

## **Legal Basis: Defining and Understanding the Role of the Academic Senate**

The roles and responsibilities of the local senate and its faculty are spelled out in two State venues:

**Education Code:** These laws are a result of legislation—and can be modified only by subsequent legislative action.

**California Code of Regulations, Title 5:** The policies and regulations of the Board of Governors, and their interpretations and strategies for implementation of the Education Code, are contained within this collection. Title 5 regulations have the force of law, though they can be modified by action of the Board of Governors without legislative intervention.

### **Education Code:**

Section 70901 (B) (1) (e)

#### **Governing Boards; Delegation**

The board of governors shall establish minimum standards as required by law, including but not limited to, "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."

Section 70902 (B) (7)

#### **Governing Boards; Delegation**

Each community college district shall "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 senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards."

Section 87359 (B)

#### **Waiver of Minimum Qualifications; Equivalency**

The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senates. The process shall further require that the governing board provide the academic senates with an opportunity to present its views to the governing board before the board makes a determination.

Section 87360 (B)

#### **Hiring Criteria**

"Hiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by representatives of the governing board, and the academic senate, and approved by the governing board." There is no qualification of the mandate, no specification of circumstances wherein it would be permissible for the governing board to circumvent the requirement to reach joint agreement with the academic senate.

Section 87458 (A)

#### **Administrative Retreat Rights**

The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senates. The process shall further require that the governing board provide the academic senates with an opportunity to present its views to the governing board before the board makes a determination.

Section 87610.1 (A)

#### **Tenure Evaluation Procedures**

The faculty's exclusive representative shall consult with the academic senates prior to engaging in collective bargaining regarding those procedures.

Section 87663 (F)

#### **Evaluation Procedures**

The faculty's exclusive representative shall consult with the academic senates prior to engaging in collective bargaining regarding those procedures.

Section 87743.2

#### **Faculty Service Areas**

The exclusive representative shall consult with the academic senates in developing its proposals with regards to faculty service areas.

### **California Code of Regulations, Title 5:**

#### **Section 53200**

##### **Definitions**

*Academic Senate* means an organization "whose primary function, as the representative of the faculty, is to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters."

*Academic and Professional Matters* means the following policy development and implementation matters:

1. Curriculum, including establishing prerequisites and placing courses within disciplines
2. Degree and certificate requirements

3. Grading policies
4. Education program development
5. Standards or policies regarding student preparation and success
6. District and college governance structures, as related to faculty roles
7. Faculty roles and involvement in accreditation processes, including self-study and annual reports
8. Policies for faculty professional development activities
9. Processes for program review
10. Processes for institutional planning and budget development
11. Other academic and professional matters as are mutually agreed upon between the governing board and the academic senate

*Consult Collegially* means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:

1. Relying primarily upon the advice and judgment of the academic senate[[1](#)]
2. Agreeing 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, or policy of the governing board effectuating such recommendations.[[2](#)]

## **Section 53203**

### **Powers**

- A. The governing board shall adopt policies for the appropriate delegation of authority and responsibility to its college academic senate.
- B. In adopting the policies described in section (a), the governing board or designees shall consult collegially with the academic senate.
- C. While consulting collegially, the academic senate shall retain the right to meet with or appear before the governing board with respect to its views and recommendations. In addition, after consultation with the administration, the academic senate may present its recommendation to the governing board.
- D. The governing board shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:
  1. When the board elects to rely primarily upon the advice and judgment of the academic senate, the recommendation of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted.[[3](#)]
  2. When the board elects to provide for mutual agreement with the academic senate, and an agreement has not been reached, existing policy shall remain in effect unless such policy exposes the district to legal liability or fiscal hardship. In cases where there is no existing policy, or when legal liability or fiscal hardship requires existing policy to be changed, the board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

- E. An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board.
- F. The appointment of faculty members to serve on college committees shall be made, after consultation with the chief executive officer or designee, by the academic senate.

[1] See Section 53203 (D) (1) "Powers"

[2] See Section 53203 (D) (2) "Powers"

[3] "Participating Effectively in District and College Governance," a document written by a joint task force of representatives of the California Community College Trustees (CCT), the Chief Executive Officers of the California Community Colleges (CEOCCC) and the Academic Senate for California Community Colleges (ASCCC), makes the following point about these two concepts, "exceptional circumstances" and "compelling reasons": "These terms mean that... in instances where a recommendation is not accepted [,] the reasons for the board's decision must be in writing and based on a clear and substantive rationale which puts the explanation for the decision in an accurate, appropriate, and relevant context."