

**To Senate (Body reps.):
Request for a Vote to Reprimand the actions of our A.S. President**

1. A.S. President has consistently allegedly violated Article IX of our Academic Senate By-Laws in acting and sharing opinions without the consent or the direction of the Senate (body reps.). See attachment: Article IX: Limitation on Public Statements.
 - a. Some known and shared instances of our A.S. President's actions he allegedly executed on his own: submitting a written opinion against bringing scheduling forward to Senate Body, modifying resolutions without consent of author (and then telling Senate that he did not know how the modification occurred, but in private he said he made them), sharing opinions on dual enrollment prior to bringing the issue to the Senate, sharing opinions on EODAC, DEI, and the Referendum without being requested to do so, hiding from the Senate and the public various Cure and Correct letters (albeit, he just posted them this week only after this reprimand was presented to him urging him to be more transparent and accountable), and offering numerous other opinions without direction given by the Senate (body reps.) and acting without the consent of the Senate and not sharing these actions with the Senate body when taken.
2. Our A.S. President, again acted alone and in alleged violation of Article IX of our A.S. By-Laws, posted in a public setting the name and signatures of the 70 faculty who supported moving the Referendum forward.
 - a. This is, in my opinion, both immoral and prime facie illegal, as it violated human decency of those 70 members and their prime facie right of privacy.
 - i. It subjects those 70 faculty members to the potential of identity theft and fraud.
 - ii. Subjects these 70 members to unwarranted confrontations regarding their private and political views.
3. Our A.S. Presidents action of posting the names and signatures of those who support moving the Referendum forward allegedly violates each of the 70 member's right to privacy according the Government Code Section 7924.110 (see attachment):
 - a. This applies even though the signatures have subsequently been redacted. The names of the 70 faculty members are still posted on our public website in alleged violation of this Section, and, in addition, the A.S. President has denied a request to remove the names from the public platform.
4. The problem:
 - a. The A.S. Senate President's actions, already in alleged violation of the A.S. By-Laws, now allegedly subjects the Senate (body reps.) to potential criminal and civil lawsuits.
5. Correction options:
 - a. Closed session vote of a reprimand of the A.S. president's actions even if it's only on allegedly violating Article IX of our By-Laws.

In my opinion, should no action be taken by the Senate (body reps.), then this would suggest that the Senators (body reps.) condone these types of secret actions that violate the very integrity of the A.S. President's Office.

In response to the Cure and Correct Letters submitted to the A.S. President who responded to the authors of such letters without authorization of the Senate (body reps.):

Note the following points and questions:

1. The A.S. President sought legal counsel PRIOR TO bringing the cure and correct letter to the Senate (or even notifying the Senate that he had received such letters), and by doing so, allegedly violated Article IX of A.S. By-Laws, as the President acted alone to handle the situation and made the decision to hide from the public and the Senate the Cure and Correct letters from the time he received them until now. The A.S. President will allegedly no doubt say, he did so to seek legal counsel first. BUT to seek legal counsel should be a decision of the Senate (body reps.), in my opinion, which is consistent with Article IX. The Senate (body reps.) alone have the right to request legal counsel and could if they so choose direct the President to seek such advice, and only then, in my opinion, could the President be justified in doing so - otherwise the President, in my opinion, is prima facie attempting to hide such actions until forced to share them.

- a. Note the timing of when our A.S. President decided (again by himself) to publicly share the Cure & Correct letters: The A.S. President received the Cure and Correct Letters on March 1st (prior to the Senate meeting) and March 8th accordingly, but he hid these letters from the public and the Senate until this week, and ONLY AFTER receiving a Request for an Official Reprimand on allegedly violating our By-Laws and the State of California's Government Code. One would hope that a Cure and Correct letter would be voluntarily shared with Senate when they are submitted. That would be transparent.
- b. Noteworthy fact, the Senate has met three times since the A.S. President received the first Cure and Correct letter: March 1st, March 15th, and March 22nd. It took a request for a vote of reprimand of the A.S. President's actions before our president decided by himself to make public, documents that should have been already public and shared with the Senators. This could be shared as simply as a statement in the A.S. President's Update Report. But no such public record is to be found.

2. Having been in the Executive Board for most of my 20 years at BC, I am quite familiar with the size of the A.S. Budget. It's small. **I urge you, Senators (body reps.), to ask the simple question of who is paying for the Schools Legal Counselor that our A.S. President is using (Academic Senate or Vice President's Office, etc.). And how many Legal Counselors are being used and paid for?**

3. Important: As an A.S. Executive Board Member, I asked the Schools Legal Counsel whether the A.S. President violated the Government Code 7924.110, which, in my opinion, identifies exceptions to the Brown Act, when the President posted both names and signatures of the 70 faculty members that supported moving the Referendum forward. The Schools Legal Counsel, to the best of my recollection, said to me directly and definitely, that as an Executive Board Member, he cannot offer any guidance or advice because he said "I ONLY represent Nick Strobel, the A.S. President" (All caps mine). I said to the Schools Counsel, well what if I was a Senator (body reps.), he repeated the same line. AND yet on our March 22nd meeting, the Senate (body reps.) repeatedly asked the Schools Legal Counselor member advice on legal matters, to which he freely gave, which is in contradiction to what he said to me.

- a. To this end, **I urge you, Senators (body reps.), to ask two simple questions:**
 - 1) who does the Schools Legal Counselor represent and who is not included in that representation? AND**
 - 2) Did posting names and signatures violate Government Code 7924.110?**

Sent: Wednesday, March 1, 2023 3:25 PM

To: Nick Strobel <nstrobel@bakersfieldcollege.edu>; BC Faculty <bc_faculty@bakersfieldcollege.edu>

Cc: Tarina Perry <tperry@bakersfieldcollege.edu>

Subject: Re: Thoughts on the referendum petition

Hello BC Faculty,

To clear up any understanding of the role of an Academic Senate President, viz., what a President can and cannot speak on and the requisite conditions needed to offer an opinion, please check out this snapshot of the Academic Senate Constitution, Article IX, Sections 1 and 2.

ARTICLE IX -- LIMITATION ON PUBLIC STATEMENTS

Section 1 The President shall be the official spokesperson for the Academic Senate

Section 2 The President shall not take a position on public issues unless one of the following conditions is met:

- a. The position of the Senate (body rep.) is already a matter of record.
- b. The President is given specific authorization by the Senate (body rep.) to express an opinion on a given public issue.
- c. The issue is submitted to the Academic Senate and, the Academic Senate authorizes the President to issue an opinion on a given public issue.



State of California

GOVERNMENT CODE

Section 7924.110

7924.110. (a) Notwithstanding Sections 7920.510, 7920.515, 7920.520, 7920.530, 7920.540, 7920.545, 7922.545, subdivision (a) of Section 7920.525, subdivision (b) of Section 7922.540, and Sections 7922.500 to 7922.535, inclusive, the following are not public records:

- (1) A statewide, county, city, or district initiative, referendum, or recall petition.
- (2) A petition circulated pursuant to Section 5091 of the Education Code.
- (3) A petition for reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of Division 3 of Title 2 of the Education Code.

- (4) A petition for reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of Division 7 of Title 3 of the Education Code.

- (5) A memorandum prepared by a county elections official in the examination of a petition, indicating which registered voters signed that particular petition.

(b) The materials described in subdivision (a) shall not be open to inspection except by the following persons:

- (1) A public officer or public employee who has the duty of receiving, examining, or preserving the petition, or who is responsible for preparation of the memorandum.

- (2) If a petition is found to be insufficient, by the proponent of the petition and a representative of the proponent as may be designated by the proponent in writing, in order to determine which signatures were disqualified and the reasons therefor.

(c) Notwithstanding subdivisions (a) and (b), the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a city attorney, a school district attorney, and a community college district attorney shall be permitted to examine the materials described in subdivision (a) upon approval of the appropriate superior court.

(d) If the proponent of a petition is permitted to examine a petition and a memorandum pursuant to subdivision (b), the examination shall commence not later than 21 days after certification of insufficiency, and the county elections official shall retain the documents as prescribed in Section 17200 of the Elections Code.

(Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 7931.000.)