the Board of Trustees when such amendment is recommended jointly by the District and the Academic Senate. Committees addressed in the contract include college load review, divisional load, screening committee for full-time faculty hires, calendar committee, sabbatical leave committee, college conference committee, and insurance benefits committee.

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Los Angeles Valley College Model:

College Council: College President, Vice-President of Administrative Services, Vice-President of Academic Affairs, Academic Senate President, AFT Faculty Guild, AFT Staff Guild, Associated Students Union (ASU), and Other Classified. The College Council serves as the primary recommending body to the College President on the establishment of policies within the scope of the Council and its standing committees. The College Council may accept a recommendation from a standing committee and pass it on to the College President, or it may reject a recommendation from the standing committee and send it back to that committee. The College Council normally may not change a recommendation from a standing committee before passing it on to the College President. A consensus **of the College Council is achieved when there are no more than two (2) dissenting votes.**

**Standing Committees:** Budget, Institutional Planning, Space Utilization, Staff
Development, and Staff Diversity. The chairs of these committees have reassigned time to perform their duties. The Budget Committee is composed of ten faculty members chosen jointly by the AFT and the Senate, five administrative representatives, one representative from each of four classified bargaining agents, and one ASU representative. The Institutional Planning Committee is composed of four administrative representatives, one Faculty Guild representative, one Staff Guild representative, one ASU representative, one Senate representative, one Other Classified union representative, the Curriculum Committee Chair, and eight faculty at large.

**It should be emphasized that the persons who work in shared governance and their belief in the validity of the approach are more important to the success of a system than the system itself. Many different models have worked. Models that have worked in the past sometimes don't continue to work when circumstances or people change.**

Martin Hittelman
10/17/94

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Community College Council

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LOCALS

Antelope Valley

Butte

Cabrillo

Coast

Coastline

Golden West

Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

San Diego

City

Mesa

Miramar

3an Diego Adult

S.D. Naval Technical

San Francisco

3an Mateo

Canada

Skyline

San Mateo

Santa Rosa

State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

**Shared Governance in the California Community Colleges**

Education Code Section 70901(b)(1)(E) (enacted as a part of AB 1725) requires that the board of governors 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 opportunity to express their opinions* ***at the campus level*** *and to ensure that these opinions are given* ***every reasonable consideration,*** *and the right of the* ***academic senates*** *to assume primary responsibility for making recommendations in the areas of curriculum and academic standards."*

Education Code Section 70902(b) also requires action by local governing boards: "the governing board of **each community college district** shall do **all** of the following:"

"(b)(7) *Establish procedures not inconsistent with minimum standards established by the board of governors to ensure* ***faculty, staff*** *and* ***students*** *the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the* ***right to participate effectively in district and college governance ,*** *and the right of the* ***academic senate*** *to assume* ***primary responsibility*** *for making recommendations in the areas of curriculum and academic standards."*

The Board of Governors has acted to establish Title 5 minimum requirements for senate (July 12, 1990), student (September 13, 1991) and staff (January 10, 1991) participation in local governance.

Each of the set of regulations call for local community college districts to adopt policies and procedures that provide for the opportunity to participate in district and college governance.

Limitation of Scope of Shared Governance

All three sets of shared governance regulations clearly state that the regulations may not be used to impinge on due process rights nor detract from collective bargaining (53204, 51025 (d), and 51023.5 (b)). The Board of Governors regulations could not and did not change the scope of bargaining as defined in collective bargaining law.

In particular, in the regulations regarding staff (where there is no counterpart under EERA of the Academic Senate), the regulations state that *"In developing and carrying out policies and procedures pursuant to subsection (a), the district governing boards shall ensure that its actions do not* ***dominate or interfere*** *with the formation or administration of any employee organization, or contribute financial or other support to it, or in any other way encourage employees to join any organization in preference to another. In order to comply with Section 3540 et. seq., such procedures for staff participation* ***shall not intrude on matters within the scope of representation*** *under Section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation* ***on all matters of employer-employee relations.*** *Nothing in this section shall be construed to impinge upon or detract from any* ***negotiations or negotiated agreements*** *between exclusive representatives and district governing boards."* (51023.5(b)).

Government code Section 3543.5(d) states that it is unlawful for a district to ***"dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any employee organization in preference to another."*** Section 3540.1 defines an "employee organization" as "any organization which includes employees of a public school employer and which has as one of its primary purposes representing those employees in their relations with that public school employer." "Employee organization" also includes "any person such an organization authorizes to act on its behalf." Section 3540.1 defines "recognized organization" or "recognized employee organization" as "an employee organization which has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544)."

In *Oak Grove School District* (1986), the Public Employee Relations Board (PERB) held that it was unlawful for an employer to sponsor a "teachers forum" to discuss matter within scope. In *Redwoods Community College District* (1987) it was held that an employee council that was formed to improve communications among employees was an employee organization. PERB further ruled that it was **unlawful for the employer to deal with the council even on matters outside scope because it undermined exclusive representation. In *Antelope Valley*** (1979), PERB found it unlawful for an employer to set up an organization to represent employees. In ***SEIU*** *Local 535 v Ventura County Community College District (1994)* a PERB Administrative Law Judge ruled that the Ventura County Community College District violated the Educational Employment Relations Act (EERA)by unlawfully supporting classified senates and dealing with

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the senates on negotiable topics. The AU ruled that the classified senate was an "employee organization" under EERA and could not be a participant in a shared governance structure which made recommendations to management. The exclusive representative of the classified employees was their bargaining agent.

Employee committees, such as classified councils or classified senates, which are not sanctioned by the collective bargaining agent and have district support such as released time or use of copying machines violate Section 3543.5 of the EERA if they undermine the collective bargaining agents status. "Undermining" includes activities that erode support among unit members.

The bottom line is that a classified council or classified senate may not operate as an employee organization under EERA. Section 3543.1 of EERA states that *"Employee organizations shall have the right to represent their members in their employment relations with public school employers, except that once an employee organization is recognized or certified as the exclusive representative of an appropriate unit pursuant to Section 3544.1 or 3544.7, respectively,* ***only that employee organization may represent that unit in their employment relations with the public school employer."***

**Academic Senate**

Academic senates are given a role in EERA, classified councils .and classified senates are not.

Academic Senates are specifically noted in Education Code Section 70901 as having a role in shared governance and Title 5 regulations recognize this role. However, Title 5, Section 53203(f) also recognizes the role of the collective bargaining agent. In particular, Section 53203(f) states that "Notwithstanding this subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups." Some colleges and districts do this formally, others make more informal decisions concerning the role of the union in shared governance.

Title 5 lists 11 items that are considered "academic and professional matters" for the academic senate to consult collegially on. These 11 areas are listed later in this paper. It must be noted that several of the 11 items listed **may relate to matters within the scope of representation** of the Educational Employee Relations Act, Government Code Section 3540 et seq.

In consulting over these matters, governing boards and academic senates **must be careful to recognize the following principles:**

1. **It is** the intent of the Legislature that the academic senates assume primary responsibility for making recommendations in the areas of curriculum and academic standards.
2. **Consultations between governing boards and academic senates cannot legally interfere in the collective bargaining process.**
3. Consultation between the governing board and the academic senate **cannot legally**

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cover those subjects which are within the scope of representation between the exclusive bargaining representative and the district, unless explicitly approved by the exclusive representative.

More specifically, the following must be kept in mind when implementing Sections 53200-53204 of Title 5:

1. Collective bargaining for community colleges is governed by the Education Employment Relations Act (EERA).
2. In AB 1725, the Legislature sought to strengthen the participation in college governance of faculty, students, and staff, **but not at the expense of collective bargaining.** Faculty, staff, and student participation **may not intrude** on matters which are subject to collective bargaining, where there is a bargaining agent recognized as the exclusive representative.
3. The EERA does not specifically enumerate all matters which are subject to bargaining.

As a result, the Public Employees Relations Board (PERB) has adopted a "test" to determine what is negotiable. The **"Anaheim Test"** for determining the scope of bargaining is that a subject not specifically listed as a mandatory subject of bargaining is negotiable if **it logically and reasonably relates to a listed subject, is of sufficient concern to the board and the bargaining agent that conflict is likely and the mediatory influence of bargaining is appropriate to resolve the likely conflict, and if negotiations will not significantly abridge managerial prerogatives.**

The following subjects are some of the items found by the PERB to be **within the scope of bargaining-**

1. affirmative action plans
2. benefits
3. discrimination
4. hours of work, instructional day
5. promotions
6. in-service training related to wages, hours, safety, promotional opportunities or job performance
7. transfer of bargaining unit work outside the unit
8. transfer and reassignment
9. school calendar
10. compensation
11. grievance procedure

(1) job or duty assignments

1. layoff effects (notice, layoff order, reinstatement rights, etc.)
2. preparation time
3. released time
4. early retirement
5. safety
6. student grievance policy
7. tools and equipment

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1. union right to information related to representation
2. class size
3. contracting cwt. bargaining unit work
4. holidays
5. job or duty assignments
6. personnel files
7. assignment of overtime work

4. The "test" of negotiability is applied to particular fact situations on a case by case

basis. As a result, the "scope" of negotiations is subject to periodic modifications and interpretation. Since the scope of negotiations **is not always precisely fixed,** there is a danger that district or college governance committees and procedures could result in inappropriate and unlawful intrusions on the scope of bargaining. The following items should be noted:

1. A college governance body and a governing board should make certain that **the local exclusive organizations are fully informed regarding matters which are proposed for adoption or discussion within the governance framework.**
2. It is appropriate for the college and/or any governance participant or party to seek legal advice regarding whether a subject under consideration is subject to collective bargaining.
3. Simply because a topic under discussion has not been included in a collective bargaining agreement, or is not then under discussion or negotiations for inclusion in a contract does not mean that the topic can be discussed within the governance framework or that the topic is not subject to collective bargaining. The PERB has held that **the unilateral adoption of policies which are not in a contract, but are within the scope of representation, is illegal.**

**5. The** list of permissible subjects for consultation in Section 53200 is limited by the EERA:

1. Section 53200(c)(6) includes "district and college governance structures, as related to faculty roles" in the definition of academic and professional matters. Collegial consultation on this subject pursuant to 53200(d) cannot legally lead to the creation of any organization or the participation in any activity which would **undermine the ability of the exclusive representative to negotiate with the district.**
2. Section 53200(c)(10) (processes for institutional planning and budget development), cannot legally be used to make decisions about allocation of district money which would **interfere with the ability of the exclusive representative to negotiate wages or any** other matters that have economic consequences, including faculty promotion or upgrading.
3. Section 53200(c)(11) allows the governing board and the academic senate to mutually agree upon "other academic and professional matters." Subsection **11** must be interpreted very narrowly in dealing with matters which may touch upon collective bargaining. It would be clearly illegal for the governing board and the academic senate to

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mutually agree to define any of the subjects which are part of collective bargaining as academic and professional matters. For example, although the school calendar overlaps into the areas of academic and professional matters, the school calendar must he negotiated between the exclusive representative and the district, without any interference from the academic senate or any other organization.

d. Section 53200 (c)(4) ( Educational Program Development) for example, cannot legally be used to make decisions about the academic calendar, in-service training or the flex calendar program (which are all negotiable).

1. Section 53203(a) allows the Academic Senate to assume responsibilities and perform functions that may be delegated to it by the governing board of the district. However, the governing board may not legally delegate any responsibilities or functions which belong to the exclusive representative, such as collective bargaining or grievance handling.
2. Section 53204 specifically warns that the rights given to the academic senate cannot **"detract from any negotiated agreement between collective bargaining representatives and district governing boards."** Section 53204 must be kept in mind in all dealings with the academic senate.

**Title 5 Scope**

The scope of the **academic senate** is in the area of *academic and professional matters.* These are **the same words as appear in the Educational Employment Relations Act** (EERA). Students have rights with regard to matters *that have or will have a significant effect on students.* Staff have rights in areas that *have or will have a significant effect on staff.* In particular, staff have governance rights in regard to the *definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its colleges* and the *participation structures and procedures for the staff positions defined and categorized.*

**Title 5 Method of Consultation Required
Students**

51025 (a) (1) " *Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures."*

(3) *"Governing board procedures shall ensure that at the district and college levels,*

*recommendations and positions developed by students are given every reasonable*

*consideration. "*

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50125 (c) *"The governing hoard shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff"*

51025.(b) Students "For the purpose of this section, district and college policies and procedures that have or will have a *significant effect on students* includes the following:

1. Grading policies.
2. Codes of student conduct.
3. Academic disciplinary policies.
4. Curriculum development.
5. Courses or programs which should be initiated or discontinued.
6. Processes for institutional planning and budget development.
7. Standards and policies regarding student preparation and success.
8. Student services planning and development .
9. Student fees within the authority of the district to adopt.
10. Any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students."

**Staff**

Matters having a *significant effect on staff are* **not defined in the regulations** except that there is a requirement that a district governing board "reasonably determines, in consultation with staff" that the matter has a *significant effect on staff* (51023.5 (a)(4)).

51023.5 (a)(4) *"Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff:"*

(6) *"The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration."*

**Academic Senate**

In California the Academic Senate is recognized under the Educational Employment Relations Act (EERA). In particular, Section 3540 of EERA states that *"It is further the intention of the Legislature that this chapter shall not restrict, limit, or prohibit the full exercise of the functions of any academic senate or faculty council established by a school district in a community college to represent the faculty in making recommendations to the administration and governing board of the school district with respect to district policies on* ***academic and professional matters, so long as the exercise of the function does not conflict with lawful collective***

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*agreements."*

Title 5, Section 53203 of the California Administrative Code (CAC) requires a local governing board to consult collegially with representatives of the academic senate when adopting policies and procedures on academic and professional matters.

Title 5, Section 53200 defines academic and professional matters as including 11 specified "policy development and implementation matters."

The 11 specified items are:

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*

1. Faculty roles and involvement in accreditation processes, including self study and annual reports
2. *Policies* for faculty professional development activities
3. *Process* for program review
4. *Processes* for institutional planning and budget development
5. Any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students

Attention should be paid to the difference between consulting collegially on an item (such as curriculum) and consulting collegially on the *process* **(such as institutional** planning and budget development).

**CCLC and Academic Senate Guidelines**

The Community College League of California (representing CEOs and Trustees) and the Academic Senate have agreed to guidelines for implementation of Section 53200-53204 of Title 5 of the Administrative Code of California regarding the role of Academic Senates in shared governance. Several items of their agreement involved the role of the union:

Question 10: 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 with 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?**

Answer: 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

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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."

Question 11: 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?**

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

Question 12: May the collective bargaining agent delegate matters with 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?

Answer: 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 ..."**

**Title 5 Selection of Representatives
Students**

51025(a)(4) *"For purpose of this section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district."*

**Staff**

51023 .5(a)(3)" *In performing the requirements of subsections (1) and (2) of this section, the governing board or its designees shall consult with the representatives of existing staff councils, committees,* ***employee organizations and*** *other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff and provide opportunities for staff*

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*to express their views.*

(a)(7) " *The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent."*

The "required by law" reference above is directed at the situation where there is a collective bargaining agent (the "employee organization"). The district must behave in a manner that does not create an unfair labor practice as outlined earlier in this paper. A district must be very careful not to recognize an organization of classified employees other than the collective bargaining agent if such recognition undermines the union or violates the rulings of PERB.

**Shared Governance in Contracts**

Many collective bargaining agents have addressed aspects of shared governance in their contracts. Some examples from AFT locals are:

**Los Angeles Faculty:** By contract, the union and the senate have an equal number of representatives on campus and district budget committees. **At least one representative is** guaranteed to the union on the campus affirmative action committee and curriculum committee. The contract also spells out the composition of a number of committees including the work environment, summer session, campus Academic Senate committee for distribution of convention attendance funds, and a benefits advisory committee.

**Ventura District: The contract** requires that the federation have the right to appoint a member to a **list of committees on the various campuses. These include Staff Development, Curriculum, Institutional Research, Flex Day, Campus-wide Shared Governance, Academic Affairs, Student Affairs, Campus Use and Development, Planning, President's Cabinet, and Sabbatical Leave. Each campus has a different list.**

**Compton: The contract requires that the union have the right to appoint one representative as part of the faculty component to a number of standing advisory committees. These include Affirmative Action, Budget, Curriculum, Student Disciplinary Review, General Education, Occupational Safety and Health, Petition, Institutional Advisory, and Institutional Planning.**

**Glendale: The contract guarantees that both the union and the senate have the right to appoint a representative to serve on college committees in the areas of student personnel services, curriculum and instruction, campus development, planning and facilities.**

**Los Angeles Classified: Union has right to appoint at least one member to campus/worksite and/or District-wide advisory committees in the areas of accreditation, budget, planning/development, sexual harassment, AIDS education, staff development, and affirmative action.**

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El Camino: The Academic Senate is written into the contract with a role outlined in a District Policy. The Policy may be amended by the Board of Trustees when such amendment is recommended jointly by the District and the Academic Senate. Committees addressed in the contact include college load review, divisional load, screening committee for full-time faculty hires, calendar committee, sabbatical leave committee, college conference committee, and insurance benefits committee.

Los Angeles Valley College Model:

College Council: College President, Vice-President of Administrative Services, Vice-President of Academic Affairs, Academic Senate President, AFT Faculty Guild, AFT Staff Guild, Associated Students Union (ASU), and Other Classified. The College Council serves as the primary recommending body to the College President on the establishment of policies within the scope of the Council and its standing committees. The College Council may accept a recommendation from a standing committee and pass it on to the College President, or it may reject a recommendation from the standing committee and send it back to that committee. The College Council normally may not change a recommendation from a standing committee before passing it on to the College President. **A consensus of the College Council is achieved when there are no more than two (2) dissenting votes.**

**Standing Committees:** Budget, Institutional Planning, Space Utilization, Staff
Development, and Staff Diversity. The chairs of these committees have reassigned time to perform their duties. The Budget Committee is composed of ten faculty members chosen jointly by the AFT and the Senate, five administrative representatives, one representative from each of four classified bargaining agents, and one ASU representative. The Institutional Planning Committee is composed of four administrative representatives, one Faculty Guild representative, one Staff Guild representative, one ASU representative, one Senate representative, one Other Classified union representative, the Curriculum Committee Chair, and eight faculty at large.

**It should be emphasized that the persons who work in shared governance and their belief in the validity of the approach are more important to the success of a system than the system itself. Many different models have worked. Models that have worked in the past sometimes don't continue to work when circumstances or people change.**

Martin Hittelman
10/17/94

opeiu:537afl/cio

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***THE***

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**A*CADEMIC SENATE***

For California Community Colleges

**Shared Governance
Summary**

**Shared Governance
Breakout Session**

**Academic Senate Spring Session
April 10, 1991**

Prepared by Martin Hittelman

Title 5 Regulation on Joint Governance

Education Code Section 70901(b)(1)(E) of AB 1725 requires that the board of governors 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 opportunity to express their opinions **at the campus level** and to ensure that these opinions are given **every reasonable consideration,** and the right of the **academic senates** to assume **primary responsibility** for making recommendations in the areas of **curriculum and academic standards."**

In Education Code Section 70902(b) of AB 1725 it states, in part, that ..."the governing board of each community college districts shall do all of the following:"

"(b)(7) Establish procedures not inconsistent with minimum standards established by the board of governors to ensure **faculty, staff,** and **students** the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the **right to participate effectively in district and college governance ,** and the right of the **academic senate** to assume **primary** responsibility for making recommendations in the areas of **curriculum** and **academic standards."**

"(b)(13)(d) Whenever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule **delegating** the power to the district's chief executive officer **or any other employee or committee** as the governing board may delegate; provided, however, that the governing board shall **not delegate** any power that is **expressly made nondelegable by statute.** Any rule delegating authority shall describe the limits of the delegation."

AB 1725 also empowered faculty and classified employees in the area of hiring of administrators. Section 4 reads, in part, that ...."While the precise nature of the hiring process for administrators should be subject to local definition and control, each community college should, an a way that is appropriate to its circumstances, establish a hiring process that ensures that:

(1) Representatives of the **faculty** and **other employees whose circumstances at work will be directly affected by the employment of the administrator** participate effectively in all appropriate phases of the process."

The Board of Governors has acted to establish Title 5 minimum requirements for senate (July 12, 1990), students (September 13, 1991) and staff (January 10, 1991) participation in local governance.

Each of the set of regulations call for local community college districts to adopt policies and procedures that provide for the opportunity to participate in district and college governance.

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Title 5 *Selection of Representative*

Faculty

53203(f) The appointment of faculty members to serve on college and 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.

Students

51025(a)(4) For purpose of this section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

Staff

51023.5(a)(3) In performing the requirements of subsections (1) and (2) of this section, the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(a)(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

Note: AB 2043 (Lee) would, if passed by the legislature and signed by the governor, require that staff participation in governance standards include the right to select their own representatives and that the exclusive bargaining representative have the right to participate in issues that affect their members.

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Title 5 *Consult Collegially and Participate Effectively*

Faculty

53203(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 academic senate.** Among other matters, said policies, at a minimum, shall provide that the governing board or its designee 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.

Students

51025. **Students** (a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to **participate effectively** in district and college governance.

Staff

51023.5 **Staff** (a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to **participate effectively** in district and college governance.

**Total 5** *Scope*

The scope of the academic senate is in the area of *academic and professional matters.* Students have rights with regard to matters *that have or will have a significant effect on students.* Staff have rights in areas that *have or will have a significant effect on staff.* In particular, staff have governance rights in regard to the *definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its colleges* and the *participation structures and procedures for the staff positions defined and categorized.*

Faculty

53200 (c) *Academic and Professional matters* means the following policy development and

implementation matters:

1. Curriculum, including establish 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

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1. Policies for faculty professional development activities
2. Process for program review
3. Processes for institutional planning and budget development, and
4. Other academic and professional matters as mutually agreed upon between the governing board and the academic senate.

Students

51025.(b) **Students** For the purpose of this section, district and college policies and

procedures that have or will have a *significant effect on students* includes the following:

1. Grading policies.
2. Codes of student conduct.
3. Academic disciplinary policies.
4. Curriculum development.
5. Courses or programs which should be initiated or discontinued.
6. Processes for institutional planning and budget development.
7. Standards and policies regarding student preparation and success.
8. Student services planning and development
9. Student fees within the authority of the district to adopt.
10. Any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students.

Staff

Matters having a *significant effect on staff* are not defined in the regulations except that there is a requirement that a district governing board "reasonably determines, in consultation with staff" that the matter has a *significant effect on staff* (51023.5 (a)(4)).

**Limitation of Scope**

All three sets of regulations clearly state that the regulations may not be used to impinge on the due process rights of faculty nor detract from collective bargaining (53204, 51025 (d), and 51023.5 (b)). The Board of Governors regulations could not and did not change the scope of bargaining as defined in collective bargaining law.

**Title 5** *Method of Consultation Required*

Faculty

53200 (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 advise 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.

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Students

51025 (a) (1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

50125 (c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

Staff

51023.5 (a)(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

Prepared by M. Hittelman
4/2/91

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|  | **Community College Council***of the California Federation of Teachers, AFT, AFL-CIO* |

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LOCALS

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Butte

Cabrillo

Coast

Coastline

Golden West

Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

San Diego

City

Mesa

Miramar

;an Diego Adult

S.D. Naval Technical

San Francisco

,an Mateo

Canada

Skyline

San Mateo

Santa Rosa

 State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

**Shared Governance in the California Community Colleges**

Education Code Section 70901(b)(1)(E) (enacted as a part of AB 1725) requires that the board of governors 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 opportunity to express their opinions* ***at the campus level*** *and to ensure that these opinions are given* ***every reasonable consideration,*** *and the right of the* ***academic senates*** *to assume primary responsibility for making recommendations in the areas of curriculum and academic standards."*

Education Code Section 70902(b) also requires action by local governing boards: "the governing board of **each community college district shall do all** of the following:"

"(b)(7) *Establish procedures not inconsistent with minimum standards established by the board of governors to ensure* ***faculty, staff,*** *and* ***students*** *the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the* ***right to participate effectively in district and college governance ,*** *and the right of the* ***academic senate*** *to assume* ***primary responsibility*** *for making recommendations in the areas of curriculum and academic standards."*

**The Board of Governors has acted to establish Title 5 minimum requirements for senate (July 12, 1990), student (September 13, 1991) and staff (January 10, 1991) participation in local governance.**

**Each of the set of regulations call for local community college districts to adopt policies and procedures that provide for the opportunity to participate in district and college governance.**

Limitation of Scope of Shared Governance

All three sets of shared governance regulations clearly state that the regulations may not be used to impinge on due process rights nor detract from collective bargaining (53204, 51025 (d), and 51023.5 (b)). The Board of Governors regulations could not and did not change the scope of bargaining as defined in collective bargaining law.

In particular, in the regulations regarding staff (where there is no counterpart under EERA of the Academic Senate), the regulations state that *"In developing and carrying out policies and procedures pursuant to subsection (a), the district governing boards shall ensure that its actions do not* ***dominate or interfere*** *with the formation or administration of any employee organization, or contribute financial* ***or*** *other support to it, or in any other way encourage employees to join any organization in preference to another. In order to comply with Section 3540 et. seq. , such procedures for staff participation* ***shall not intrude on matters within the scope of representation*** *under Section 3543.2* ***of*** *the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation* ***on all matters of employer-employee relations.*** *Nothing in this section shall be construed to impinge upon or detract from any* ***negotiations or negotiated agreements*** *between exclusive representatives and district governing boards."* (51023.5(b)).

Government code Section 3543.5(d) states that it is unlawful for a district to ***"dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any employee organization in preference to another."*** Section 3540.1 defines an **"employee organization"** as "any organization which includes employees of a public school employer and which has as one of its primary purposes representing those employees in their relations with that public school employer." "Employee organization" also includes "any person such an organization authorizes to act on its behalf." Section 3540.1 defines "recognized organization" or "recognized employee organization" ***as*** "an employee organization which has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544).

In *Oak Grove School District* (1986), the Public Employee Relations Board (PERB) held that it was unlawful for an employer to sponsor a "teachers forum" to discuss matter within scope. In *Redwoods Community College District* (1987) it was held that an employee council that was formed to improve communications among employees was an employee organization. PERB further ruled that it was **unlawful for the employer to deal with the council even on matters outside scope because it undermined exclusive representation. In** *Antelope Valley* (1979), PERB found it unlawful for an employer to set up an organization to represent employees. In *SEIU Local 535 v Ventura County Community College District (1994)* a PERB Administrative Law Judge ruled that the Ventura County Community College District violated the Educational Employment Relations Act (EERA)by unlawfully supporting classified senates and dealing with

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the senates on negotiable topics. The All ruled that the classified senate was an "employee organization" under EERA and could not be a participant in a shared governance structure which made recommendations to management. The exclusive representative of the classified employees was their bargaining agent.

Employee committees, such as classified councils or classified senates, which are not sanctioned by the collective bargaining agent and have district support such as released time or use of copying machines violate Section 3543.5 of the EERA if they undermine the collective bargaining agents status. "Undermining" includes activities that erode support among unit members.

The bottom line is that a classified council or classified senate may not operate as an employee organization under EERA. Section 3543.1 of EERA states that *"Employee organizations shall have the right to represent their members in their employment relations with public school employers, except that once an employee organization is recognized or certified as the exclusive representative of an appropriate unit pursuant to Section 3544.1 or 3544.7, respectively,* ***only that employee organization may represent that unit in their employment relations with the public school employer."***

**Academic Senate**

Academic senates are given a role in EERA, classified councils and classified senates are not.

Academic Senates are specifically noted in Education Code Section 70901 as having a role in shared governance and Title 5 regulations recognize this role. However, Title 5, Section 53203(f) also recognizes the role of the collective bargaining agent. In particular, Section 53203(f) states that "Notwithstanding this subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups." Some colleges and districts do this formally, others make more informal decisions concerning the role of the union in shared governance.

Title 5 lists 11 items that are considered "academic and professional matters" for the academic senate to consult collegially on. These 11 areas are listed later in this paper. It must be noted that several of the 11 items listed **may relate to matters within the scope of representation** of the Educational Employee Relations Act, Government Code Section 3540 et seq.

In consulting over these matters, governing boards and academic senates **must be careful to recognize the following principles:**

1. It is the intent of the Legislature that the academic senates assume primary responsibility for making recommendations in the areas of curriculum and academic standards.
2. **Consultations between governing boards and academic senates cannot legally interfere in the collective bargaining process.**
3. Consultation between the governing board and the academic senate **cannot legally**

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cover those subjects which are within the scope of representation between the exclusive bargaining representative and the district, unless explicitly approved by the exclusive representative.

More specifically, the following must be kept in mind when implementing Sections 53200-53204 of Title 5:

1. Collective bargaining for community colleges is governed by the Education Employment Relations Act (EERA).
2. In AB 1725, the Legislature sought to strengthen the participation in college governance of faculty, students, and staff, **but not at the expense of collective bargaining.** Faculty, staff, and student participation **may not intrude** on matters which are subject to collective bargaining, where there is a bargaining agent recognized as the exclusive representative.
3. The EERA does not specifically enumerate **all** matters which are subject to bargaining.

As a result, the Public Employees Relations Board (PERB) has adopted a "test" to determine what is negotiable. The **"Anaheim Test"** for determining the scope of bargaining is that a subject not specifically listed as a mandatory subject of bargaining is negotiable if **it logically and reasonably relates to a listed subject, is of sufficient concern to the board and the bargaining agent that conflict is likely and the mediatory influence of bargaining is appropriate to resolve the likely conflict, and if negotiations will not significantly abridge managerial prerogatives.**

The following subjects are some of the items found by the PERB to be **within the scope of bargaining**

1. affirmative action plans
2. benefits
3. discrimination
4. hours of work, instructional day
5. promotions
6. in-service training related to wages, hours, safety, promotional opportunities or job performance
7. transfer of bargaining unit work outside the unit
8. transfer and reassignment
school calendar
9. compensation
10. grievance procedure

(1) job or duty assignments

1. layoff effects (notice, layoff order, reinstatement rights, etc.)
2. preparation time
3. released time
4. early retirement
5. safety
6. student grievance policy
7. tools and equipment

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1. union right to information related to representation
2. class size
3. contracting out bargaining unit work
4. holidays
5. job or duty assignments
6. personnel files
7. assignment of overtime work

4. The **"test" of negotiability** is applied to particular fact situations on a case by case

basis. As a result, the "scope" of negotiations is subject to periodic modifications and interpretation. Since **the scope of negotiations is not always precisely fixed, there** is a danger that district or college governance committees and procedures could result in inappropriate and unlawful intrusions on the scope of bargaining. The following items should be noted:

1. A college governance body and a governing board should make certain that **the local exclusive organizations are fully informed regarding matters which are proposed for adoption or discussion within the governance framework.**
2. It is appropriate for the college and/or any governance participant or party to seek legal advice regarding whether a subject under consideration is subject to collective bargaining.
3. Simply because a topic under discussion has not been included in a collective bargaining agreement, or is not then under discussion or negotiations for inclusion in a contract does not mean that the topic can be discussed within the governance framework or that the topic is not subject to collective bargaining. The PERB has held that **the unilateral adoption of policies which are not in a contract, but are within the scope of representation, is illegal.**

**5. The** list of permissible subjects for consultation in Section 53200 is limited by the EERA:

1. Section 53200(c)(6) includes "district and college governance structures, as related to faculty roles" in the definition of academic and professional matters. Collegial consultation on this subject pursuant to 53200(d) cannot legally lead to the creation of any organization or the participation in any activity which would **undermine the ability of the exclusive representative to negotiate with the district.**
2. Section 53200(c)(10) (processes for institutional planning and budget development), cannot legally be used to make decisions about allocation of district money which would **interfere with the ability of the exclusive representative to negotiate** wages or any other matters that have economic consequences, including faculty promotion or upgrading.
3. Section 53200(c)(11) allows the governing board and the academic senate to mutually agree upon "other academic and professional matters." Subsection **11** must be interpreted very narrowly in dealing with matters which may touch upon collective bargaining. It would be clearly illegal for the governing board and the academic senate to

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mutually agree to define any of the subjects which are part of collective bargaining as academic and professional matters. For example, although the school calendar overlaps into the areas of academic and professional matters, the school calendar must be negotiated between the exclusive representative and the district, without any interference from the academic senate or any other organization.

d. Section 53200 *(01(4)* ( Educational Program Development) for example, cannot legally be used to make decisions about the academic calendar, in-service training or the flex calendar program (which are all negotiable).

1. Section 53203(a) allows the Academic Senate to assume responsibilities and perform functions that may be delegated to it by the governing board of the district. However, the governing board may not legally delegate any responsibilities or functions which belong to the exclusive representative, such as collective bargaining or grievance handling.
2. Section 53204 specifically warns that the rights given to the academic senate cannot **"detract from any negotiated agreement between collective bargaining representatives and district governing boards."** Section 53204 must be kept in mind in all dealings with the academic senate.

**Title 5 Scope**

The scope of the **academic senate** is in the area of *academic and professional matters.* These are **the same words as appear in the Educational Employment Relations Act** (EERA). Students have rights with regard to matters *that have or will have a significant effect on students.* Staff have rights in areas that *have or will have a significant effect on staff.* In particular, staff have governance rights in regard to the *definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its colleges* and the *participation structures and procedures for the staff positions defined and categorized.*

**Title 5 Method of Consultation Required Students**

51025 (a) (1) " ***Students*** *shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures."*

(3) *"Governing board procedures shall ensure that at the district and college levels,*

*recommendations and positions developed by students are given every reasonable*

*consideration. "*

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50125 (c) "*The governing hoard shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff. "*

51025.(b) Students "For the purpose of this section, district and college policies and procedures that have or will have a *significant effect on students* includes the following:

1. Grading policies.
2. Codes of student conduct.
3. Academic disciplinary policies.
4. Curriculum development.
5. Courses or programs which should be initiated or discontinued.
6. Processes for institutional planning and budget development.
7. Standards and policies regarding student preparation and success.
8. Student services planning and development .
9. Student fees within the authority of the district to adopt.
10. Any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students."

**Staff**

Matters having a *significant effect on staff* are not defined in the regulations except that there is a requirement that a district governing board "reasonably determines, in consultation with staff" that the matter has *a significant effect on staff* (51023.5 (a)(4)).

51023.5 (a)(4) *"Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff have or will have a significant effect on staff"*

(6) *"The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration."*

**Academic Senate**

In California the Academic Senate is recognized under the Educational Employment Relations Act (EERA). In particular, Section 3540 of EERA states that *"It is further the intention of the Legislature that this chapter shall not restrict, limit, or prohibit the full exercise of the functions of any academic senate or faculty council established by a school district in a community college to represent the faculty in making recommendations to the administration and governing board of the school district with respect to district policies on* ***academic and professional matters, so long as the exercise of the function does not conflict with lawful collective***

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*agreements."*

Title 5, Section 53203 of the California Administrative Code (CAC) requires a local governing board to **consult collegially** with representatives of the academic senate when adopting policies and procedures on academic and professional matters.

Title 5, Section 53200 defines **academic and professional matters** as including 11 specified "policy development and implementation matters."

The 11 specified items are:

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. *Process* for program review
10. *Processes* for institutional planning and budget development
11. Any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students

**Attention should be paid to the difference between consulting collegially on an item (such as curriculum) and consulting collegially on the *process* (such as institutional planning and budget development).**

**CCLC and Academic Senate Guidelines**

The Community College League of California (representing CEOs and Trustees) and the Academic Senate have agreed to guidelines for implementation of Section 53200-53204 of Title 5 of the Administrative Code of California regarding the role of Academic Senates in shared governance. Several items of their agreement involved the role of the union:

Question 10: 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 with 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?**

Answer: **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

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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."

Question 11: 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?**

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

Question 12: May the collective bargaining agent delegate matters with 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?

Answer: 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 ..."**

**Title 5 Selection of Representatives
Students**

51025(a)(4) *"For purpose of this section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district."*

**Staff**

51023.5(a)(3)" *In performing the requirements of subsections (1) and (2) of this section, the governing board or its designees shall consult with the representatives of existing staff councils, committees,* ***employee organizations*** *and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff*

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*to express their views."*

(a)(7) " *The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent."*

The "required by law" reference above is directed at the situation where there is a collective bargaining agent (the "employee organization"). The district must behave in a manner that does not create an unfair labor practice as outlined earlier in this paper. A district must be very careful not to recognize an organization of classified employees other than the collective bargaining agent if such recognition undermines the union or violates the rulings of PERB.

**Shared Governance in Contracts**

Many collective bargaining agents have addressed aspects of shared governance in their contracts. Some examples from AFT locals are:

Los Angeles **Faculty:** By contract, the union and the senate have an equal number of representatives on campus and district budget committees. At least one representative is guaranteed to the union on the campus affirmative action committee and curriculum committee. The contract also spells out the composition of a number of committees including the work environment, summer session, campus Academic Senate committee for distribution of convention attendance funds, and a benefits advisory committee.

**Ventura District:** The contract requires that the federation have the right to appoint a member to a list of committees on the various campuses. These include Staff Development, Curriculum, Institutional Research, Flex Day, Campus-wide Shared Governance, Academic Affairs, Student Affairs, Campus Use and Development, Planning, President's Cabinet, and Sabbatical Leave. Each campus has a different list.

**Compton:** The contract requires that the union have the right to appoint one representative as part of the faculty component to a number of standing advisory committees. These include Affirmative Action, Budget, Curriculum, Student Disciplinary Review, General Education, Occupational Safety and Health, Petition, Institutional Advisory, and Institutional Planning.

**Glendale:** The contract guarantees that both the union and the senate have the right to appoint a representative to serve on college committees in the areas of student personnel services, curriculum and instruction, campus development, planning and facilities.

**Los Angeles Classified:** Union has right to appoint at least one member to campus/worksite and/or District-wide advisory committees in the areas of accreditation, budget, planning/development, sexual harassment, AIDS education, staff development, and affirmative action.

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Community College Council

*of the California Federation of Teachers, AFT, AFL-CIO*

1200 W. Magnolia Blvd. / Burbank, CA 91506 818/843-8226 FAX 818/843-4662

**Community College Student Fees**

A district may only establish a mandatory student fee if it is expressly authorized by law. A "mandatory fee" is one which must be paid

* as a condition of admission to a college, or
* as a condition of registration, enrollment, or entry into class, or
* as a condition of completing the required classroom objectives of a course. The following fees are specifically authorized by statute:
* Nondistrict Physical Education Facilities: Education Code 76395 authorizes a fee for the use of facilities (bowling alleys, golf courses) not owned by the district.
* Enrollment Fee: EC 76300 requires districts to charge students $13 per unit per semester. Fee is waived for students who meet certain standards based on financial need.
* Differential Fee: EC 76330 requires districts to charge a fee of $50 per semester unit for students who have previously been awarded a BA or graduate degree. Students are exempted for a variety of reasons including being a dislocated worker, a displaced homemaker, and receiving AFDC, etc.
* Community Service Classes: EC 78300 allows district to charge a fee for community service offerings not to exceed the cost of maintaining community service classes. Districts are prohibited from using state General Fund money to establish and maintain such classes.
* Fee to Audit Courses: EC 76370 authorizes districts to charge students who audit courses a fee not to exceed $15 per unit per semester. Students enrolled for credit in ten or more semester units may audit an additional three or fewer units without paying the auditing fee.
* Nonresident Tuition: EC 76140 requires districts to charge a nonresident tuition fee in the event it chooses to enroll nonresidents.
* Athletic Insurance: When EC 76470 was repealed there was language included which allowed districts, under the permissive code, to continue to have legal authority to require a student to pay a fee for insurance as a condition of enrollment or participation in an athletic program.
* Health Fee: EC 76355 authorizes a district to charge a fee not to exceed $10 per semester for health supervision and health services. The fee may be increased $1 when the Implicit Price Deflator for State and Local government Purchase of Goods and Services is applied and produces an increase of $1 above the existing fee. The fee may be charged of all students, whether or not they choose to use the health services. Low ­income and some other categories of students must be exempted.
* Student Representation Fee: EC 76060.5 provides that a mandatory student representation fee of $1 per semester may be charged of all students, upon a favorable vote of two-thirds of students voting in an election.
* Student Records: EC 76223 authorizes districts to make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any student record; provided that no charge can be made for furnishing up to two transcripts of students records.
* Nonresident Application Processing Fee: EC 76142 authorizes districts to charge nonresident applicants who are both citizens and residents of a foreign country a processing fee not to exceed the lessor of the actual cost of processing or $100. The amount is deducted from tuition at the time of enrollment.

A district may charge a fee which is optional in nature, provided that the fee is not in conflict or inconsistent with existing law, and is not inconsistent with the purposes for which community college districts are established. EC 76365 allows districts to require that students furnish certain of their own materials, and enables districts to **sell** such materials to students who wish to purchase the required materials from the district. The law provides that students can only be required to provide materials which are *of continuing value to the student outside of the classroom setting,* including but not limited to textbooks, tools, equipment, clothing, and those materials which are necessary for a student's vocational training and employment. **Districts may not charge an across-the-board or per unit instructional materials fee.**

There are some fees that districts are allowed to charge those students using the particular activity supported by the fees. Among these are:

* Parking Fees: EC 76360 authorizes districts to require students to pay a fee of up to $40 per semester for parking. Low income students can be charged a fee of up to $20 per semester. The fee can-only be charged to those student who use the parking.
* Transportation Fees: EC 76360 authorizes districts to require students to pay a fee for the purpose of reducing fares for services provided by common carriers or municipally-owned transit systems. Unless an election is held, only students who use the transportation services can be required to pay the fee. Such an election can be held on a campus-by-campus basis and the authorization is good for two years. Districts under the permissive code can charge students who use district provided transportation.
* Child Care: Districts have the authority to charge student parents a fee for child care services for their children.

**The following fees may NOT be charged under current law:**

* Late Application Fee
* Add/Drop Fee
* Mandatory Student Activities Fee. Negative checkoffs are legal.
* Fees charged through Student Body Organizations
* Nonresident Application Fee
* Fee for Noncredit Courses
* Instructionally Related Field Trips: Districts are not required to pay the costs of meals, lodging, and other incidental expenses. No student is to be prevented from making a field trip or excursion because of a lack of sufficient funds.

Source: December 2, 1994 letter form Tom Nussbaum, Vice Chancellor **and** General Counsel of the California Community Colleges to the Board of Governors, Superintendents and Presidents, etc. regarding an Update on Student Fees. [Legal Opinion **M** 94-27]

Martin Hittelman
Dec. 12, 1994

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**Community College Council**

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LOCALS

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Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

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**Adult Education and Related Topics**

**California Education Code and Title 5**

Community colleges are governed by the California Education Code and Title 5. The Education Code is comprised of bills that have been passed by the legislature and signed by the governor. Title 5 is the set of regulations passed by such groups as the California Community College Board of Governors. The Board of Governors passes regulations as required by the Education Code. The Board of Governors is required by Education Code Section 70901 to maximize local district authority and control. §70901 outlines the role of the Board of Governors in setting minimum standards for the operation of local districts.

In contrast with the Board of Governors, local district governing boards work under what is called a "permissive" code - they are able to pass anything they wish so long as it is not in conflict with the Education Code or Title 5, is within their jurisdiction, and is not in an area that the state has preempted (such as the setting of fees).

**The Master Plan for Higher Education and Adult Noncredit Instruction**

The California Master Plan is contained in the Education Code. The Master Plan describes the state's higher education system. §66010.4 outlines the missions and function of the public and independent institutions of higher education in California. **The primary mission of the community colleges is academic and vocational education.** The mandate to provide instruction in the **adult noncredit** area is not a primary function but rather an "essential **and important"** function. §66010.4(a)(2) states that *"In addition to the primary mission of °endemic and vocational education, the community colleges* ***shall*** *offer instruction and courses to achieve the following:*

1. *The provision of remedial instruction for those in need of it and, in* ***conjunction with the school districts,*** *instruction in* ***English as a second language, adult noncredit instruction,*** *and support services which help students succeed at the postsecondary level are reaffirmed and supported as* ***essential and important functions of the community colleges.***
2. *The provision of* ***adult noncredit education curricula*** *in areas defined as being in the state's interest is an* ***essential and important function of the community colleges.***
3. *The provision of community services courses and programs is an authorized function of the community colleges* ***so long as their provision is compatible with an institution's ability to meet its obligations in its primary missions."***

Within this general framework, **local community college districts have great latitude** in determining exactly what they will and will not offer. As an example, 5 districts in the state had no noncredit courses and 40% of California's community college districts receive less than $100,000 for their noncredit programs. The districts with relatively large noncredit programs are San Diego ($19.8 million), San Francisco ($19.5 million), Rancho Santiago ($9.1 million), North Orange ($7.3 million), Mt. San Antonio ($4.0 million), Pasadena ($2.1 million) and Glendale ($2.1 million). These seven districts account for two-thirds of the community college noncredit apportionment.

**Role of Board of Governors and Local District Boards of Trustees**

Education Code Section 70901(b)(1)(D) requires the Board of Governors to establish **minimum standards for credit and noncredit classes.** §70901(b)(10) requires the Board of Governors to *"review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors."* Education Code Section 70902(b)(1) requires local district governing boards to *"establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district."*

The local governing boards are required by §70902 (b)(2) *to: "Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors."*

**Community College Offerings**

An outline of the **types of programs offered** in the community colleges is contained in Board of Governors Title 5 Section 55001: "(a) *The instructional services of community colleges include.*

*(1) liberal arts and sciences education:*

1. *baccalaureate oriented/ transfer programs and courses*
2. *associate degree programs and courses*

2

1. *developmental degree programs and courses*

*I. compensatory programs and courses*

*2. adult elementary and secondary basic skills programs and courses*

1. *community education programs and courses*
2. *personal development and survival courses*
3. *parenti9g-and family support courses*
4. *community and civic development courses*
5. *general and cultural courses
(2) occupational education*
6. *vocational technical transfer programs and courses*
7. *vocational/technical associate degree and certificate programs and courses*
8. *continuing education vocational' technical certificates, programs and courses*

*(b) The community services (Non FIBS generating) of community colleges include:*

*(1) community services classes:*

1. *avocational classes*
2. *recreational classes*
3. *seminars, lecture series, forum series, workshops, and conferences*
4. *recreational activities*

*(2) community services activities*

1. *Civic Center Act activities*
2. *cultural activities*
3. *community development activities*
4. *recreational activities*

*(c) All districts shall report the classification of all courses, classes,* ***and*** *activities offered in accordance with the system contained in Subsection (a) and (b) and the standards in Section 55002 by transmitting the following information to the Chancellor's Office:*

1. *the unique static course identifier and the course title for all credit and noncredit courses;*
2. *the classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor;*
3. ***whether the course is offered as credit or noncredit;***
4. *whether the course transfers to the California State University or the University of California or both;*
5. ***the number of community service classes in each category, and the number of participants;*** *and*
6. *the number of community service* ***activities*** *in each category and the number of participants."*

3

**Adult Education**

Adult basic education is the responsibility of high schools unless an agreement between the high school district and the college district exists to allow the community college district to offer these programs. In the past some districts did not have written agreements with their K­12 districts. This has created a problem in a few districts. The California Federation of Teachers is sponsoring a bill in the legislature (AB 839 Ducheny) which addresses this current problem by redefining the requirements for a delineation of function agreement between K-12 and community college districts. The object of the bill is to clarify the kinds of agreements that are to be reached and to protect community college districts from unilateral actions by the K­12 districts.

The Education Code defines the various elements of Adult Education and which segment of education is responsible for providing these elements:

§8510 *(a)* ***"Adult basic education"*** *is education in communication and computational skills to and including the 12th grade level, including English as a second language and citizenship. (b)* ***"Classes for adults"*** *are classes without a college grade level designation organized primarily for persons 18 years of age or older.*

§8530 ***"Adult basic education*** *is the responsibility of high school and unified school districts* ***except in those instances where by mutual agreement the responsibility is assigned to a community college district."***

§8531 *"The* ***high school diploma program*** *is the responsibility of the high school and*

*unified school districts,* ***but courses leading to a high school diploma may be offered by a community college district pursuant to a mutual agreement."***

§8532. *"Vocational and occupational training and retraining programs for adults may be made available in high school, unified and community college districts* ***by mutual agreement.***

§8533. ***"Adult continuing education,*** *including, but not limited to, parent education, consumer education, civic education, education in special fields, and education in the arts and the humanities, may be made available in high school, unified, and community college districts* ***by mutual agreement."***

§8534. ***"Programs for adults*** *involving* ***postsecondary*** *programs that meet the standards prescribed by the Board of Governors of the California Community Colleges for credit and noncredit courses* ***are the responsibility of community college districts."***

4

Funding

Education Code Section 78401 gives community college governing boards the *"power with the approval of the board of governors* ***to establish and maintain classes for adults*** *for the purpose of providing instruction in* ***civic, vocational, literacy, health, homemaking, technical and general education."*** It goes on to require that the board of governors *"establish standards including standards of attendance, curriculum, administration, and guidance and counseling service for classes for adults* ***as a basis for the several apportionments*** *of state funds provided herein for the support of these classes."*

Title 5 Section 58050(a)(5) *"If the course is a* ***noncredit course (adult education)*** *offered pursuant to Education Codes Sections 8530, 8531, 8532, or 8533,* ***a mutual agreement*** *(as defined in Education Code Section 8510) shall be required before attendance in the course may be reported for state apportionment."*

It should be noted that in order for a district to receive apportionment for a course, the students **must be under the immediate supervision and control of an academic employee of the district authorized to render** service in the capacity and during the period in which the students are served (§58051).

Title 5 Section 58051.5 requires that *"No community college district may claim for* ***purposes of state apportionment*** *any classes:* ***(a) Y. the district receives full compensation*** *for direct education costs for the class from any public or private agency, individual or group of individuals; or (b) if such classes are not located in facilities clearly identified in such a manner, and established by appropriate procedures* ***to ensure that attendance in such classes is open to the general public,*** *except that students may be required to meet prerequisites which have been established pursuant to Sections 55692, 55201, and 55202."*

**Funding** for credit and noncredit courses comes out of the district's General Revenue as determined by the state. Increasing noncredit expenditures decreases that available for credit, and visa-versa. Each district has its own blend of credit and noncredit. For example, in the 1994-95 Advance Apportionment, Glendale College was slated to receive $26,898,862 in General Revenue. Noncredit activities represented $2,059,040 (7.7%) of the total. In contrast, the noncredit percent of the state total General Revenue was 4%.

5

**Noncredit Classes**

Noncredit is well defined in the Education Code and in Title 5. Education Code Section 84711(a) outlines the noncredit courses and classes that are **eligible for state funding.** These include:

*"(1) Parenting, including parent cooperative preschools, classes in child growth and development and parent-child relationships, and classes in parenting.*

1. *Elementary and secondary basic skills and other courses and classes such as remedial academic courses or classes in reading, mathematics, and language arts.*
2. *English as a second language.*
3. *Classes and courses for immigrants eligible for educational services in citizenship, English as a second language, and workforce preparation classes in the basic skills of speaking, listening, reading, writing, mathematics, decisionmaking and problem solving skills, and other classes required for preparation to participate in job specific technical training.*
4. *Education programs for substantially handicapped persons.*
5. *Shon-term vocational programs with high employment potential.*
6. *Education programs for older adults.*
7. *Education programs in home economics.*
8. *Health and safety education."*

§84711(b) ***"No state apportionment shall be made for any course or class which is not set forth in subdivision (a) and for which no credit is given."***

Noncredit courses are part of the curriculum of the community college. They must be

approved by the district's curriculum committee, have course outlines, etc. Title 5 Section 55002.5(c) ***"Noncredit Course. A*** *noncredit course is a course which, at a minimum, is recommended by the college and/or district* ***curriculum committee*** *(the committee described and established under Subdivision (a)(1) of this Section) and approved by the district governing board as a course meeting the needs of enrolled students."* §55002.5 goes on to require that **noncredit course be from the list in Education Code Section 84711,** have a course outline on file, and be **taught by a qualified instructor** in compliance with the approved course outline.

Title 5 Section 58160 sets forth the Board of Governors regulations pursuant to the above Education Code sections: *"(a)* ***Only those noncredit courses which are eligible for funding pursuant to Section 84711 of the Education Code may be claimed for purposes of state apportionments.*** *(b) The provisions of Education Code Sections 58051, 58051.5 and 58130 of this chapter also apply in determining whether a noncredit course is eligible for funding."*

6

The legislature has voiced concern regarding funding some offerings that they felt should not be supported by taxes. One such example occurs in Title 5 Section 58130. *"No state aid or apportionment may be claimed on account of attendance of students in noncredit classes in* ***dancing or recreational physical education."***

Title 5, Section 55150. *"(a) Courses or programs offered for noncredit shall be approved by the Chancellor in accordance with section 55100 on forms provided by the Chancellor's Office. (b)* ***Course outlines for all noncredit courses*** *shall be on file in the community college offering the course. (c) Authorities of each community maintaining noncredit courses shall keep such current records and reports as may be required by the Chancellor."*

Some noncredit courses could count toward the associate degree if the faculty approved. Title 5 Section 55807. *"Upon student petition to and certification by a governing board of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees."*

**No Fees for Noncredit Classes**

Education Code Section 76300(e)(1) requires that fees **NOT be charged for noncredit classes** designated by Section 84711. Community college districts may not charge fees unless so authorized by the Education Code. **There is no authorization to charge fees for noncredit classes.**

**Contract Education**

Contract Education can be offered in a variety of modes. Several years ago a task force was formed at the state level to look at Contract Education. **I** was a member of that task force. We reached agreement on a number of issues. The California Federation of Teachers then successfully carried a bill to put into place the agreements of that task force. The bill became the Education Code 78000 sequence. One of the things that we sought to do was define the various components of Contract Education and protect the rights of teachers teaching in these programs.

Education Code Section 78020 contains the following definitions for the purposes of contract education:

*"(a)* ***'Contract education'*** *means those situation in which a community college district contracts with a public or private entity for the purposes of providing instruction or services or both by the community college.*

*(b)* ***'Credit'*** *refers to any class offered for community college credit, regardless of whether the class generates state apportionments.*

*7*

1. ***'Noncredit'*** *refers to courses that meet the criteria for apportionment pursuant to Section 84711.*
2. ***'Not-for-credit'*** *refers to classes,* ***including community service classes, that are*** *offered without credit and which are not eligible for apportionments pursuant to Section 84711."*

Education Code Section 78021 allows community college districts to establish contract education programs ***"by agreement with any public or private agency, corporation, association, or any other person or body, to provide specific educational programs or training to meet the specific needs of these bodies."***

§78021 requires the district to recover from the contracting organization ***all* actual costs** including administrative costs incurred in providing the programs or training. **The attendance of students in contract education programs is not included for apportionment from the state unless all statutory and regulatory conditions for generating attendance are met.** One of these requirements is that the class is open to the general public.

Title 5 Section 55170. *"(a) Notwithstanding subdivision (c) of section 55000 'contract classes' means those classes which a community college district offers in fulfillment of a contract with a public or private agency, corporation, association , or other body or person. (b) No approval of a contract class is required if the district does not claim state support for the class and if the legislation which authorizes that class does not require approval. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type, as provided in this article. Approval of the contract shall be obtained in the manner provided for by law."*

Education Section 78022 requires that ***all*** faculty teaching **credit and noncredit** education classes ***"be selected and hired according to procedures existing in a community college district for the selection of instructors for credit class."*** §78022 also requires that ***"faculty teaching credit and noncredit classes shall be compensated in the same manner as comparable faculty in the regular, noncontract education program."*** It also requires that *"faculty teaching credit and noncredit contract education classes shall be evaluated according to procedures used for the evaluation of faculty in the regular, noncontract education program."*

Education Code Section 78022(d). *"Faculty teaching* ***not-for-credit*** *contract education class shall be compensated in the same manner as faculty in the regular, noncontract education program if the course meets the same standards as a course in the credit curriculum."* §78022(e). *"Faculty teaching not-for-credit contract educational programs shall be evaluated according to procedures specified in the contract between the community college district and the public or private entity to establish the program."*

8

**Community Service Classes**

Community Service Classes fall into the "not-for-credit" category. Title 5 Section 55160(b) makes very clear that ***"Community services classes shall not be referred to as noncredit classes."*** Community service classes are student fees based, noncredit instruction is not fee based.

Education Code Section 78300 allows community college governing boards to *"establish and maintain community service classes in* ***civic, vocational, literacy, health, homemaking, technical and general education, including, but not limited to, classes in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports and athletics."*** They may offer such classes **without** the approval of the Board of Governors of the California Community Colleges. §78300 goes on to require that **community service classes be open for admission** of adults and those minors deemed to be able to profit from such an experience, that no General Funds be expended to establish or maintains such classes, and allows districts to charge a fee to individuals or groups for such classes.

Title 5 Section 55002.5(d). *"Community Services Class. A community service class is a class that meets the following minimum requirements:*

1. *is approved by the local district governing board;*
2. *is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein;*
3. *provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students;*
4. *is conducted in accordance with a predetermined strategy or plan;*
5. *is open to all members of the community; and*
6. ***may not be claimed for apportionment purposes."***

Title 5, Section 55160. "(a) *Districts are authorized in accordance with the provisions of article 7 (commencing with section 78300) of chapter 2, part 48 of the Education Code to approve and conduct community service classes without the approval of the Chancellor. The classification of all such classes shall be reported to the Chancellor in accordance with section 55001."*

Martin Hittelman

President, Community College Council

May 6, 1995

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**Community College Council**

*of the California Federation of Teachers, AFT, AFL-CIO*

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**Budget Committee Participation**

by Martin Hittelman, President
Community College Council

**Attitudes**

* Committee members must be willing to take on the responsibility of **contributing at every meeting.** Representatives were not selected to merely sign blank checks. They are the voice of the group which they represent and are responsible for putting forth the views of their organization. Committee members should seek to clarify their group's priorities.
* Committee members must be willing to work at understanding the budget. This involves more than reading materials handed out at meetings. Real participation requires **preparation** for meetings by making independent analysis of materials.
* Committee members should remember the goals of the organization they represent. Issues that arise should be considered in light of how they will influence the operation of the college, service to students, and the welfare of the employees.
* Committee members should always be critical thinkers. They should not take anyone's word for anything. Backup materials that prove assertions should be requested when questions exists.
* It is common that committee members will not understand everything that is said. It is critical that committee members ask questions that will clarify what they do not understand. It is not legitimate to continue to ask the same question at every meeting unless some work by the committee member has been done, in between meetings, toward developing an understanding of the issues involved in the question.
* Every member of the committee has the same right to speak to, have opinions about, agree, and disagree with proposals. Committee members should not allow themselves or others to be intimidated.

Minimum Qualifications

* An ability to listen and understand other points of view.
* An ability to consider items from the point of view of the group that the member represents. Narrow self-Interest should not determine a committee member's position on an issue.
* Ability to be assertive in pushing the views of the group that the committee member represents.
* Honesty and dependability.
* Ability to use a calculator. Ability to use a spreadsheet is very helpful.

**Knowledge Required**

* Understand the difference between an "object" and an "activity". Each program can be broken down by "object" or by "activity". Object numbers break the program down by the type of expense involved (Instructor salaries, Noninstructional salaries, utilities, etc.). Activity numbers break the program down by cost centers (Mathematics department, Academic administration, Library, etc.).
* Understand the difference between actual expenditures and revenues and a budget. When possible always look at the actual expenditures and revenues.
* Be aware of revenue and expenditures in prior years by object and activity.
* Understand the difference between "restricted" and "unrestricted" programs. Know whether a program was "restricted" by the district or by some federal or state law or regulation. Restricted programs have requirements as to how funds can be spent. These requirement should be understood so that abuses do not occur.
* It is a better use of time to begin with the big money items and work down to the smaller money items. A detailed look at the largest money items will typically produce the most funds for other priorities.

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**Chart of Accounts**

Each district should have a "chart of accounts" which describes the districts coding system. It is essential to know how your district codes in order to understand your districts budget.

**Funds**

The main fund is the General Fund. Other funds include such things as Student Financial Aid,

Cafeteria, Child Development, Bookstore, and ASO funds. The General Fund is broken into Restricted and Unrestricted. You must be careful when discussing restricted funds to determine whether the funds are restricted by state or federal law or by district action. Often a district will tell you that you can't talk about certain funds because they are "restricted" when in fact the district, by its own action, restricted these funds. The Board of Trustees can unrestricted funds that they were not required to restrict.

**Programs**

Each fund is subdivided by Program. Programs consist of such things as the Basic Program (the program that you will most likely be interested in first), Community Services, Food Services, Child Development Center, Bookstore, Workers Compensation, BFAP Administration, Contract Education, Health Services, Parking Fees, State Instructional Equipment, Deferred Maintenance, Hazardous Substance Removal, Summer Session, ASO, DSPS, State Matriculation, Pell Grants, Faculty and Staff Development, Faculty and Staff Diversity, EOP&S, VATEA, Amnesty, JTPA, GAIN, and many more.

**Object**

Each Program is subdivided by Object and by Activity. The object is the type of expense involved. Objects numbers, as defined by the Community College Budget and Accounting Manual, include:

1000 Academic Salaries

1100 Instructional, Regular

1200 Noninstructional, Regular

1210 Administrators and Supervisors

1299 Other

1300 Instructional, Nonregular

1400 Noninstructional, Nonregular

1410 Administrators and Supervisors

1499 Other

2000 Nonacademic Salaries

2100 Noninstructional, Regular

2200 Instructional Aides, Regular

2300 Noninstructional , Nonregular

2310 Administrators and Supervisors

2399 Other

2400 Instructional Aides, Nonregular

3000 Employee Benefits

4000 Supplies, Books, and Media

5000 Other Operating Expenses

6000 Capital Outlay

7000 Other Out-Go

8000 Income

9000 General Ledger Accounts

Each series is broken down further. In Los Angeles we use all 4 digits to distinguish items. Some examples:

1111 Instructor, Regular

1221 Administration, Regular

1226 Administration, Substitute

1315 Instruction, Hourly

2121 Administration, Regular (Classified)

2336 Office & Clerical, Sub and Relief

3110 STRS Certificated Employees

3401 Medicare Coverage

3460 Medical/Dental Retired Employees

3620 Workers Compensation Classified

4423 Audio Visual Material

4640 Tobacco

4691 Returned Checks

5623 Contracts - Health Care Services

5711 Legal Expenses

6103 Improvement of Leased Property

6401 New Equipment

7130 Bond Redemption

7310 General Fund

7380 Bookstore Fund

7901 Contingencies - General Purpose

8120 Veterans' Education

8181 Pell (BEOG)

8220 Job Training Partnership Act

8610 Principal Apportionment

8615 Program Improvement

8656 Lottery Funds

8860 Interest on Investments

2

9120 Cash in Bank
9630 General Reserve

**Activity**

Programs are also broken down by Activity. The activity indicates the cost center which will use the item/service provided by an expense. Objects represent what the expense is for - such as a regular employee's salary. The Activity determines what area of the college the expense takes place - such as in the mathematics discipline. Activity numbers, as defined by the Community College Budget and Accounting Manual, include:

0100- 4900 Classroom Instruction by Discipline

5900 Instructional Staff - Retirees' Benefits and Incentives

6000 Instructional Support

6100 Other Instructional Services

6200 Admissions and Records

6300 Counseling and Guidance

6400 Other Student Services

6500 Maintenance and Operation of Plant

6600 Planning and Policymaking

6700 General Institutional Services

6800 Community Services

6900 Ancillary Operation

7000 Auxiliary Operations

7100 Building

7200 Debt Service

7300 Transfers

7600 State Apportionments

7900 Contingencies

8000 Associated Students Organizations

9000 Community Services Material Fees

Each series is broken down further. In Los Angeles we use all 4 digits to distinguish items. Some examples:

0402 Botany

0407 Physiology

0836 Women's Physical Education

1002 Art

1102 French

1204 Dental Sciences

1501 English

2203 Ethnic Studies

3

4602 New Textbook Refunds

4656 Bad Check Losses

4905 GAIN Program - DSPS

5330 Carpentry

6010 Academic Administration

6012 Vocational Education

6015 Academic Senate

6020 Course and Curriculum Development

6110 Library

6131 Learning Skills Center

6144 Television Education

6307 Transfer Center

6310 Counseling Services

6420 Financial Aid

6430 Health Services

6476 Football

6530 College Safety and Police Services

6601 Chancellors and Presidents

6603 Shared Governance

6625 Legislative Operations

6701 Employee Benefits

6710 Fiscal Operations

6741 Personnel

6745 Collective Bargaining

6831 Non-Credit

6920 Parking Services

6930 Bookstore

7001 Grants

7113 Child Development Center

7136 Liberal Arts Building

7603 SIRS

7680 Local Income

7684 Enrollment Fees

7691 Registration Fee

8108 Athletics, Men-Basketball

8144 Concerts

8197 Job Fair

8202 Library

8213 Office of Student Affairs

Prepared by Marty Hittelman
June 3, 1994

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Community College Council

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**Community College Funding**

LOCALS

Antelope Valley

Butte

Cabrillo

Coast

Coastline

Golden West

Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

San Diego

City

Mesa

Miramar

San Diego Adult

S.D. Naval Technical

San Francisco

San Mateo

Canada

Skyline

San Mateo

Santa Rosa

State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

Each January the governor presents a proposed budget to the legislature. In late May a revision of the economic projections that were used in January is made. At this point the legislature tries to finalize its proposed budget and send a passed version to the governor for his signature. The budget bill "must" be passed by June 15th - and sometimes it is. The budget must pass by a two-thirds vote of the legislature. It often takes a lot of arm twisting and holding of noses to achieve a two-thirds margin on what is always a bad choice for all political persuasions.

The budget is always too generous toward schools and social services to satisfy conservative Republicans (who currently hold more than one-third of the seats in the Assembly). The budget always makes cuts in social programs that are not acceptable to liberal Democrats (who currently hold more than one-third of the seats in the Assembly). The budget never provides enough in funding for education in the eyes of most Democrats. The needs of community colleges, as expressed in lobbying efforts by community college constituent groups, have been a major focus of last minute agreements needed to pass the budget. In the last few years the budget has been held up until agreement was reached on the level of fees for community colleges as well as how much the community colleges will receive in general revenue.

**Proposition 98**

In 1988, Proposition 98 was approved by the voters of California. This initiative amended the State Constitution and provided for a minimum guarantee for K-14 funding. Proposition 98 was modified by Proposition 111 which was passed by the voters in 1990. Proposition 111 provides for a third method of calculating the guarantee to K-14 in years in which the general fund tax revenue growth is weak. There are currently three methods of calculating the guarantee to K-14:

* Test 1: K-14 is guaranteed the same funding share of the state general fund budget it received in 1986-87. Although this percentage was 40.33% of the State General Fund in 1986-87, because of major shifts of property tax from local government to community colleges and K-12, the percentage is now 33.0% percent of the State General Fund.
* Test 2: K-14 is guaranteed the sum of the Prior Year General Fund Revenue and the Prior Year Property Tax Revenue plus increases based on the change in California's Per Capita Personal Income and the change in K-12 enrollment.

K-12 receives the maximum of Test 1 or Test 2 unless the State per-capita General Fund revenues grew more slowly than per-capita personal income. In this case Test 3 is applied.

* Test 3: K-14 is guaranteed the sum of the Prior Year General Fund Revenue and the Prior Year Property Tax Revenue plus increases based on the change in California's Per Capita State Revenue and the change in K-12 enrollment. An additional .5% is added as a funding supplement. When the growth in per-capita state tax revenue is more than the growth in per-capita personal income, K-14 is paid back for the difference between Test 3 and the other two tests in prior years (this is called the "maintenance allowance").

Under 1989 Proposition 98 implementing legislation, K-12 and community college calculation are done separately based on a base year of 1989-90. This resulted in a statutory split of 89.09% for K-12 and **10.91%** for community colleges. The statutory split has been suspended by the legislature every year since 1992-93. Some of the difference between what community colleges were supposed to receive under Proposition 98 and what was actually received was filled by student fee monies. **The fees were used to relieve the State General Fund of its obligation to fund community colleges!**

The Proposition 98 funding (in millions of dollars) for the past few years was:

|  |  |  |  |
| --- | --- | --- | --- |
| **Community Colleges** | **1992-93** | **1993-94** | **1994-95** |
| State General Fund | 1,263 | 936 | 1,157 |
| Local Property Tax | 1,010 | 1,279 | 1,369 |
| "Loan" | 241 | 178 |   |
| Total | **2,514** | **2,393** | **2,526** |
| [Student Fees | 123 | 187 | 178] |
| **K-12** | **1992-93** | **1993-94** | **1994-95** |
| State General Fund | 15,070 | 13,091 | 13,641 |
| Local Property Tax | 6,399 | 8,136 | 8,563 |
| "Loan" | 732 | 609 |   |
| Total | **22,201** | **21,836** | **22,204** |
| **CC Split Percent** | **1992-93** | **1993-94** | **1994-95** |
| w/o fees included | 10.17% | 9.88% | 10.21% |
| with fees included | 10.62% | 10.57% | 10.86% |

2

It should be noted that when the property tax comes in above what was predicted in the June budget, community colleges and K-12 State General Funds are reduced so that the total remains the same as in the approved budget. If property taxes fail to come in as predicted, K­12 is automatically given extra State General Funds to make up the difference. **Community colleges must fight each year to get a property tax backfill.** A permanent backfill bill for community colleges was passed last year but Governor Wilson vetoed it saying that he would look at the issue on a year-by-year basis.

The previous chart shows the 1994-95 community college share of the property tax at $1,369. This is the amount that the Department of Finance estimated in January of 1995 that the community colleges will receive in 1994-95.The budget as passed estimated the community college share of property tax at $1,418 million. The Chancellor's Office projection is for $1,324 - **representing a potential backfill need for 1994-95 of $94 million.**

1994-95 fees may be underestimated by as much as $21 million. There is no automatic mechanism for backfilling this shortfall with State General Revenue.

It should also be noted that the "loans" above have been challenged successfully in superior court. The decision is being challenged by the Wilson administration. If the original decision is upheld, K-12 and the community colleges would not be obligated to repay the loans and growth funds of $600 million would be available for distribution to the two systems. This amount equates to a 2.35 percent cost of living adjustment for each system.

**Program Based Funding**

Assembly Bill 1725 required the Board of Governors of the California Community Colleges to implement a "program-based funding" system to be used to distribute state general apportionment revenues to the districts. While the allocation of revenues is related to

individual program components (Instruction, Instructional Services, Student Services, Maintenance and Operations, and Institutional Support), community college districts are free to expend these funds without regard to how the funds were generated.

Each program component has a mechanism to define what a reasonable amount of funding for the component **would** be. These "standard" based levels are applied to each college in the state. The standards are then funded at whatever percent of standard is possible given the pot of funds available.

3

The workload measure used to establish funding needs are different for each category although most are driven by student enrollments. These measures are:

Instruction Full-time Equivalent Credit Students

Instructional Services Full-time Equivalent Credit Students

Student Services The number of credit students (Headcount) Maintenance and Operations Square Feet that are owned or leased

Institutional Support Calculated at 16.55% of the total of the above

The Program-Based Funding Regulations are contained in Title 5 Subchapter 8.

The Minimum Funding Level is first determined for each district. A district's prior-year revenue becomes the base for the next year's funding. This amount is divided by the funding level needed to reach the full standards described above. This resulting percentage is called the *"district percent of standard."* In the last few years this percentage has been (for the system as a whole) less than 55%. The range is from 45% to 63% of standard.

A district receives its prior-year revenue (if it earned it - that is, it reached its required FTES) plus increases based on a Cost of Living Adjustment (COLA) and any applicable growth. Districts that are below the state average percent of standard receive COLA on the statewide average revenue. Districts that are above the state average receive their COLA on their own average revenue. Districts with declines in FTES below funded levels will have their revenue reduced over a three year period unless they climb back to their required level.

Program Improvement Funds, when allocated by the legislature, are used to adjust the lowest percent of standard funding districts up so that the gap between "high revenue" and "low revenue" level districts is lessened. At least 10% of the full credit COLA is set aside each year for this equalization. No COLA has been available for the last four years to accomplish these adjustments.

**It should be noted that some "low revenue districts" receive more funding per FTES than some "high revenue districts" due to the way the standards are calculated.** New students are funded differently than continuing students, large colleges are treated differently than small colleges, multi-college districts are treated differently than one college districts, and the percentage of full-time students will impact on headcount versus FTES driven calculations.

**COLA** is calculated using the Implicit Price Deflator for state and local government purchases of goods and services for the United States. In the last four years the legislature has not funded a COLA. Governor Wilson has proposed a 2.2% COLA adjustment for 1995-96. The Implicit Price Deflator indicates that a COLA of 3.35% is required.

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Growth is determined for each district by the percent change in the district's adult population (with a minimum of 1 percent or 100 FTES and 150 headcount). A state consultation task force recently suggested changing the reliance on changes in adult population to one that responds to changes in adult population change as well as changes in the 12th grade age cohort and unemployment. This proposal has general agreement in the field as well as with the Board of Governors and may be used to distribute growth funds in 1995-96 **(if there are any provided).** Growth in the maintenance and operations category is based on state approved facility increases.

Specially funded programs such as Basic Skills, GAIN, EOPS, DSPS, Matriculation, Faculty and Staff Diversity, Faculty and Staff Development, Instructional Improvement, Deferred Maintenance, and Instructional Equipment are funded based on legislative action each year.

**State** Apportionment in 1994-95 (does not include lottery, student fees, property tax)

State General Apportionment

Apprentice Allowance

GAIN Supplemental Funding

Basic Skills Funding

EOPS, CARE, PUENTE

Fee Admin and SFAA

DSPS

Matriculation

Faculty and Staff Diversity

Faculty and Staff Development

Instructional Equip. and Library Materials

Economic Development and VATEA

884,286,082

4,993,281 16,000,000 21,999,000 43,421,239

6,731,000

36,094,265

43,138,000

1,500,000

5,233,000

2,400,000

54,490,237

Total $1,127,532,204

The total funding for the community colleges represents more than that done through the state apportionment above. It includes funding from the State General Fund ($1.301 billion), Local Property Tax ($1.369 billion), Student Fees ($178 million), Lottery Funds ($93 million), and Other State Funds ($7 million). This total for 1994-95 is $2.948 billion.

Martin Hittelman
March 2, 1995

opeiu:537afl-cio

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Community College Council

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*of the California Federation of Teachers, AFT, AFL-CIO*

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LOCALS

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Butte

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Coast

Coastline

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Orange Coast

Compton

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El Camino

Feather River

Glendale

Lassen

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East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

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City

Mesa

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Ventura

**Cost Assumptions for Distance Learning (Television) Model Commission on Innovation**

Hourly Cost of Staff. The model assumes that full-time instructors cost $45 per hour, based on an average salary and benefits package of $55,000, divided by 36 week work year, divided by a 35 hour work week. The model assumes that teaching assistants cost $13 per hour.

Uses a 1991 mean salary for full-time community college faculty of $48,976.

Comment: The estimate does not seem to include all of the costs associated with the employment of a regular faculty member. For example, for grant purposes the Los Angeles Community College District uses a figure of 31.10% of the salary of a faculty in order to calculate the additional costs of employment.. This breaks down to 8.25% for State Teachers Retirement System, 1.45% for Medicare, 1.60% for Workers Compensation, .40% for State Unemployment, and 19.40% for health benefits.

31.10% of $48,976 is equal to $15,232.

$48,976 + $15,232 = $64,208 is a more accurate average cost of a full-time instructor. $64,208/(35 x 36) = $51 per hour.

What are the qualifications of a "teaching assistant"?

Course structure. The model assumes that 16 hours of material are broadcast for each course, 10 courses offered during each of three semesters on a year-round calendar, and each course is worth 3 credit units.

Uses the 16 hours of telecourse time, combined with 12 hours of face-to-face meeting time. This yields 28 hours of instruction-related time.

Comment. The report notes that the 28 hours of instruction-related time is less than the 45 hours of instruction-related time in a class that meets 3 hours per week for 15 weeks per semester. It is also less than the average 3 unit class of 16 weeks which meets 48 hours per semester (excluding finals).

The community colleges pay instructors for 35 weeks per two semester year. The cost model only pays instructors for 32 weeks per two semester year. The model does not include holiday pay.

Instructor time. Three hours of instructor time per student to grade exams, 16 hours for preparation (one hour for each hour of broadcast time) and 1 hour per student for one-on-one questions and answer time are assumed in the model. The model also assumes that full-time instructors perform the first 35 hours per week, per course, of instructional tasks, and that the teaching assistants perform the remaining tasks.

Comment: The model does not provide any time for committee assignments, discipline work, or **any of the other activities** that faculty perform as part of their normal assignments. Faculty are not just paid for classroom hours and office hours and grading time - particularly if their work week is considered to be 35 hours per week. For example, the Los Angeles Community College District calls for teaching faculty to teach 15 hours per week and hold office hours for 5 hours per week. The contract also calls for 10 hours of involvement in college activities. The college activities include, but are not limited to, evaluation of student performance, curriculum development, sponsorship of co-curricular groups, college or District committee work, faculty meetings, or in-service training or staff development. The television model does not include time for any of these activities except the grading of papers.

The use of teaching assistants to grade papers and answer questions is a way to cut costs. It **is not the path toward academic excellence.**

**Non-Instructional Costs:** The table shows an added non-instructional cost component of 54 percent of instructor costs, on the assumption that telecourses will require substantial non-instructional costs to support the programs.

The 54 percent is derived from the Fiscal Data Abstract figure that non-instructional costs were **88 percent of instructional costs** in 1991-92 and that of the 88 percent, 28 percent are facilities and maintenance related. The 54 percent figure assumes that distance education does not generate facilities and maintenance costs. The 60 percent remaining figure is reduced by 10 percent due to management efficiencies, which yields the 54 percent.

Comment: The shifting of classes to instructional television does not relieve the district of facilities and maintenance costs. If the calculation is to be done as a marginal cost (the added cost after all other bills are paid) **than the comparison should also be made at a marginal cost** level. The management efficiency claimed should also be applied to the current cost if a fair comparison is to be made.

**Estimated Costs:** I have attached a revision of Table 3 of the Commission Cost Assumptions. The "Commission" column is as presented in the Commission's estimates. The "Adjusted" column represents the discussion above with regular faculty performing at least half of the work with hours rounded up to multiples of 35 hours. The "Quality" column represents what a quality program would require - all instructional work performed by faculty. The only column in which the cost per FTFS is less for Telecourses is the Commission's column which assumes that 750 students are served in each of 30 courses. As we have seen above, the assumptions underlying this estimate are very unlikely to ever hold true.

Martin Hittelman

opeiu:537afl/cio

Estimated Cost/FTES of Providing Instruction via Telecourses

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|   | Commission | Adjusted | Quality | Commission | Adjusted | Quality |
| Students/Course | 200 | 200 | 200 | 750 | 750 | 750 |
| License/Course | $15,000 | $15,000 | $15,000 | $15,000 | $15,000 | $15,000 |
| Royalty/Student/Course | $15 | $15 | $15 | $15 | $15 | $15 |
| Uplink/Hour of Instruction | $1,154 | $1,154 | $1,154 | $1,154 | $1,154 | $1,154 |
| Supplies/Student/Course | $7 | $7 | $7 | $7 | $7 | $7 |
| Average Instructor/Year | $55,000 | $64,208 | $64,208 | **$55,000** | **$64,208** | $64,208 |
| Instructor/Year/36week x 35 hrs/week | $43.65 | $50.96 | $50.96 | $43.65 | $50.96 | $50.96 |
| Teaching Assistant/Hour | $13 | $13 | $13 | $13 | $13 | $13 |
| Weeks/Semester | 16 | 17.5 | **17.5** | **16** | **17.5** | **17.5** |
| Instruction Hours/Course | 16 | 24 | **48** | **16** | **24** | **48** |
| Courses/Semester | 10 | 10 | 10 | 10 | 10 | 10 |
| Semesters/Year | 3 | 3 | 3 | 3 | 3 | 3 |
| Grading Hours/Student/Course | 3 | 3 | 3 | 3 | 3 | 3 |
| Prep. Hours/Course | 16 | 16 | 16 | 16 | 16 | 16 |
| Q&A Hours/Student/Course | 1 | 1 | 1 | 1 | 1 | 1 |
| Other Activities/35 Hour Week | 0 | **10** | **10** | 0 | **10** | **10** |
| Maximum Instructor Hours/Week | 35 | 35 | 35 | 35 | 35 | 35 |
| Weeks/Year | 48 | 52.5 | 52.5 | 48 | 52.5 | 52.5 |
| Units/Course | 3 | 3 | 3 | 3 | 3 | 3 |
| FTE Credit Equivalent/Year | 30 | 30 | 30 | 30 | 30 | 30 |
| Total 'Hours of Instruction | 480 | 720 | 1440 | 480 | 720 | 1440 |
| Total Students/Year | 6000 | 6000 | 6000 | 22500 | 22500 | 22500 |
| Grading Hours/Course | 600.0 | 600.0 | 600.0 | 2,250.0 | 2,250.0 | 2,250.0 |
| Grading Hours/Course/Week | 37.5 | 34.3 | 34.3 | 140.6 | 128.6 | 128.6 |
| Q&A Hours/Course | 200.0 | 200.0 | 200.0 | 750.0 | 750.0 | 750.0 |
| Q&A Hours/Course/Week | 12.5 | 11.4 | 11.4 | 46.9 | 42.9 | 42.9 |
| Prep. Hours/Course | 16.0 | 16.0 | 16.0 | 16.0 | 16.0 | 16.0 |
| Other Activities/35 Hour Week/Course | 0.0 | 175.0 | 175.0 | 0.0 | 175.0 | 175.0 |
| Total Hours/Course | 816.0 | 991.0 | 991.0 | 3,016.0 | 3,191.0 | 3,191.0 |
| Total Hours/Course/Week | 51.0 | 56.6 | 56.6 | 188.5 | 182.3 | 182.3 |
| Total Instructor Hours/Course/Week | 35.0 | 35.0 | 56.6 | 35.0 | 105.0 | 182.3 |
| **Total TA Hours/Course/Week** | **16.0** | **21.6** | **0.0** | **153.5** | **77.3** | **0.0** |
| Percent Instructor Hours | 68.6% | 61.8% | 100.0% | 18.6% | 57.6% | 100.0% |
| Instructor Hours/Year | 16,800.0 | 18,375.0 | 29,730.0 | 16,800.0 | 55,125.0 | 95,730.0 |
| TA Hours/Year | 7,680.0 | 11,355.0 | 0.0 | 73,680.0 | 40,605.0 | 0.0 |
| Total Units/Year | 18,000 | 18,000 | 18,000 | 67,500 | 67,500 | 67,500 |
| FTE Equivalent | 600 | 600 | 600 | 2250 | 2250 | 2250 |
| License Cost/Year | $450,000 | $450,000 | $450,000 | $450,000 | $450,000 | $450,000 |
| Instructor CoStNear | $733,333 | $936,367 | $1,515,003 | $733,333 | $2,809,100 | $4,878,279 |
| TA Cost/Year | $99,840 | $147,615 | $0 | $957,840 | $527,865 | $0 |
| Instructional Cost/Year | $833,173 | $1,083,982 | $1,515,003 | $1,691,173 | $3,336,965 | $4,878,279 |
| **Non-Instruction % of Instruct.** | **0.541** | **0.88** | **0.88** | **0.541** | **0.88** | **0.88** |
| Non-Instructional Cost/Year | $450,747 | $953,904 | $1,333,203 | $914,925 | $2,936,529 | $4,292,886 |
| Uplink Cost/Year | $553,920 | $830,880 | $1,661,760 | $553,920 | $830,880 | $1,661,760 |
| Student Fee/Year | $90,000 | $90,000 | $90,000 | $337,500 | $337,500 | $337,500 |
| Supplies Cost/Year | $42,000 | $42,000 | $42,000 | $157,500 | $157,500 | $157,500 |
| TVNCR Cost/Year | $7,286 | $7,286 | $7,286 | $26,929 | $7,286 | $7,286 |
| Cost of Extra Meetings/FTE | $270 | $270 | $270 | $270 | $270 | $270 |
| Cost of Extra Meetings | $162,000 | $162,000 | $162,000 | $607,500 | $607,500 | $607,500 |
| Cable Subsidy of $110/year/10% Students | $66,000 | $66,000 | $66,000 | $247,500 | $247,500 | $247,500 |
| Cost with TVNCR | $2,655,126 | $3,686,052 | $5,327,252 | $4,986,947 | $8,911,660 | $12,640,211 |
| Cost w/o TVNCR | $2,647,840 | $3,678,766 | $5,319,966 | $4,960,018 | $8,904,374 | $12,632,925 |
| **Cost/FTES w/o TVNCR** | **$4,413** | **$6,131** | **$8,867** | **$2,204** | **$3,957** | **$5,615** |
| **CostIFTES Currently** | **$3,296** | **$3,296** | **$3,296** | **$3,296** | **$3,296** | **$3,296** |
| Martin Hittelman opeiu:537afl/cio |   |   |   |   |   |   |

**Community College Council**

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| *of the California Federation of Teachers, AFT, AFL-CIO*1200 W. Magnolia Blvd. / Burbank, CA 91506 4-z.,-. - |  |
| 818/843-8226 FAX 818/843-4662 |

**Part-Time Faculty Issues**

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Coastline

Golden West

Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

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Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

San Diego

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San Mateo

Santa Rosa

State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

**Presentation by Martin Hittelman
President, Community College Council
CFTIAFTIAFL-C10**

The issues that are involved in any discussion of the employment of part-time faculty are many. Some of these issues include:

**I. Over Reliance on Part-Time Faculty**

I have included with this paper the percentage, by district, of the Weekly Student Contact Hours (WSCH) taught by full-time employees as part of their normal loads. The percentage for almost every district in the state is less than the **legislative goal** of 75%. Some have argued that there is no problem with having a large number of part-time employees. I disagree.

Some of the problems that **I** believe arise from the overuse of part-time employees are:

**A. Academic Problems**

1. **Office Hours.** Most part-timers are not paid nor required to hold office hours. This often results in the denial of access to an important resource based solely on the status of a student's instructor.
2. **Curriculum.** Most part-timers are not paid nor required to participate in curriculum development or even to participate in department discussions regarding standards, testing and preferred emphasis of material. This often results in a curriculum which is not well integrated into the other curriculum of the department and the college.
3. **College Life.** Most part-timers are not connected to the everyday life of the college. This often causes students to not be properly informed regarding important college matters.
4. **Text Books.** Most part-timers are not included in decision-making concerning text books used. This often results in course offered in a manner not suited to the interests, teaching style, and strengths of the instructor.
5. **Academic Freedom.** Most part-timers feel insecure about their status at the college. This has serious implications in regard to the use of their academic

freedoms. It also restricts their desire to participate fully and honestly in department and other matters.

**B. Faculty Workload**

The workload of the full-time faculty member is increased when there are not enough people (due to the shortage of full-time faculty) to do the work required of the faculty. Some of the areas that suffer as a result of too much to do with so few people available are:

1. Shared governance committees
2. Peer review
3. Academic Senate committee work
4. Union governance
5. Department text book selection committees
6. Curriculum Development

**II. Injustice**

Part-timers are treated very poorly at most community colleges in California. Among injustices suffered are:

**A. Poor Treatment**

1. Offices. Many part-timers are not provided an office or a telephone or even a filing cabinet.
2. **Copying Machines.** Many part-timers are denied access to a copying machine. Others are made to feel uncomfortable when using a copying machine.
3. **Disrespect.** Many part-timers are treated rudely by other college employees, often by their fulltime colleagues. In general, most part-timers are not treated with much respect.

**B. Unequal Compensation**

1. **Pay.** Virtually all part-timers are paid a fraction of what a full-timer is paid for the same proportionate work.
2. **Benefits.** Virtually no part-timers are covered by district paid benefits - even a share proportionate to their load.
3. **Office Hours.** Virtually no part-timers are paid to hold office hours.

**C. Lack of Stable Employment**

1. Most part-timers do not know if they will be employed from semester to semester.
2. Most districts do not give preference in hiring for full-time employment to part-timers that have successfully shown themselves to be outstanding faculty members.

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**III. Obstacles to Improving the Situation**

:

**A. Funding**

1. Funding to California Community Colleges is about 55 % of what it should be based on Program Based Funding Standards.
2. Colleges provide access to more students when they compensate employees, particularly part-time employees, poorly. **The colleges continue to function on the exploited labor of part-timers\_**

**B. Local Boards**

Boards of Trustees are elected. They often do not understand the quality issues involving the use of part-time faculty and their district administrators do not seek to inform them. As a consequence, many boards are more interested in saving money for the district than offering a quality program or providing equitable employment conditions for their employees. In some districts local unions have organized to help elect trustees sympathetic to concerns about educational quality. These unions have found it somewhat less difficult to negotiate significant gains for their part-timers.

**C. Board of Governors**

The members of the California Community College Board of Governors are appointed by the governor. Currently all members of the Board of Governors are Republicans with the exception of one Independent. They tend to be narrowly pro-management in their approach. However, some members of the Board have served as part-time faculty in the community colleges. These members form a core of board members who are sympathetic to the needs and desires of part-timers. Chancellor Mertes, based on his actions, is not interested in increasing the ratio of fulltime to part-time faculty nor does he appear interested in any other gains that might increase the cost of instruction.

**D. Governor Wilson**

Governor Wilson has vetoed a number of bills that would have helped part-time faculty. He has not fought for increased funding for community colleges. He has shown no initiative in addressing the issues of the part-time faculty.

**E. The Legislature**

There are many legislators who consistently vote in favor of part-timers and their issues. The problem with the current legislature does not seem to be primarily one of getting legislation passed. The problem is overcoming the veto of the governor. The number of legislators that support our efforts does not reach the 2/3rds level required to overcome a governor's veto.



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**IV. Addressing the Issues**

The faculty organizations have been fighting to improve the part-timer situation for many years. Some of the successes and failed attempts are:

1. **STRS**

STRS legislation, sponsored by faculty groups, has been passed by the legislature and vetoed by the governor. These bills required fair calculation of credit for part-time faculty under the State Teachers Retirement System. Other legislation required that information on STRS be provided by districts to their part-time faculty employees.

1. **Full-Time/Part-Time**

Legislation directed at increasing the number of full-time faculty positions have been passed by the legislature and signed by the governor. Statutory limits on the percentage of hours taught by part-time faculty were first enacted in 1981 but sanctions were not included for noncompliance. AB 1725 required the use of program improvement and growth funds for increased hiring of full-time faculty. Although these legislative attempts at improvement have had partial success in that they did increase the absolute number of full-time faculty, the **percentages of hours taught by part-timer faculty has not decreased.** Recently the Chancellor's Staff disclosed that the **Chancellor has not been enforcing its own regulations** for the last two years with regard to the number of full-time faculty each district is required to maintain. American Federation of Teachers community college locals have sent letters to the Chancellor requesting Chancellor Office oversight **as required by Title 5 regulations.** The Chancellor's Office is currently in the process of responding to faculty outrage by sending a letter to each district to **certify** that they are in compliance.

1. **Sick Leave**

Legislation directed at requiring sick leave days for all employees, including part-time employees, was passed by the legislature and signed by a governor. It appears in the Education Code as do a number of other provisions that cover part-time employees that were sponsored by faculty organizations.

1. **Union Contracts**

Some local unions have been successful in negotiating improved conditions for part-

timers.

Among the provisions that unions have negotiated are:

1. Continuance of employment language for part-time faculty.
2. Rights of part-timers when full-time positions become available.
3. Partial pro-rata pay.
4. Health benefits for part-time employees.
5. Evaluation provisions that parallel full-time faculty evaluation provisions.
6. Salary increases

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1. Contractual right to office space, telephone, duplicating machines, etc.
2. Faculty Development Funds, including tuition reimbursement, for part-time faculty.

I have included the CFT minimum contract standard goals passed at the 1991 California Federation of Teachers convention.

1. Continual Battle

Fair play for part-timers is still a distant dream. The more organized part-timers become, the sooner the dream will be realized. The American Federation of Teachers is dedicated to making improvement through local bargaining efforts and through statewide action, but strong efforts by part-time faculty are required in order that progress be made. Both the Unions and the Academic Senate have taken strong positions on part-timer issues. I have included the 1992 Fall Session resolutions of the Academic Senate.

1. Current Legislation

Currently bills addressing STRS notification and the definition of "temporary" are being introduced. The CFT has introduced a bill to address the definition of a "Temporary" position. Most part-time faculty are hired under a provision of the Education Code that allows for the filling of "temporary" positions. Currently "temporary" positions can go on forever. The CFT is sponsoring a bill introduced by Assemblyman Bob Campbell that would not allow a discipline to fill more than 1 full-time equivalent "temporary" position for more than 3 years. If passed and signed it would greatly increase the number of full-time positions. We are not introducing the bill with any certainty that the present governor would sign such a bill. We are interested in concentrating legislative interest on the misuse of the concept of a "temporary" position. As we address this issue we will be able to put a spotlight on the plight of the part-timer and the effects on our educational institutions when we employ a relatively small number of full-time faculty.

Martin Hittelman

President, Community College Council

California Federation of Teachers/American Federation of Teachers

March 7, 1994
opeiu:537afl/cio

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**Part-Time Faculty Losing Ground**

Part-time faculty represent about 65% of the community college faculty. The total number of faculty has decreased each year since 1990.

NUMBER OF FACULTY MEMBERS IN THE CALIFORNIA COMMUNITY COLLEGES

Fall 1990 Fall 1991 Fall 1992 Fall 1993 Percent

Full-Time 14,270 15,383 15,282 14,709 35%

Part-Time 30,843 28,341 27,369 26,727 65%

|  |  |  |
| --- | --- | --- |
| Total | 45,113 43,724 | 42,651 41,436 |

Part-time faculty teach 37% of the classes at the community colleges. The number of hours taught has decreased by over 5% since 1990.



**WEEKLY FACULTY CONTACT HOURS**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|   | Fall 1990 | Fall 1991 | Fall 1992 | Fall 1993 | Percent |
| Full-Time | 239,016 | 241,779 | 243,817 | 231,933 | 56% |
| Part-Time | 169,849 | 159,005 | 161,417 | 152,244 | 37% |
| Overload | 28,533 | 30,901 |   | 29,860 | 7% |
| 30,777 |
| Total. | 437,398 | • |   |   | - |
| Change since 1990 |   | (5,713) | (1;387) | (23,361) |   |
| Percent Change |   | -1% | -0% | -5% |   |

Part-time faculty are paid at about half the rate of full-time faculty.

**MEAN DOLLARS PER HOUR PAID FOR TEACHING (EXCLUDING OFFICE HOURS, COMMITTEES, ETC.)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|   | Fall 1990 | Fall 1991 | Fall 1992 | Fall 1993 | Percent of F/T |
| Full-Time Faculty | $60.86 | 66.98 | 65.66 | 67.68 |   |
| Part-Time Faculty | $31.79 | 33.09 | 34.33 | 34.64 | 51% |
| Overload Pay | $37.06 | 38.12 | 39.33 | 39.62 | 59% |

*Source: California Post-Secondary Education Commission, August 29, 1994*

Community College Council

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Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

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San Diego Adult

S.D. Naval Technical

San Francisco

San Mateo

Canada

Skyline

San Mateo

Santa Rosa

State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

Part-Time Faculty in the California Community Colleges

Presentation by Martin Hittelman

American Federation of Teachers 1994 Convention

California has 106 community colleges in 72 districts serving in excess of 1.9 million students each year. Each district has its own locally elected Board of Trustees which is responsible for maintaining, operating, and governing its district. A state Board of Governors, appointed by the governor and approved by the state senate, is responsible for general supervision of the community college districts subject to the provisions of the California Education Code and legislative mandates. The California Community College Board of Governors establishes regulations (consistent with law) regarding minimum standards in such areas as: academic standards; qualifications for employment; participation by students, staff, and faculty in district and college governance; student equity; full-time/part-time ratio of teaching hours; affirmative action; and other minimum conditions that districts must meet in order to receive state funding.

In the Fall of 1993, the California community colleges employed:

|  |  |
| --- | --- |
| Full-time teaching faculty | 16,012 |
| Part-time teaching faculty | 26,727 |
| Counselors, librarians, or other professional employees | 2,068 |
| Full-time certificated administrators | 1,622 |
| Full-time classified administrators | 874 |
| Full-time nonadministrative classified employees | 16,172 |
| Other classified employees | 5,053 |

In the Fall of 1993, the Weekly Faculty Contact Hours (WFCH) (actual teaching hours in the classroom) were distributed as follows:

|  |  |  |
| --- | --- | --- |
|   | WFCH | Percent |
| Full-time faculty (regular assignment) | 233,842 | 54.6% |
| Full-time faculty (overtime) | 29,785 | 7.0% |
| Other staff (regular assignment) | 4,724 | 1.1% |
| Other staff (overtime) | 4,970 | 1.2% |
| Part-time faculty | 155,107 | 36.2% |
| Total | 428,428 |   |

Source: Report on Staffing and Salaries, Fall 1993, California Community Colleges

**California Law and Regulation**

California law allows for persons to be employed as temporary faculty employees (without any probationary or tenure status) for not more than 60 percent of the hours per week considered a full-time assignment for regular employees (tenured) having comparable duties. If a person is employed for more than 60 percent of a full-time assignment for more than one academic year, than he or she is placed on a tenure track. Tenure in California takes up to 4 years to obtain. The 60 percent provision, initiated by the AFT and others, does not allow for multi-year full-time non-tenure faculty positions. Districts seek to assure that no part-time faculty person achieves tenure status by not allowing part-timers to work more than 60 percent of a regular load. This action by the districts force many part-time faculty to obtain positions at a number of different districts in order to economically survive.

In August of 1988, the California state legislature passed and the governor signed Assembly Bill 1725. AB 1725 was a major reform package for community colleges. It addressed shared governance, funding allocation, affirmative action, the elimination of credentials, a new tenure process, faculty and staff development, and a number of other items. Among the issues addressed was the overuse of part-time faculty in California's community colleges.

In Section 4 of AB 1725, the *"Legislature finds and declares the following with regard to faculty, administrators, and staff of the California Community Colleges:*

*(a) The California Community Colleges will face a severe hiring crisis in the next 15 years. It is estimated that fully 55 percent of the current full-time faculty will retire in that period. In this regard there are three major interlocking issues which must be considered:*

1. *There must be guarantees that the full-time positions which become open because of the retirement of these faculty members* ***not be divided into part-time positions that are less expensive*** *to fill than the full-time positions. The division of full-time positions that become vacant into part-time positions is currently occurring all too frequently.* ***The maintenance of a fully staffed, full-time faculty is an essential element of a coherent program.***
2. *Competition for qualified persons is intense, from both other sectors of education and private business.*
3. *Given the emerging turnover in faculty vacancies, the next 15 years represent the last major window of opportunity to significantly change the ethnic mix of the faculty during the next 30 years. It will be imperative for the faculty to be sympathetic and sensitive to cultural diversity in the colleges especially when the student body is continually changing. One means of ensuring this is for the faculty to be culturally balanced and more representative of the state's diversity.*

*(b) If the community colleges are to respond creatively to the challenges of the coming decades, they must have a* ***strong and stable core of full-time faculty with long-term***

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*commitments to their colleges. There is proper concern about the effect of an over reliance upon part-time faculty, particularly in the core transfer curricula. Under current conditions, part-time faculty,* ***no matter how talented as teachers, rarely participate in college programs, design departmental curricula, or advise and counsel students.*** *Even if they were invited to do so by their colleagues,* ***it may be impossible*** *if they are simultaneously teaching at other colleges in order to make a decent living.*

1. *However, in many areas the employment of part-time temporary faculty is both appropriate and necessary, especially in vocational programs where part-time faculty members may be practicing professionals in the field.*
2. *Decisions regarding the appropriateness of part-time faculty* ***should be made on the basis of academic and program needs, however, and not for financial savings.*** *The Legislature's concern about abuses in this regard led to the establishment of the current statutory cap on part-time employment.*
3. *There is widespread concern about the current tendency to fill "retiring" full-time positions with multiple part-time positions,* ***and that there is a financial incentive to do so.*** *Under current formulae,* ***part-time faculty receive less money than do full-time faculty, and do not receive benefits.*** *Thus, proposals concerning the status and conditions of parttime faculty will depend upon changes in the pay structure as well as* ***the overall financing of the colleges."***

In order to address the concerns of the legislature that a stable core of full-time faculty be available at each college, AB 1725 put into law a provision that community college districts which have less than **75 percent** of their hours of credit instruction taught by full-time instructors must apply from 33 percent to 40 percent (depending how far away from 75 percent they are) of their program improvement funds toward the hiring of full-time teaching faculty. $140 million in Program Improvement funds were provided to the community colleges in the 1990-91 and 1991-92 fiscal years. Since that time, no program improvement funds have been provided to the colleges.

The legislature also required that the number of full-time teaching faculty be increased proportionate to any growth funds provided to the community colleges. Both the use of program improvement funds and the use of growth funds are now provided for in Board of Governors regulations (51025, 53300, 53302, 53310,53311, 53312, 53314 attached).

The regulations require the chancellor of the California Community Colleges to determine the number of full-time faculty at each district and reduce district apportionments if the required number of full-time faculty have not been retained. The chancellor failed to carry out this responsibility in 1992-93 and only did so in 1993-94 after I publicly uncovered this information at a Board of Governors meeting.

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After several years of no mandated increases in the number of full-time faculty, the only remaining active requirement is that districts not decrease their number of full-time faculty unless their is a loss of enrollment or a loss of cost of living adjustment.

The number of full-time teaching faculty over the period since the passage of AB 1725 resulted in some initial change in the number of full-time faculty but no real change in the percentage of hours taught by full-time faculty. As enrollments increased, districts hired part-time faculty above the full-time hires that they were required to make.

|  |  |  |  |
| --- | --- | --- | --- |
| 1983-84 | Full-time16,235 | Change | Regulation Percent Full-time |
| 1984-85 | 15,604 | -631 |   |
| 1985-86 | 15,631 | 27 |   |
| 1986-87 | 15,642 | 11 |   |
| 1987-88 | 15,354 | -288 |   |
| 1988-89 | 15,452 | 98 | 61.8% |
| 1989-90 | 15,766 | 314 | 58.1% |
| 1990-91 | 15,858 | 92 | 57.2% |
| 1991-92 | 16,851 | 993 | 59.5% |
| 1992-93 | 16,703 | -148 | n/a |
| 1993-94 | 16,012 | -691\* | 59.4% |

\*The Board of Governors approved an amendment to the regulations which allowed districts to put off hiring full-time faculty in the Fall of 1993 if retirees made districts aware of their retirements within 45 faculty duty days of the end of the previous Spring semester.

**Part-Time Faculty Issues**

The issues that are involved in any discussion of the employment of part-time faculty are many. Some of these issues include:

**Over Reliance on Part-Time Faculty**

The California legislature has determined that it believes that at least 75% of the hours taught in community colleges should be taught by full-time tenured or probationary faculty. Some persons have argued that there is no problem with having a large number of part-time employees. I disagree.

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Some of the problems that I believe arise from the overuse of part-time employees are: **Academic Problems**

Office Hours. Typically full-time teaching faculty are required to hold at least 5 hours of office hours per week as part of their work assignment. Most part-timer faculty in the California community colleges are not paid nor required to hold office hours. As a result of the time restraints that exist in the lives of part-time faculty, coupled with the non-payment for office hours, many students are denied access to an important resource based solely on the status of the student's instructor.

Curriculum. Most part-timer faculty in the California community colleges are not paid nor required to participate in curriculum development or even to participate in department discussions regarding standards, testing and preferred emphasis of material. This often results in a curriculum which is not well integrated into the other curriculum of the department and the college.

College Life. Most part-timers are not connected to the everyday life of the college. This often causes students to not be properly informed regarding important college matters.

Text Books. Most part-timers are not included in decision-making concerning text books used. This often results in course offered in a manner not suited to the interests, teaching style, and strengths of the instructor.

Academic Freedom. Most part-timers feel insecure about their status at the college. This has serious implications in regard to the use of their academic freedoms. It also restricts their desire to participate fully and honestly in department and other matters.

**Faculty Workload**

The workload of the full-time faculty member is increased when there are not enough people (due to the shortage of full-time faculty) to do the work required of the faculty. Some of the areas that suffer as a result of too much to do with so few people available are:

* Shared governance committees
* Peer review
* Academic Senate committee work
* Union governance
* Department text book selection committees
* Curriculum Development

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**Injustice**

Part-timers are treated very poorly at most community colleges in California. Among injustices suffered are:

**Poor Treatment**

Offices. Many part-timers are not provided an office or a telephone or even a filing

cabinet.

**Copying Machines.** Many part-timers are denied access to a copying machine. Others

are made to feel uncomfortable when using a copying machine.

Disrespect. Many part-timers are treated rudely by other college employees, often by

their fulltime colleagues. In general, most part-timers are not treated with much respect.

**Unequal Compensation**

**Pay.** Virtually all part-time faculty in the California community colleges are paid a

fraction of what a full-timer is paid for the same proportionate work.

Benefits. Virtually no part-timers are covered by district paid benefits - even a share

proportionate to their load.

Office Hours. Virtually no part-timers are paid to hold office hours.

**Lack of Stable Employment**

Most part-timers do not know if they will be employed from semester to semester and

most districts do not give preference in hiring for full-time employment to part-

timers that have successfully shown themselves to be outstanding faculty members.

**Obstacles to Improving the Situation**

**Funding**

Funding to California Community Colleges is about 55% of what it should be based on Program Based Funding Standards developed by the California Community College Board of Governors in compliance with legislative intent.

Colleges provide access to more students when they compensate employees,

particularly part-time employees, poorly. **The colleges continue to function on the exploited labor of part-timers.**

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**Local Boards**

In California, community college boards of trustees are elected locally. The members of these boards often do not understand the quality issues involving the use of part-time faculty and their district administrators do not seek to inform them. As a consequence, many boards are more interested in saving money for the district than offering a quality program or providing equitable employment conditions for their employees. In some districts local unions have organized to help elect trustees sympathetic to concerns about educational quality. These unions have found it somewhat less difficult to negotiate significant gains for their part-timers.

**Board of Governors**

The members of the California Community College Board of Governors are appointed by the governor. Currently all members of the Board of Governors are Republicans with the exception of one Independent. They tend to be narrowly pro-management in their approach. However, some members of the Board have served as part-time faculty in the community colleges. These members form a core of board members who are sympathetic to the needs and desires of part-timers. California Community College Chancellor David Mertes, based on his actions, is not interested in increasing the ratio of fulltime to part-time faculty nor does he appear interested in any other gains that might increase the cost of instruction.

**Governor Wilson**

Governor Wilson has vetoed a number of bills that would have helped part-time faculty. He has not fought for increased funding for community colleges. He has shown no initiative in addressing the issues of the part-time faculty.

**The Legislature**

There are many legislators who consistently vote in favor of part-timers and their issues. The problem with the current legislature does not seem to be primarily one of getting legislation passed. The problem is overcoming the veto of the governor. The number of legislators that support our efforts does not reach the 2/3rds level required to overcome a governor's veto.

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**Part-Timer Organizing**

There are a variety of reasons why organizing part-time faculty is not easy. Among these are: **Variety of Part-Time Employee Profiles**

* K-12 teachers making some extra money.
* Business people interested in making some extra money and enhancing their reputations.
* Person who do not wish to be full-time employees because of family or other reasons.
* Persons who would like to be full-time faculty members and are piecing together as many part-time teaching jobs as they can in order to survive while they are waiting for a full-time faculty job.

**Perception Differences**

Some part-time faculty feel that the pay is good compared to other ways they might make extra money. Some are already covered by benefits, others are not. This lack of congruity makes it difficult to get all part-timers united on a single goal or even a set of issues.

**Difficult to Reach**

Part-time faculty are hard to find. They are only on campus a few hours per week. Their other work and life takes most of their time and energy. They don't have much time or energy left to spend on organizing their colleagues.

**Fear**

Many part-timers are fearful of losing their jobs if they become vocal concerning part-

timer issues. They would rather not rock an already shaky boat.

**Hostile Environment**

Some full-time faculty seem hostile to the efforts of part-timers. Even some part-time faculty share this hostility. This hostility can be overcome by hard work on the part of organizational leaders and rank and file members, but part-time faculty can contribute to this effort. Part-timer **participation in the activities of the college** increases the awareness and appreciation of the part-timers by all segments of the college. It is easier to see that we must all be in one boat if any of us are to progress **if we all get in one boat.** When part-timers are active in their local unions, the union tends to pay more attention to their needs.

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**Addressing the Issues**

The faculty organizations in California have been fighting to improve the part-timer situation for many years. Some of the successes and failed attempts are:

**State Teachers Retirement System**

State Teachers Retirement System (STRS) legislation, sponsored by faculty groups, has been passed by the legislature and vetoed by the governor. These bills required fair calculation of credit for part-time faculty under the STRS. Other legislation required that information on STRS be provided by districts to their part-time faculty employees.

**FuII-Time/Part•Time**

Legislation directed at increasing the number of full-time faculty positions have been passed by the legislature and signed by the governor. Statutory limits **on** the percentage of hours taught by part-time faculty were first enacted in 1981 but sanctions were not included for noncompliance. Assembly Bill 1725 required the use of program improvement and growth funds for increased hiring of full-time faculty. Although these legislative attempts at improvement have had partial success in that they did increase the absolute number of full-time faculty, the **percentages of hours taught by part-timer faculty has not decreased.** Recently the Chancellor's Staff disclosed that the **Chancellor has not been enforcing its own regulations** for the last two years in regard to the number of full-time faculty each district is required to maintain. American Federation of Teachers community college locals have sent letters to the Chancellor requesting Chancellor Office oversight **as required by Title 5 regulations.** The Chancellor's Office has responded to faculty outrage by sending a letter to each district to **certify** that they are in compliance.

**Sick Leave**

Legislation directed at requiring sick leave days for all employees, including part-time employees, was passed by the legislature and signed by a governor. It appears in the Education Code as do a number of other provisions that cover part-time employees that were sponsored by faculty organizations.

**Union Contracts**

Some local unions have been successful in negotiating improved conditions for part-

timers. Among the provisions that unions have negotiated are:

* Continuance of employment language for part-time faculty.
* Rights of part-timers when full-time positions become available.
* Partial pro-rata pay.
* Health benefits for part-time employees.
* Evaluation provisions that parallel full-time faculty evaluation provisions.
* Salary increases
* Contractual right to office space, telephone, duplicating machines, etc.
* Faculty Development Funds, including tuition reimbursement, for part-time faculty.

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I have included the California Federation of Teachers minimum contract standard goals passed at the 1991 California Federation of Teachers convention.

Continual Battle

Fair play for part-timers is still a distant dream. The more organized part-timers become, the sooner the dream will be realized. The California Federation of Teachers has dedicated resources toward the organizing of part-time faculty by supporting an active and effective part-timer committee of the Community College Council. The California Federation of Teachers is dedicated to making improvement through local bargaining efforts and through statewide action, but strong efforts by part-time faculty are required in order that progress be made.

Both the Unions and the Academic Senate have taken strong positions on part-timer issues. I have included the 1992 Fall Session resolutions of the California Community College Academic Senate.

Current Legislation

Bills addressing State Teachers Retirement System notification and the definition of "temporary" employee were introduced in the current legislative session. Most part-time faculty are hired under a provision of the Education Code that allows for the filling of "temporary" positions. Currently "temporary" positions can go on forever. The CFI' sponsored AB 3006, a bill introduced by Assemblyman Bob Campbell that would not allow a discipline at a college to fill more than 2 full-time equivalent "temporary" position for more than 3 years. The bill died in the Assembly Ways and Means Committee based on the cost of implementation. The bill did serve the purpose of concentrating legislative interest on the misuse of the concept of a "temporary" position and on the general problems of part-time temporary faculty. We were able to go on the offensive on this issue and calls by administrative forces to further dilute current regulations have been stopped - at least for this year.. We were very successful in putting a spotlight on the plight of the part-timer and the effects on our educational institutions when we employ a relatively small number of full-time faculty. We were not successful in producing any positive change. Positive change may require either a new governor or an improved financial picture.

Martin Hittelman

President, Community College Council

California Federation of Teachers/American Federation of Teachers

July 16, 1994
opeiu:537afl/cio

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Title 5 California Community Colleges § 51025

1. Nothing in this section shall be construed to impinge upon the poli­cies and procedures governing the participation rights of faculty and stu­dents pursuant to sections 53200-53205, and section 51023.7, respec­tively, of this division.
2. The governing board of a community college district shall comply substantially with the provisions of this section.

Nom Authority cited.. Section 70901, Education Code. Reference: Sections

70901 and 70902, Education Code.

HISTORY

1. New section filed 3-12-91 by Board of Governors of California Community Colleges with the Secretary of State operative 4-5-91. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Regis­ter 91, No. 43).

**\* 51023.7. Students.**

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to partici­pate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

1. Students shall be provided an opportunity to participate in formula­tion and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommen­dations to the governing board regarding such policies and procedures.
2. Except in unforeseeable, emergency situations the governing board shall not take action on a matter having a significant effect on stu­dents until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.
3. Governing board procedures shall ensure that at the district and col­lege levels, recommendations and positions developed by students are given every reasonable consideration.
4. For the purpose of this section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the ad­ministration of a college and to the governing board of a district with re­gard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other gover­nance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district

(b) For the purposes of this section, district and college policies and procedures that have or will have a "significant effect on students" in-chides the following:

1. grading policies;
2. codes of student conduct;
3. academic disciplinary policies;
4. curriculum development;
5. courses or programs which should be initiated or discontinued;
6. processes for institutional planning and budget development;
7. standards and policies regarding student preparation and success;
8. student services planning and development;
9. student fees within the authority of the district to adopt; and
10. any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recom­mendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or nego­tiated agreements between collective bargaining agents and district gov­

erning boards. It is the intent of the Board of Governors to respect agree­ments between academic senates and collective bargaining agents as to bow they will consult, collaborate, share or delegate among themselves the responsibilities that are or maybe delegated to academic senates pur­suant to the regulations on academic senates contained in sections 53200-53205 of chapter IV of this division.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this section.

Nora Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Ref-

erence: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education

HISTORY

1. New section filed 3-12-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1. (Register 91, No. 43). (Subchapter 15, section 51950, and chapter 3, section 52000)

**\* 51024. Matriculation Services.**

The governing board of each community college district shall:

1. adopt and submit to the Chancellor a matriculation plan as required under Section 55510;
2. evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);
3. provide matriculation services to its students in accordance with Sections 55520 and 55521;
4. establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and
5. substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210-78218, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(6) (Register 90, No. 37).
2. Amendment of first paragraph and subsection (e) filed 4-3-92: operative

5-4-92 (Register 92, No. 15).

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**51025. Full—Time/Part—Time Faculty**

This section relates to and should be read in conjunction with Subchap­ter 3 (commencing with Section 53300) of Chapter **4** of this Division.

(a) Community college districts which have less than 75 percent of their hours of credit instruction taught by full—time instructors, as deter­mined from their base data calculated pursuant to Section 53311, shall ap­ply the growth revenues received related to increases in credit FTES in accordance with section 58774 of this division and a portion of the pro­gram improvement allocation received in accordance with section 58775 of this division, as follows:

1. Of the growth revenues received related to increases in credit FTES pursuant to section 58774 of this division, the districts shall increase the base number of full—time instructors, subject to subdivision (e) of this Section, by Fall of the succeeding fiscal year, by the product of their base number of full—time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number\_
2. Districts which, as determined from their base data, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full—time instructors shall apply up to 33 percent of their pro­gram improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pur­suant to paragraph (4).
3. Districts which, as determined lima their base data, had less than 67 percent of their hours of credit instruction taught by full—time instruc­tors shall apply up to 40 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

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(4) Of the program improvement funds identified in paragraph (2) or (3), as appropriate, the district shall increase the number of full—time in­structors, by Fall of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5)1f the number of full—time faculty derived in paragraphs (1) and (4), result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent stan­dard.

1. Statewide average replacement cost is the statewide average facul­ty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part-time instructors times the statewide aver­age full-time teaching load.
2. On or before December 31 of each year, the Chancellor shall deter­mine, based on information submitted by districts, the extent to which each district, by Fall of that year, has maintained or hired the number of additional full-time instructors determined pursuant to subdivision (a) for the prior fiscal year. To the extent that the number of full-time faculty has not been maintained or additional full-time instructors have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full-time facul­ty. To the extent a district hires the additional full-time instructors in sub­sequent fiscal years the reductions made to the district's revenue shall be restored.
3. All revenues available due to reductions made pursuant to subdivi­sion (c), shall be made available on a one-time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code section 87107.
4. By January 20 of each fiscal year the Board of Governors shall de­termine whether adequate growth funds and adequate cost-of-living funds have been provided to allow full or partial implementation of the provisions of subparagraph (a)(1).
5. For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full-time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7-3-91 and submitted to OAL on 7-12-91 for printing only pursuant to Education Code section 70901.5; operative 8-3-91 (Register 91, No. 46).
2. New first paragraph, amendment of subsections (a)—(a)(4) and (c) and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

**51027. Transfer Centers: Minimum Program Standard.)**

1. The governing board of each community college district shall rec­ognize transfer as one of its primary missions, and shall place priority em­phasis on the preparation and transfer of underrepresented students, in­cluding African-American, Chicano/Latino, American Indian, disabled, low-income and other students historically and currently underrepre­sented in the transfer process.
2. Each community college district governing board shall direct the development and adoption of a Transfer Center Plan describing the acti­vities of the transfer center and the services to be provided to students, incorporating the provisions established in these standards, as outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants to the four-year segments from these populations, including specific targets for increasing the transfer applications of those underrepresented among transfer students. Plans shall be developed in consultation with four-year college and uni­versity personnel as available.

Plan components shall include, but not be limited to: services to be pro­vided to students; facilities; staffing: advisory committee; and evaluation

and reporting.

(1) Required Services. The following services shall be provided to stu­dents:

1. Identify, contact and provide transfer support services to targeted student populations as identified in the Transfer Center Plan, with a prior­ity emphasis placed on African—American, Chicano/Latino, American Indian, disabled, low-income and other underrepresented students.

These activities shall be developed and implemented in cooperation with student services departments and with faculty.

1. Ensure the provision of academic planning for transfer, the devel-

opment and utilization of transfer admission agreements with four-year institutions where available and as appropriate, and the development and

utilization of course-to--course and major articulation agreements. Aca­demic planning and articulation activities shall be provided in coopera-

tion with student services, with faculty, and with four-year college and university personnel as available.

1. Ensure that students receive accurate and up-to-date academic

and transfer information through the provision of coordinated transfer counseling services.

1. Monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Cen­ter Plan.
2. Support the progress of transfer students through referral as neces-

sary, to such services as ability and diagnostic testing, tutoring, financial assistance, and counseling, and other instructional and student services on campus as appropriate.

1. Assist students in the transition process, including the timely com­pletion and submittal of necessary forms and applications.
2. In cooperation with four-year college and university personnel as

available, develop and implement a schedule of services for transfer stu­dents to be provided by four-year staff.

1. Provide a resource library of college catalogs, transfer guides, ar-

ticulation information and agreements, applications to four-year col­leges and universities, and related transfer information.

(2) Facilities. Each district governing board shall designate a particular

location on campus which is readily identifiable and accessible to stu­dents, faculty and staff as the focal point of transfer functions. Space and

facilities adequate to support the Transfer Center and its activities shall

be provided.

(3) Staffing. Each district governing board shall ensure that college staff are assigned to coordinate the activities of the transfer center, to

coordinate underrepresented student transfer efforts; to serve as liaison to articulation, to student services, and to instructional programs on cam-

pus; and to work with four-year college and university personnel. Cleri­cal support for the transfer center shall also be provided.

(4) Advisory Committee. An advisory committee shall be designated to plan the development, implementation, and ongoing operations of the

transfer center. Membership shall be representative of campus depart­ments and services. Four-year college and university personnel shall be

included as available.

(5) Evaluation and Reporting. Each district governing board shall in­clude in its Transfer Center Plan a plan of institutional research for ongo-

ing internal evaluation of the effectiveness of the college's transfer ef-

forts, and the achievement of its Transfer Center Plan.

Each community college district shall submit an annual report to the

Chancellor describing the status of the district's efforts to implement its transfer center(s), achievement of Transfer Center Plan targets and goals, and expenditures supporting transfer center operations.

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

Sections 66010.4 and 70901, Education *Cnett-.*

HISTORY

1. New section filed 7-22-91; operative 8-21-91 (Register 92, No. 4).

**Page 306** Register 92. No. 34; 8-21-92

§ 53205 BARCLAYS CALIFORNIA CODE OF REGULATIONS Title

1. Repealer and new section filed 10--30-90 with Secretary of State. by Board of Governors, California Community Colleges; operative I 1-30-90 (Register 90. No. 49). Submitted to OAL for printing only pursuant to Education Code sec­tion 70901.5(1:0. For prior history, see Register 83. No.18.

§ 53205. Duties Assigned by Administration and Governing Board.

Norm Authority cited: Sections 6670X0. 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292. Education Code.

HISTORY

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Regis­ter 8.3, No.18).
3. Repealer filed 10-30-90 with Secretary of State by Board of Governors, Cali­fornia Community Colleges; operative 11-30-90 (Register 90, No. 49). Sub­mitted to OAL for printing only pursuant to Education Code section 70901.5(b).

',/§ 53206. Academic Senate for California Community Colleges.

1. In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through rati­fication by local academic senates or faculty councils.
2. The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community col­lege academic senates or faculty councils before the Board of Governors and Chancellor's Office.

Nora Authority cited: Sections 66700, 70901, and 71079. Education Code. Ref-

erence: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-9-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Govern­ment Code section 11343.8 (Register 91, No. 23).

**Subchapter 3. Full-Time and
Part-Time Faculty**

**Article 1. Scope and Definitions**

53300. Scope.

This subchapter relates to and should be read in conjunction with the requirements of Section 51025 of Subchapter 1 of Chapter 2 of this Divi­sion concerning the proportion of full-time and part-time instructors on the faculty of community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Ref-

erence: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
4. Repealer and new section and amendment of Nom filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

§ 53302. Full-Time Instructor.

For purposes of this chapter only, a full-time instructor shall be de-

fined as any regular and contact faculty member teaching credit instruc­tion.

Nom: Authority ci tions 66700, 70901 and 87482.7, Education Code. Ref-

erence: Sections 84 O nd 87482.6, Education Code.

HISTORY

I \ew section filed 6-5-90 by the Board of Governors. California Communit, Colleges, with the Secretary of State; opr:ative 7-5-90. Submitted to GAL for printing only pursuant to Education Code section 70901.5(b) (Register 90. No. 37).

2. Amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92. No. 34).

**Article 2. Proportions of Full-Time and
Part-Time Faculty, Computation
and Reports**

53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by

full-time instructors, the following rules shall be applied:

(a) Overload The hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(b) Sabbatical. The hours of a full-time instructor on sabbatical. whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full-time and part-time instructors and total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(c) Released/Reassigned Time. The hours of a full-time instructor on released or reassigned time shall be counted as if the instructor was teach­ing full-time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the to­tal hours of instruction taught by full-time instructors. The hours of in­struction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(d) Unpaid Leave. The hours of a full-time instructor on unpaid leave shall be counted as if the instructor was teaching full time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the to­tal hours of instruction taught by full-time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately certi­fied to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full-time and part-time instruc­tors and the total hours of instruction taught by full-time instructors:

1. Only the actual hours of teaching by such individuals shall be in­cluded;
2. The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment

(f) Outreach Locations. The hours of instruction taught by full-time and part-time instructors at any outreach location that is more than 25 miles from the main campus and generates less than 200 FITS, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(g) Late Retirement. The hours of a full-time instructor who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time instructor by the current Fall primary term, shall be included in both the total hours of credit instruction

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Title 5 California Community Colleges § 53400

taught by full-time and pan-time instructors and the total hours of in­struction taught by full-time instructors. The hours of instruction of re placement faculty, whether full-time or part-time, shall he excluded from both the total hours of credit instruction taught by full-time and part-Lime instructors and the total hours of instruction taught by full-time instructors.

Districts are required to fill the position(s) by the following Spring pri­mary term unless designees for the district governing board and academic senate jointly agree that it is in the best intere '0,s of the district to delay the filling of the position. in such cases, repLuement must be made by the following primary term of the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025.

(h) Librarians. A number of hours equivalent to the number of hours taught by a full-time instructor shall be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors for each full-time librarian hired in excess of the number of full-time librarians in the previous year's base. A comparable number of hours shall be counted for each year thereafter unless the position(s) is vacant or eliminated. This subdivision shall become inoperative on July I, 1994, unless a later-adopted regulation deletes or extends this date.

Nom Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Ref­erence: Sections 84750 and 87482.7, Education Code.

**HISTORY**

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State: operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading *(Register* 91, No. 31).
3. New subsections (f)-(h) and amendment of Nom filed 8-19-92: operative 9-18-92 (Register 92, No. 34).
4. Amendment of subsection (h) filed 2-4-93: operative 3-6-93 (Register 93, No.

cent standard, the Chancellor shall further reduce the quotient to a whole

number that will leave the district as \_lose as possible to, but in excess of. the 75 percent standard

(d The computation for the funded growth in full-time equivalent stu­dent workload obligation to secure additional full-time faculty shall, when required pursuant to the provisions of Section 51025(a)) 1 ) and to ). be made by multiplying the percentage of funded credit FTES growth times the base number of full-time faculty that were to be in place by Fall of the current year.

Nom. Authority cited: Sections 66700,70901 and 87482.7, Education Code. Ref­erence: Sections 84750 and 87482.7, Education Code.

**HISTORY**

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(6) (Register 90, No. 37).
2. Amendment of subsections (a) and (c) and NorE and new subsection (d) filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

**53314. Report to Districts.**

The Chancellor shall report to districts by Spring of each year the esti­mated number of 1-11- each district must secure by the following Fall based upon the appropriation of revenues contained in that year's Budget Act and the Board of Governors action pursuant to section 5102.5(e).

Nom Authority cited: Sections 66700,70901 and 87482.7, Education Code. Ref­erence: Sections 84750 and 87482.7, Education Code.

**HISTORY**

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Repealer and new section and amendment of Nom filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

6). **Article 3. Enforcement**

§ **53311. Base Data.**

For purposes of this subchapter, 'base data" means the base percent­age of hours of credit instruction taught by full-time instructors and the base number of full-time faculty required to be maintained or additional hires to be made by the fall of the subsequent year. This data shall be de­termined from the current year's fall management information system staff data submission to the Chancellor's office.

Nom Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Ref­erence: Sections 84750 and 87482.7, Education Code.

**HISTORY**

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(6) (Register 90, No. 37).
2. Amendment of section heading, text and **NOTE** filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

§ **53312. Additional Full-Time Faculty Positions.**

1. The Chancellor shall compute each community college district's number of full-time faculty (1.11-) which are to be secured in accordance with the provisions of Section 51025, as the result of additional funded growth in credit full-time equivalent students and through the use of the prescribed portion of program improvement revenue allocated to each district.
2. This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "re­placement cost" (a figure which represents the statewide average faculty salary; plus benefits, minus the statewide hourly rate of compensation for part-time instructors times the statewide average full-time teaching load).
3. If the quotient determined in paragraph (b) is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 per­

**§ 53320. Funding Reductions.**

On or before December 31, 1991, the Chancellor shall determine the

extent to which each district, by September 30, 1991, has hired the num-

ber of I F determined pursuant to Section 53312 for the 1989-90 and

1990-91 fiscal years. To the extent that cumulative number of FTF have not been retained, the Chancellor shall reduce the district's allocation for

1991-92 by an amount equivalent to the average replacement costs times the deficiency in the number of FTF. To the extent a district hires the addi-

tional FIT in subsequent fiscal years, the reduction made to the district's revenue shall be restored.

Nom Authority cited: Sections 66700,70901 and 87482.6, Education Code. Ref­erence: Section 87482.6, Education Code.

**HISTORY**

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).

**Subchapter 4. Minimum Qualifications**

**Article 1. Scope and Definitions**

**53400. Scope.**

This subchapter implements and should be read in conjunction with

the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87539 concerning minimum qualifications for community

college faculty and administrators. The provisions of this subchapter arc

effective July 1, 1990.

Nom: Authority cited: Sections 66700,70901, 87001,87356 and 87359, Educa­tion Code. Reference: Sections 87001, 87002, 87003, 87356 and 87359, Educa­tion Code.

**Page 327** Register 93, No. 42: 10-15-93

TALKING UNION

IF YOU WANT HIGHER WAGES LET ME TELL YOU WHAT TO DO; YOU GOT TO TALK TO THE OTHERS IN THE COLLEGE WITH YOU; YOU GOT TO JOIN THE UNION, GOT TO MAKE IT STRONG, BUT IF YOU ALL STICK TOGETHER, THEN IN WON'T BE LONG. YOU GET BETTER HOURS, IMPROVED WORKING CONDITIONS, DISTRICT PAID BENEFITS, MAYBE EVEN A SOCIAL LIFE.

IT AIN'T QUITE THIS SIMPLE, SO I BETTER EXPLAIN

JUST WHY YOU GOT TO RIDE ON THE UNION TRAIN;

CAUSE IF YOU WAIT FOR TRUSTEES TO RAISE YOUR PAY,

WE'LL ALL BE WAITING TILL JUDGMENT DAY;

WE'LL ALL BE BURIED - GONE TO HEAVEN -

SAINT PETER' LL BE THE DEAN THEN.

NOW, YOU KNOW YOU'RE UNDERPAID, BUT THE TRUSTEE SAYS YOU AIN'T;

HE INCREASES YOUR CLASS SIZE TILL YOU'RE ABOUT TO FAINT.

YOU MAY BE DOWN AND OUT, BUT YOU AIN'T BEATEN,

YOU CAN PASS OUT A FLYER AND CALL A MEETIN'-

TALK IT OVER - SPEAK YOUR MIND -

DECIDE TO DO SOMETHING ABOUT IT.

SUPPOSE THEY'RE LOADING YOUR CLASSES IT'S JUST OUTRAGEOUS,

AND THEY'RE PAYING YOU ONLY FRACTIONAL WAGES,

YOU GO TO THE TRUSTEE, AND HE WILL YELL,

"BEFORE I RAISE YOUR PAY I'D SEE YOU IN HELL."

WELL, HE'S SITTING THEIR BIG THINKING HE'S AWFUL SLICK,

'CAUSE HE THINKS HE'S GOT YOUR UNION LICKED.

THEN HE LOOKS IN THE PAPER, AND WHAT DOES HE SEE

THAT THERE ARE THOUSANDS OF VOTERS, AND THEY ALL AGREE

HE'S A BASTARD - UNFAIR - NOT COLLEGIAL

BET HE BEATS HIS WIFE.

NOW, FOLKS, YOU'VE COME TO THE HARDEST TIME;

THE TRUSTEES WILL TRY TO BEAT YOUR EDUCATION LINE;

THEY'LL WRITE.MERTES AND THAT OLD GUARD,

THEY'LL TELL YOU IT'S A CRIME TO HAVE A UNION CARD.

THEY'LL SPREAD RUMORS, WHATEVER IT TAKES,

TO PITCH ONE AGAINST THE OTHER, BUT DON'T FORGET THE STAKES -

SECURITY, PRO-RATA PAY, BENEFITS, A LITTLE DIGNITY.

BUT OUT IN LOS ANGELES HERE'S WHAT THEY FOUND,

AND OUT IN SAN FRANCISCO HERE'S WHAT THEY FOUND,

AND OUT IN OAKLAND HERE'S WHAT THEY FOUND,

AND DOWN IN VENTURA HERE'S WHAT THEY FOUND,

THAT IF YOU DON'T LET APATHY BREAK YOU UP,

AND YOU DON'T LET NAY SAYERS BREAK YOU UP,

IF YOU DON'T LET NARROW SELF INTEREST BREAK YOU UP,

AND IF YOU DON'T LET RACE HATRED BREAK YOU UP -

YOU'LL WIN - WHAT I MEAN TAKE IT EASY - BUT TAKE IT.

M. HITTELMAN ADAPTED FROM TALKING UNION - LEE HAYES, MILLARD LAMPELL, PETE SEEGER

Notes on Educational Reform in an Era of Disinformation

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* Presented by David C. Berliner at the American Association of Colleges for Teacher Education, February 1992. He can be reached at 602-965-3921. E-mail at ATDAB@ASUACAD
* Since 1932 the mean IQ of white Americans aged 2 to 75 has risen about .3 points per year. Today's students average about 14 IQ points higher than their grandparents and about 7 points higher than their parents on the Wechsler or Stanford-Binet Intelligence tests. He reports on a number of studies that show that school achievement is the primary factor associated with changes in intelligence test performance. In contrast, the studies found that intelligence did not appear to be the causal factor in growth in school achievement.
* The raw test score average on the SAT has declined by about five fewer correct answers over the past twenty-five years. Most of this drop occurred in the period from 1965 to 1975. This decline is a result of a greater number of students from the bottom sixty percent of their class taking the SAT.
* From 1975 to 1990 the mean SAT scores of white, African-American, Asian-American, Native-American, Mexican-American and Puerto Rican high school students have gone up.
* There has been an increase of about one-third of a standard deviation on the SAT from 1975 to 1990 based on matching students with similar demographic factors such as rank in high school class and gender.

An analysis by the Sandia National Laboratories in 1991 concluded that "the national data on student performance does not indicate a decline in any area."

* On the major standardized tests, today's students are scoring about one standard deviation higher than their parents did when they took the test.
* Society has failed education. It has been extremely difficult to keep academic achievement constant (or improved) with increasing numbers of poor children, unhealthy children, children from dysfunctional families, and children from dysfunctional neighborhoods. In 1970 twelve percent of our youth lived in one parent households. By 1989 that rate had more than doubled, to 25 percent. Over eight million children under the age of 18 have no health coverage. 13 million children live in poverty, two million more than just a decade ago.
* Funding for schools does help. The highest spending states have, on average, eleven times higher percentages of their students taking the SAT than the lowest spending states.
* The author lists several studies that have shown that teachers salaries are an important factor in improving the quality of education provided.
* The author cites a study that showed that the smarter the teachers, the smarter their students were; that teachers with more years of experience have students with higher test scores, lower drop-out rates, and higher rates of taking the SAT. Dollars appear to be more likely to purchase bright and experienced professionals. Lower class size has also been shown to increase test scores.
* In 1988 dollars the United States ranked ninth among sixteen industrialized nations in per-pupil expenditures in grades K-12. The United States spends fourteen percent less than Germany, thirty percent less than Japan, and fifty-one percent less than Switzerland.
* Thirteen of the sixteen industrialized nations spend a greater percent of per-capita income on K-12 education than the United States does. It would take $20 billion per year to come up to the average of the sixteen nations.
* Can we have high levels of history, language, mathematics and science achievement for great numbers of K-12 students if we want our children to play organized sports, take piano lessons and dance, spend weekends in leisure activities, work after school as teenagers, date in high-school, etc.?

Can international comparisons be fairly made when the average performance of seventy-five percent of the cohort in the United States is compared with the average scores of the top nine percent of students in West Germany, the top thirteen percent in the Netherlands, and the top forty-five percent in Sweden?

* The differences in achievement between nations are best explained as differences in national curricula, rather than as differences in the efficiency or effectiveness of a particular national system of education. We have made curricula decisions that are in accord with the prevailing views of childhood and education.
* Let us provide high quality day care and preschool to all American children. Let us have the finest health care in the world available to all.
* Let us guarantee to every child a school where the plumbing works, where toilet paper and chalk are available, where the plaster is not falling down. Let us guarantee each child access to current textbooks, computers, and science laboratories.
* The parents of Grosse Pointe and Great Neck and Princeton should inform the state legislature what it takes to educate their children properly, and that standard of support should be applied to every district in the state.
* Greater school improvement will come from providing poor people enough to allow them to live with dignity, than from all the fooling around we can do with curriculum and instruction, or with standards and tests.

Summary by Martin Hittelman
March 11, 1994

opeiu:537afl/cio

Community College Council

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*of the California Federation of Teachers, AFT, AFL-CIO*

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**School-to-Work Opportunities Act of 1994 - A Summary**

A national framework for high-quality, statewide school-to-work transition systems that enable young Americans to identify and navigate paths to more productive and progressively more rewarding roles in the workplace.

The overall purpose of the School-to-Work Opportunities initiative is to support the

development and initial stages of implementation of statewide School-to-Work Opportunities systems within which local partnerships will apply to the State for funds to develop programs. Under the initiative, each State is expected to receive a State Implementation Grant under which the State will be required to expand the State's School-to-Work Opportunities system over time to cover all geographic areas of the State. However, through separate competitions, local partnerships may apply directly to the Federal Government.

It is expected that the States will benefit from the experiences of the local partnerships and may incorporate successful elements of local initiatives into their statewide systems. Local and State programs may be developed by enhancing existing programs such as tech-prep education, career academies, youth apprenticeship, cooperative education, school-to-

apprenticeship, and business-education compacts.

The purpose of funding under the School-to-Work Opportunities initiative is not simply to augment existing programs, but rather to build statewide systems that provide opportunities for all students to achieve the benefits and outcomes of the School-to-Work Opportunities initiative.

The School-to-Work Opportunities initiative is proceeding on two funding tracks:

1. during fiscal year 1994, the initiative is being funded under current legislative authority in the Job Training Partnership Act (JTPA) and the Carl D. Perkins Vocational and Applied Technology Education Act (VATEA); and
2. for fiscal year 1995 and beyond, it will be funded under the recently enacted "School-to-Work Opportunities Act of 1994."

The funds will be made available through a grants program administered cooperatively by the Department of Education and the Department of Labor that consists of:

* State Development Grants, which have been awarded to each State for developing a statewide School-to-Work Opportunities plan;
* State Implementation Grants awarded competitively to States that can demonstrate substantial ability to begin full-scale operations and implement the Statewide plan (the first round of State Implementation Grants are expected to be announced in June 1994);
* Local Partnership Grants, awarded competitively to localities that are prepared to implement School-tow-Work Opportunities initiatives (the first round of Local Partnership Grants are expected to be announced in early July 1994);
* Urban/Rural Opportunities Grants awarded competitively to local partnerships to support the development and implementation of School-to-Work Opportunities programs in urban and rural areas of high poverty (Applications accepted starting June 20, 1994 and closing 60 days from June 20, 1994);
* Grants for Territories and for Native American programs, to support School-to-Work Opportunities in the territories and for Indian youth, respectively.

The basis of the School-to-work Opportunities system is:

* The integration of school-based learning and work-based learning;
* The integration of academic and occupational learning; and
* The establishment of effective linkages between secondary and post secondary education.

School-to-Work Opportunities programs will:

* Provide participating students with the opportunity to complete career majors;
* Incorporate school-based learning, work-based learning, and connecting activities;
* Provide participating students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter; and
* Provide all students with equal access to the full range of such program components (including both school-based and work-based learning components) and related activities, such as recruitment, enrollment, and placement activities.

**School-Based Learning** must include:

* Career awareness and career exploration and counseling (beginning at the earliest possible age, but not later than the 7th grade) in order to help students who may be

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interested to identify, and select or reconsider, their interests, goals, and career majors. including those options that may not he traditional for their gender, race, or ethnicity;

* **Initial selection by interested students of a career major not later than the beginning of the 11th grade;**
* A program of study designed to meet the **same academic content standards** the State has established for all students, including, where applicable, standards established under the *Goals 2000: Educate America Act,* and to meet the requirements necessary to prepare a student for postsecondary education and the requirements necessary to earn a skill certificate;
* A program of instruction and curriculum that integrates academic and vocational learning (including applied methodologies and team-teaching strategies), and incorporates instruction, to the extent practicable, in all aspects of an industry, appropriately tied to the career of a participant;
* Procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

**Work-Based Learning must include:**

* **A planned** program of job-training and work experiences (including training related to pre-employment and employment skills to be mastered at progressively higher levels) that **are coordinated with learning in** the school-based learning component and are relevant to the career majors of students and lead to the award of skill certificates;
* Workplace mentoring;
* Instruction in general workplace competencies, including instruction and activities related to developing positive work attitudes, and employability and participative skills; and
* Broad instruction, to the extent practicable, in all aspects of the industry.

Work-Based Learning **may include such components as paid work experience, job shadowing, school-sponsored enterprises, or on-the-job training.**

**Connecting Activities must include:**

* **Matching students with the work-based learning opportunities of employers;**
* **Providing, with respect to each student, a school site mentor to act as a liaison among the student and the employer, school, teacher, school administrator, and parent of the student and, if appropriate, other community partners;**
* **Providing technical assistance and services to employers, including small- and medium-sized businesses, and other parties in designing school-based learning components,**

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work-based learning components, and counseling and case management services; and training teachers, workplace mentors, school site mentors, and counselors;

* Providing assistance to schools and employers to integrate school-based and work-based learning and integrate academic and occupational learning into the program;
* Encouraging the active participation of employers, in cooperation with local education officials, in the implementation of school-based learning, work-based learning, or connecting activities;
* Providing assistance to participants who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; and linking the participants with other community services that may be necessary to assure a successful transition from school to work;
* Linking youth development activities under the School-to-Work Opportunities program with employer and industry strategies for upgrading the skills of their workers.

*Source: Federal Register, Vol 59, No. 117, Monday June 20, 1994*M. Hittelman

opeiu:537afl-cio

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***California
Federation of Teachers***AMERICAN FEDERATION OF TEACHERS, AFL-CIO

**School-to-Work Essentials**



I. High academic standards and broad occupational training

1. For immediate employment
2. To qualify for further training and postsecondary education H. Employer obligation to provide quality paid work experience for students

III. Educator involvement in planning and implementation of programs

IV. Staff development for educators

A. Enhance knowledge of contemporary workplace

1. Internships
2. Professional apprenticeships
3. Sabbaticals
4. Shadowing supervisors or managers

V. Training of current workforce

VI. Reporting of student performance and success

VII. Research and evaluation

1. Follow career paths of students after high school
2. Identification of programs that have assisted students to be successful

VIII. Support of educators who are developing and implementing needed pedagogy

IX. Use of work-oriented high school counseling

X. Adequate funding

XI. Discourage proliferation of low-quality, profit-making proprietary schools

XII. Labor involvement

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Community College Council

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LOCALS

Antelope Valley

Butte

Cabrillo

Coast

Coastline

Golden West

Orange Coast

Compton

Cuesta

El Camino

Feather River

Glendale

Lassen

Los Angeles

East

City

Harbor

Mission

Pierce

Southwest

Trade-Tech

Valley

West

Los Rios

American River

Cosumnes River

Sacramento City

Marin

Ohlone

Palomar

Peralta

Alameda

Laney

Merritt

Vista

San Diego

City

Mesa

Miramar

San Diego Adult

S.D. Naval Technical

San Francisco

San Mateo

Canada

Skyline

San Mateo

Santa Rosa

State Center

Fresno City

Kings River

Ventura

Moorpark

Oxnard

Ventura

**School-to-Work Essentials**

I. High academic standards and broad occupational training

1. For immediate employment
2. To qualify for further training and postsecondary education

II. Employer obligation to provide quality paid work experience for students

III. Educator involvement in planning and implementation of programs

IV. Staff development for educators

A. Enhance knowledge of contemporary workplace

1. Internships
2. Professional apprenticeships
3. Sabbaticals
4. Shadowing supervisors or managers

V. Training of current workforce

VI. Reporting of student performance and success

VII. Research and evaluation

1. Follow career paths of students after high school
2. Identification of programs that have assisted students to be successful

VIII. Support of educators who are developing and implementing needed pedagogy

IX. Use of work-oriented high school counseling

X. Adequate funding

XI. Discourage proliferation of low-quality, profit-making proprietary schools

XII. Labor involvement

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Community College Council

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*of the California Federation of Teachers, AFT, AFL-CIO*

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December 8, 1994

Thomas V. McKernan

Chairman

Governor's School-to-Career Task Force

Subject: California's Preliminary School-to-Career State Plan

The American Federation of Teachers has developed some essential elements that we believe should be a part of any School-to-Work plan. These elements include:

I. High academic standards and broad occupational training

1. For immediate employment
2. To qualify for further training and postsecondary education

II. Employer obligation to provide quality paid work experience for students

III. Educator involvement in planning and implementation of programs

IV. Staff development for educators to enhance knowledge of contemporary workplace

1. Internships
2. Professional apprenticeships
3. Sabbaticals
4. Shadowing supervisors or managers

V. Training of current workforce

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1. Follow career paths of students after high school
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IX. Use of work-oriented high school counseling

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XII. Labor involvement

The Governor's Preliminary Plan is too vague in detail to detect whether our essential elements are included. In particular, it is not clear:

* whether and how higher standards will be developed
* what role representatives from faculty and other employee organizations will have in developing the standards, curriculum, certificates, and other academic components of the plan
* whether students will be paid for their work and what effect this will have on other employees
* how staff development will be provided and who will be responsible
* what will be done to include the present workforce in the School-to-Career program
* how performance will be measured and reported
* how counselors will be included in the planning and implementing of new counseling requirements
* how labor organizations will be represented in the development and implementation of the plan.

We are particularly concerned that the School-to-Career program not turn into a new way of tracking students by race, income, class, or parental educational attainment and awareness. While we support the concept of inclusion of all students in Work-to-Career, we recognize that the entire effort might turn into a new way to track students (and at an earlier age than

currently is the practice).

We must take care that students that are unable to qualify for the first certificate at age 16 are not left behind while they receive additional instruction that further prepares them for the first certificate standard.

It is not clear from the preliminary plan how the state will make available enough workplace mentoring or employment spots to provide such opportunity to all students in the state. If all students are not provided with a work experience, how will the decision be made as to who will receive such experience?

We are troubled that students may be encouraged to leave high school before receiving a high school diploma. Certificates obtained prior to high school graduation should not be seen as passports into the world of employment. They should not be seen as a substitute for a high school diploma. Many students now exit from secondary school with less than a high school diploma. We should not be encouraging even more to do so.

2

We believe that there should be representatives of the California Labor Federation, the California Federation of Teachers, the California Teachers Association, and the Academic Senate of the California Community Colleges on the advisory board to Governor and the Legislature.

**We believe that educators should be the primary developers of the curriculum and standards which will accompany the School-to-Career program. Membership on the Skills Standards and Certification and the Performance-based Assessment Measures and Systems committees should be drawn primarily from persons nominated by the various educational organizations: the California Federation of Teachers, the California Teachers Association, and the Academic Senate of the California Community Colleges. The California Labor Federation (AFL-CIO) should have substantial membership on the Incentives for Employer and Labor Involvement committee.**

**We believe in high standards of performance. Al Shenk, a well-known mathematician and textbook author, recently wrote an article in** *Undergraduate Mathematics Education Trends* **(July 1994), concerning William Perry's** *Intellectual and Ethical Development in the College Years* **(Harcourt Brace Jovanovich, 1968). Perry found five stages in attitudes toward knowledge and learning. Shenk translated these stages into mathematical education terms at the beginning calculus level. Shenk's five stages are:**

* **Silence. The student is virtually incapable of thinking in terms of algebra or geometry or of performing mathematical reasoning.**
* **Received Knowledge. The student can understand specific solved examples and repeat the reasoning to some extent on similar exercises but cannot do anything genuinely new.**
* **Knowledge Intuited. The student has a naive understanding of basic concepts that is often initially independent of formulations given in books or lectures. He or she can begin certain new problems but cannot produce complete solutions.**
* **Procedural Knowledge. The student can evaluate, compare, and reconcile her or his understanding with lines of reasoning given by others and is capable of producing polished coherent problem solutions through step-by-step applications of intuition and reasoning.**
* **Knowledge Constructed and Abstracted. The student has developed her or his own ways of thinking about basic concepts and procedures, recognizes how ideas can be applied in a wide variety of contexts, and sees how they are reflected in the theory of calculus.**

**3**

Sadly Shenk concludes that most college students have only risen to the Received Knowledge level of learning. Very few have reached even the Procedural Knowledge level. Shenk points out that one obstacle to developing higher level abilities is that students are often only rewarded for template-problem-based answers. Very few students are ever challenged to engage in activities that require other than cookbook type approaches.

Shenk concludes that if students are given activities that reward them for working at the Knowledge Intuited and Procedural Knowledge levels then they will find that most of calculus is easy and understandable. What is required of the student is serious contemplation, speculation, and analysis.

I believe that Shenk's observations apply not only to calculus but to all levels of mathematics and to all areas of study. Students must learn to move beyond the cookbook. Whatever standards are developed under Goals 2000 or School-to-Work should be based on levels of expectation beyond the Received Knowledge level - and these expectations should apply to all students.

Finally, we hope that we will have a chance to see, review, and work to improve the final, more detailed, State Plan before it is sent to Washington for funding. Since the mischief is often in the details, we wish to participate fully in the development of the details of the plan so that this initiative is beneficial to the students that we serve.



Martin Hittelman

President

Community College Council of the California Federation of Teachers

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**perspective ELECTION NEWS INSIDE**

*Hittelman's analysis, page*

*Local successes, page* 3

**Volume 26, Number 2, December 1994 • California**. **Federation of Teachers, AFT/AFL-CIO**

**FACTS St STATS**

**California's Population Projection**

California's population is expected to increase by over 20% in the period from 1990 to 2000. The largest increase is expected in the very young and in the 30-59 age groups. The prime college age group (20 to 29) is expected to decrease. However, a large increase in the prime college age group can be expected in the years following 2000.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Age** | **1990** | **Percent** | **2000** | **Percent** | **Ten-Year Increase** | **Percent Increase** |
| 0 to 9 | 4,608,417 | 15.5% | 6,185,884 | 17.0% | 1,577,467 | 34.2% |
| 10 to 19 | 4,015,354 | 13.5% | 5,125,119 | 14.1% | 1,109,765 | 27.6% |
| 20 to 29 | 5,296,851 | 17.8% | 4,729,547 | 13.0% | (567,304) | -10.7% |
| 30 to 59 11,615,498 | 39.0% | 15,188,386 | 41.7% | 3,572,888 | 30.8% |
| 60 to 69 | 2,158,218 | 7.3% | 2,340,087 | 6.4% | 181,869 | 8.4% |
| 70+ | 2,065,953 | 6.9% | 2,874,834 | 7.9% | 808,881 | 39.2% |
| TOTAL | 29,760,291 |   | 36,443,857 |   | 6,683,566 | 22.5% |

*Source: Calif. Postsecondary Education Commission, 1994*

**Higher Educational Attainment of
California Adults, 18 and Older**

|  |  |  |
| --- | --- | --- |
| in 1990 Some CollegeAsian 29.1% | Bachelors21.7% | Masters **PhD/Professional**5.6% 3.2% |
| Black | 36.3% | 8.9% | 2.8% | 1.2% |
| **Hispanic** | 19.4% | 4.0% | 1.1% | 0.8% |
| Native American | 34.5% | 6.4% | 2.2% | 1.1% |
| **White** | **35.3%** | 16.9% | 5.5% | 3.3% |
| California | 31.3% | 13.9% | 4.4% | 2.6% |
| United States | 26.8% | 12.3% | 4.1% | 2.2% |

Californians have a higher rate of college success than the United States average. But there are very large differences in educational attainment between racial/ethnic groups.

*Source: Calif. Postsecondary Education Commission, 1994*

**First-Time Freshmen, 19 and under, in Fall** '9

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|   | CCC's | CSU | UC | Total | % |
| Asian/Pac. Island | 11,481 | 3,604 | 6,215 | 21,300 | 51' |
| Black | 8,089 | 1,606 | 870 | 10,565 | 76 t |
| Filipino | 4,771 | 1,099 | 840 | 6,710 | 71.1 |
| Latino | 27,482 | 4,962 | 2,883 | 35,327 | 77.E |
| Native American | 1,380 | 208 | 143 | 1,731 | 79.7 |
| Other | 1,723 | 465 | 301 | 2,489 | 69.2 |
| White | 50,038 | 7,694 | 8,095 | 65,827 | 76.0 |
| Not Identified | 6,803 | 1,453 | 1,066 | 9,322 | 73.0' |
| Total | 111,767 | 21,091 | 20,413 | 153,271 | 72.9' |

White first-time freshmen, 19 and under, attend the community colleges at about the same rate as other ethnic/racial groups (excluding Asian/Pacific Islanders).

*Source: Calif. Postsecondary Education Commission, 1994*

**Origins of New Undergraduate
Transfer Students, 1993-94**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|   | **CSU** | **Percent** | **UC** | Percen |
| Community Colleges | **44,454** | **82.0%** | **9,978** | 71.5% |
| Other Calif. Institutions | **5,474** | **10.1%** | **1,562** | 11.2% |
| Other Institutions | **4,261** | **7.9%** | **2,411** | 17.3% |
| Total | 54,1898 |   | **13,951** |   |

Most transfers to the California State University and the University of California come from the California Community Colleges

*Source: Calif. Postsecondary Education Commission, 1994*

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|  | Community College Council*of the California Federation of Teachers, AFT, AFL-CIO* |

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The American Federation of Teachers is the national affiliate of the California Federation of Teachers. The Community College Council is the community college branch of the California Federation of Teachers. The American Federation of Teachers is affiliated with the AFL-CIO.

Each local is affiliated directly with the AFT and is a member of the California Federation of Teachers. Each community college local is a member of the Community College Council. Each AFT local affiliates directly with the local county AFL-CIO. This affiliation is helpful in getting the endorsement of the local AFL-CIO for union supported Board of Trustees candidates. It also is an avenue for receiving general support for education and educational issues important to the union. The state AFL-CIO is very helpful in getting legislation passed which is supported by the CFT. The AFT, with help from the AFL-CIO, works with the Congress and the President in areas of concern to the members of the AFT.

The California Federation of Teachers has a president and 24 vice-presidents. Currently eight of the vice presidents are from community college locals. Marty Hittelman, from the Los Angeles Community College District, is the current Senior Vice-President of the CFT. About 30% of the membership of the CFT are community college employees.

**Dues**

The local currently pays $8.80 per month for 12 months for each full-time employee member to the AFT. The rate is prorated for persons earning less than $15,000 per year (such as part-timers). Most part-time members are paid for at the rate of $2.20 per month for 12 months. The local also pays $18.00 per month per full-time employee member to the CFT and $3.60 per month for most part-timers. Of the $18.00 per month for the CFT, $1.00 goes into the CFT political fund (COPE) for use in state legislative elections, state propositions, and other state office races. $.50 of the $18.00 goes into a legal defense fund that is available to locals for cases involving dismissals and other important legal matters. CFT locals are eligible for support from the CFT and AFT for such local legal costs (1/3 from CFT and 1/3 from AFT). In addition to the above, locals generally add AFT on-the-job liability insurance ($1,000,000) at $1.00/month per member and accidental death and dismemberment insurance ($5,000) at 4C/month per member.

|  |
| --- |
| Summary: Annual per capitas paid to the AFT and CFT for a full-time faculty member: |
| CFT | $216.00 |
| AFT | 105.60 |
| State and Local AFL-CIO | 8.00 |
| Liability Insurance | 12.00 |
| Accidental Death | .48 |
| **Total** | $342.08 |

AFT locals are free to decide their own dues structure in order to pay the AFT, CFT, and State and Local AFL-CIO and have enough money left over to run their local operation. Each year the CFT increases the dues based on the average wage increase of CFT members over the last year. There is a provision in the AFT constitution that locals must increase local dues to reflect changes in the dues structure (this is called an "automatic pass through"). The Los Angeles AFT College Guild, for example, collects dues equal to 1% of salary (plus pass throughs).

The CFT has a program for local staff funding. Locals which employ a full-time professional staff person receive staff funding from the CFT. The local receives funding from the CFT at the rate (for a local the size of Cerritos) of $11.14 per member per month of employment of such full-time local professional staff.

CFT/AFT

The California Federation of Teachers has approximately 40,000 members statewide (of which about 30% are community college employees). The American Federation of Teachers has approximately 800,000 members nationally.

The AFT is the bargaining agent for faculty units in the following community college districts: El Camino, San Mateo, Los Angeles, State Center (Fresno), Peralta (Oakland), Marin, Ventura, Coast, San Diego, San Francisco, Glendale, Santa Rosa, Los Rios (Sacramento), Compton, San Diego Adult, Cabrillo, Lassen, Feather River, San Luis Obispo, Yuba, and Antelope Valley.

The AFT is a classified bargaining agent in the following community college districts: Los Angeles, Coast, Compton, Palomar, Cuesta, and Antelope Valley.

The Community College Council represents approximately 16,000 faculty and 2,700 classified employees in California, (Note: CCA/CTA represents approximately 30 districts with about 14,000 faculty). The Council meets 5 times per year - once at the state convention. The Council also provides Larry **0.** Miller from Ventura to help locals understand and analyze their local district budget. The CCC/CFT puts out a newspaper (The Perspective) five times per year. The Council also has a part-timer committee which works specifically on issues important to part-time employees. The Part-Timer Committee also puts out a newsletter several times per year.

The CCC/CFT is a participant in the state community college consultation process as a member of the Council of Organizations. The Council of Organizations consults once per month with Community College Chancellor David Mertes and his staff on issues affecting community colleges. The CFT also participates as a member of the Education Coalition and the Californians for Community Colleges. These organizations are composed of the various public interest groups whose focus is education. The organizations work to increase funding to community colleges and public schools.

Marty Hittelman, President, Community College Council

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