

Participating Effectively in District and College Governance

**The Academic Senate for California Community Colleges
and The Community College League of California**

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INTRODUCTION

The following guidelines on local decision-making processes were originally developed jointly by the Community College League of California (CCLC) and the Academic Senate for California Community Colleges (ASCCC) in 1992. They were endorsed by the boards of directors of the California Community College Trustees (CCCT) and Chief Executive Officers of the California Community Colleges (CEOCCC) and by resolution of the Academic Senate for California Community Colleges. The guidelines were augmented in 1998 by joint task forces of the CCCT, CEOCCC, and ASCCC and have now been updated and revised for currency in 2020.

The guidelines are grouped by issue area and are in the form of questions and answers. The questions and answers are not intended to cover all situations that may be encountered but address questions most frequently raised. In the answers developed, use of the word “should” refers to a good practice but one that is not required. The word “must” indicates the action outlined is required by law or state regulation. Examples to further demonstrate the application of effective governance procedures are included in the companion document *Scenarios to Illustrate Effective Participation in District and College Governance*.

The purpose of the guidelines is to provide assistance to trustees, CEOs, academic senate leaders, bargaining units, administrators, classified staff, and students that will enable them to fulfill the intent of effective participation in local decision making as delineated in state law under California Education Code and in Title 5 regulations.

PART I. THE LOCAL BOARD POLICY ON COLLEGIAL CONSULTATION

1. QUESTION: What is meant by the term “shared governance?”

“Shared governance” is not a term that appears in law or regulation. Education Code §70902(b)(7) calls on the California Community Colleges Board of Governors to enact regulations to “ensure faculty, staff, and students...the right to participate effectively in district and college governance” and, further, to ensure “the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.”

The intent of the legislature in enacting this section of AB 1725 (Vasconcellos, 1988) was “to authorize more responsibility for faculty members in duties that are incidental to their primary professional duties” and to assure that “increased faculty involvement in institutional governance and decision making” does not conflict with faculty rights in collective bargaining (Section 4n). This shared involvement in the decision-making process does not necessarily imply total agreement, nor does it abrogate the ultimate decision making responsibility of the local governing board.

Title 5 §§51023.7 and 51023.5 state requirements for the “effective participation” of students and staff, respectively, in the development of recommendations to the governing board. Title 5 §53203 requires the governing board to “consult collegially” with the academic senate on academic and professional matters as defined in §53200.

Consequently, the more precise terms call for the governing board to assure “effective participation” of students and staff and to “consult collegially” with academic senates. Later questions will give guidance on these two processes. The term “shared governance” can take on many meanings, and thus its use may better be curtailed in favor of the more precise terms.

2. QUESTION: What needs to be done by local boards and academic senates to comply with the regulations that ensure the right of academic senates to assume primary responsibility for making recommendations in the areas of academic and professional matters?

Each district should have an approved board policy, developed and modified as necessary through collegial consultation between the academic senate and the local board or its designee—usually the chancellor, superintendent/president, or president and senior administration—to ensure the rights of the academic senate to collegial consultation on decisions regarding academic and professional matters. This policy can be very general—i.e., a statement that the district will operate according to the provisions of Title 5 §§53200-53204—or more specific in terms of how the district carries out the regulations.

Different boards and districts may include different levels of procedural detail in district policy. Questions 4 and 5 offer recommendations on selecting rely primarily or mutual agreement options for collegial consultation.

3. QUESTION: In adopting or modifying policy on academic and professional matters, does the governing board have to meet directly with the senate?

No. The governing board and the senate may each designate appropriate representatives as their voices in the mutual development or modification of policy on academic and professional matters.

The designees are responsible for communicating with their respective constituencies on an ongoing basis in order to best represent them.

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

Either one of the procedures can be used to address each of the eleven areas defined as academic and professional matters; the procedure need not be the same for all eleven. CCLC and the ASCCC recommend, although it is not required, that the specific procedure selected be identified in policy for each of the academic and professional matters.

5. QUESTION: Who decides which of the two processes in the regulations—“rely primarily” or “mutual agreement”—should be used on a given issue related to academic and professional matters?

The local governing board. However, Title 5 §55203(b) states, “In adopting the policies and procedures [regarding academic and professional matters], the governing board or its designees shall consult collegially with representatives of the academic senate.” Policies regarding consultation on the eleven categories of academic and professional matters listed in the regulations should be the subject of local consultation so that all concerned will know in advance which issues will be dealt with according to which process.

6. QUESTION: Why do CCLC and the ASCCC recommended that the governing board policy specify either the rely primarily or mutual agreement mode of collegial consultation for each of the eleven academic and professional matters?

In preparing recommendations to the governing board, all parties should know in advance their responsibilities for determining recommendations. The governing board should communicate its expectations for the process of developing recommendations. Prior agreement on process has the advantage of allowing the board to focus on the content of recommendations rather than on procedural details.

PART II. ACADEMIC AND PROFESSIONAL MATTERS

7. QUESTION: The regulations list eleven areas defined as “academic and professional matters.” What is the scope of each of the academic and professional matters?

The intent of the list of academic and professional matters is to state more specifically the breadth of the legal requirement for the academic senate to assume primary responsibility for making recommendations on “curriculum and academic standards” (Education Code §70901(b)(7)). These guidelines do not attempt to further define the list of academic and professional matters. Often, the context of an issue determines whether it is an academic and professional matter. To assist in this determination, the companion document “Scenarios Illustrating Effective Participation in District and College Governance” gives examples of particular issues and good practice for their resolution through collegial consultation.

The point at which collegial consultation must take place is also often dependent on context. Some of the items listed in Title 5 §53200 as academic and professional matters specifically indicate “standards and policies” or “policies,” while others directly indicate “processes” as the level for consultation. Some items are broader, indicating “faculty roles” regarding a specific item or even listing the item with no qualifier as to the level at which consultation should take place. Chancellor’s Office Legal Opinion M 97-20 (October 23, 1997) Item 12 states that “the overall intent of the regulation is that the academic senate should be involved once the proposal moves beyond the conceptual stage.” Thus, whenever any proposal dealing with academic and professional matters moves beyond initial discussion and into planning and development, consultation with the academic senate should be initiated.

Furthermore, the eleventh item in the list of academic and professional matters allows the academic senate and the governing board to mutually agree on adding other issues as being subject to collegial consultation. Academic senates, along with governing boards and their designees, are encouraged to establish processes through which the status of any issue as an academic and professional matter is determined.

8. QUESTION: Should a district have a process through which issues are determined to be academic and professional matters?

Yes. Because academic and professional matters are broad in scope, colleges and districts should have an agreed-upon mechanism for clarifying when an item is an academic and professional matter and thus requires collegial consultation. Good practice for developing this mechanism involves agreement between the academic senate or its representatives and the board or its designee.

9. QUESTION: One of the eleven areas of academic and professional matters is district and college governance structures, as related to faculty roles. Must the district consult collegially on the administrative organization chart of the district or college?

No. How the administration is organized may be a matter for wide participation by the affected parties but is outside the scope of the district’s responsibility to consult collegially with the senate. However, organizational changes that affect academic and professional matters such as curriculum or faculty roles in governance would require consultation with the academic senate.

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

The regulation relates only to the process. The academic senate must be consulted collegially in shaping the processes used for developing the plans and budgets to be acted upon by the governing board. The board is not required to either “rely primarily” on the senate’s recommendations or reach mutual agreement with the senate on the plans and budgets themselves unless such consultation is indicated in locally agreed-upon processes.

PART III. MUTUAL AGREEMENT AND RELY PRIMARILY

11. QUESTION: If the governing board chooses the option to “rely primarily” on the

advice of the academic senate in any of the eleven areas of academic and professional matters, is the board required to accept the recommendation of the senate?

No. Title 5 regulations clearly state that in most circumstances under the “rely primarily” option, the recommendation of the academic senate will be adopted. However, under some conditions the local board may need to make a decision different from the senate's recommendation. The circumstances covering such a decision are addressed in the next question.

12. QUESTION: A district governing board that chooses the “rely primarily” procedure is normally expected to accept recommendations of the senate unless “exceptional circumstances” or “compelling reasons” are indicated. What do these phrases mean?

The regulations do not define the terms “exceptional circumstances” and “compelling reasons,” and these terms are not intended to have a legal definition outside the context of this law. However, these regulations do have the force of law (See Question 35). These terms mean that boards must usually accept senate recommendations and that in instances where a recommendation is not accepted, the reasons for the board's decision must be presented in writing and based on a clear and substantive rationale that puts the explanation for the decision in an accurate, appropriate, and relevant context.

As a matter of good practice and depending on circumstances, boards tempted to reject an academic senate recommendation might instead ask the senate to reconsider the recommendation in light of the issues that have not been resolved to the board's satisfaction or in cases in which the clarity, accuracy, or completeness of the recommendation needs improvement.

13. QUESTION: A district governing board that chooses the “mutual agreement” procedure is supposed to reach written agreement with the academic senate. When may the board act if it is not able to reach mutual agreement with the academic senate?

Under normal circumstances, if mutual agreement is not reached, the previously established policy remains in effect. However, if no established policy exists, the regulations say that the board may act without reaching mutual agreement if it finds “compelling legal, fiscal or organizational reasons” as to why it must do so. The word “compelling” is not defined in the regulations and is not intended to have a legal definition outside the context of this law. Again, the regulations have the force of law (See Question 35). Both the board or its designee and the academic senate must engage in a good faith effort to reach agreement before any decision can be made. In instances where mutual agreement with the senate cannot be reached, a board decision must be based on a clear and substantive rationale that puts the explanation for the decision in an accurate, appropriate and relevant context.

14. QUESTION: When an established policy does exist, is the board permitted to act without mutual agreement?

Generally, no. If an established policy exists, that policy simply stays in effect until mutual agreement is reached. However, circumstances may exist in which the existing policy “exposes the district to legal liability or causes substantial fiscal hardship.” In these circumstances, a board may act without reaching mutual agreement provided that it has first made a good faith effort to reach agreement and has “compelling legal, fiscal or organizational reasons” to act without waiting any longer for agreement.

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

Either the board or the academic senate would be acting in bad faith by using the regulations in order to block changes in policy when an existing policy is in place through failing to agree to needed action. If a board refuses or fails to participate or consult constructively in the attempt to reach mutual agreement, a senate may choose to initiate the technical assistance process delineated in the ASCCC/CCLC document “Collegiality in Action: Assistance to Assure Effective Participation in District and College Governance” (See appendix). On the other hand, if the senate attempts to use the regulations process to block board action by refusing or failing to participate or consult constructively, the board and chief executive officer may seek help through the technical assistance process as well.

PART IV. IMPLEMENTING THE COLLEGIAL CONSULTATION PROCESS

16. QUESTION: How can procedures, structures, and committees be developed to ensure the college governance process follows the intent of board policies on collegial consultation and effective participation?

Establishment of the governing board policy on collegial consultation is only the first step in complying with the regulations. Procedures, structures, and committees must be reviewed and revised regularly to ensure consistency with the policy.

The academic senate and the governing board designee should periodically examine existing structures that deal with academic and professional matters. Committees that are charged with work relating to academic and professional matters, such as curriculum and staff development, should be reviewed to assure that their structures and charges are appropriate. (See Question 17 on committee structure.) Where committees may not exist to deal specifically with an academic and professional matter, a new committee may be needed or, perhaps, the charge of a related committee can be modified. For example, an existing student success and support committee might be charged with developing proposals for new issues that arise regarding student preparation and success.

Throughout this document, the work products of committees pertaining to academic and professional policies and procedures will be referred to as “proposals.” These proposals should be available for review by college groups as part of the process to assure the effective participation of those affected by such proposals. As part of their reporting processes, committees should forward these proposals to the academic senate for consideration and refinement. After approval by the senate, the proposal becomes a recommendation of the academic senate. Beyond their charge to develop such proposals, committees also may be involved in implementation of existing policies and procedures. See Question 19 for a distinction among policy, procedure, and implementation. For example, curriculum committees implement curriculum policies by reviewing proposals for new and revised courses.

In all procedures, structures, and committees, students and staff should be assured the opportunity for effective participation in matters that affect them. See Questions 31 and 32 for more on effective participation of staff and students.

17. QUESTION: What essential elements need to be defined in order to ensure that the

committee structure used in collegial consultation is functional and provides for effective participation?

The charge of each college or district committee should be clearly defined. This practice permits matters within the scope of the charge to be handled by the committee without overlapping responsibilities with other groups. A clear charge also lessens the tendency to create a new committee for every new issue. For use of a college council to do issue management for committee referrals, see the next question.

Committees should have clearly defined membership. Members should be chosen for their expertise or potential contributions in the area of responsibility, to develop experience in college leadership and governance, and to provide appropriate diversity, not simply to fill a seat to represent a constituent group. For each seat on the committee, the following should be specified: appointing body, term length, voting status if votes are to be taken, and term limits if appropriate.

Reports or other work products expected from each committee should be delineated, including to whom the reports are submitted. Committee proposals for policies and procedures on all academic and professional matters should be submitted to the academic senate as well as being available for review by other affected groups. See the previous question regarding how a committee proposal becomes an academic senate recommendation.

Operation of the college committee structure takes a commitment of the time and effort of the participants as well as a commitment of resources by the institution. All parties should weigh carefully the developmental needs of the college. To the extent possible, consideration and accommodation should be given to the time required for student, faculty, and staff participation that may be above and beyond the members' regular duties. Examples of accommodation include convenient times and locations of meetings, reassigned time, and granting of flexibility in work schedules, especially for classified staff. Consideration may also be needed for technical and clerical support for committees with such needs. Operational requirements should not be ignored: written minutes should be kept of all committee meetings. Meeting times should be arranged so that all members are available, with all reasonable consideration given to the class schedules of student representatives. Agendas should be distributed with adequate time and with all needed reference materials in order to allow members to prepare for meetings. Orientation and training of members should be provided regularly.

18. QUESTION: Some institutions have college or district coordinating councils consisting of representatives of the academic senate, unions, classified staff, administrative staff, and students. What is the role of such a council within the dictates of the law and regulations?

Neither the law nor regulations call for any specific coordinating committee or structure, nor is a coordinating council prohibited. Many colleges have found coordinating councils useful, but some cautions are warranted.

A coordinating council can serve a useful function as a forum for communication on common issues and for reporting group activities. Often a particular matter may have implications for various groups that are not evident without discussion.

Issue management can be another useful activity for such councils. Broaching topics when they initially arise can give all parties the opportunity to participate in devising a common strategy for addressing that topic. Within this forum, the academic senate may identify issues that are academic

and professional in nature. These discussions can assure that topics are properly referred to the committee appropriately charged with handling each matter. Coordinating councils also provide a venue to resolve conflicts that may arise as issues work their way through the governance process.

However, a coordinating council is not the appropriate body to make recommendations to the governing board or designee on academic and professional matters. These issues are appropriately within the purview of the academic senate. Such recommendations should come directly from the academic senate in the case of primarily rely matters or from direct consultation between the designee of the governing board—usually the college administration—and the academic senate in the case of matters indicated for mutual agreement. Furthermore, care should be taken in placing decision-making authority in the hands of coordinating councils. The strength of participatory governance lies in recommendations being made by those who have the necessary expertise and are most affected by the decision.

19. QUESTION: The law and regulations use the terms “district and college governance,” “policies,” “policy development and implementation” and “policies and procedures.” What are the distinctions among policy, procedures, and implementation?

Distinctions among policy, procedures, and implementation are not exact, and specific delineations should be made locally on a case-by-case basis. However, some generalizations may be useful.

Policies give the college general direction to accomplish its mission. They create the context for action as well as foster a positive climate in which change can occur. Policies delineate the conditions that procedures must meet and state the expectations for what is to be accomplished. They are of a sufficient scope and significance that they are adopted by public action of the governing board. Procedures define the steps to be taken to carry out a policy. They specify those responsible for carrying out each step and may include a timeline by which tasks are to be completed. Implementation means carrying out the steps called for in the procedure.

20. QUESTION: For those matters that the governing board delegates to the chief executive officer, does collegial consultation still apply? Is the governing board still responsible to assure the effective participation of affected groups?

Yes to both questions. Education Code §70902(d) gives the governing board authority to delegate certain responsibilities to groups or individuals employed within the district. Those to whom those responsibilities are delegated must themselves consult collegially with the academic senate on academic and professional matters. Before agreeing to delegation, boards should carefully consider whether decisions are of a nature that they should be made in the public forum of the board meeting. Note that the Brown Act, Government Code §54950-54962, specifically requires open meetings of groups to whom boards have delegated authority, such as the academic senate.

Even on matters delegated to others, the governing board still maintains the responsibility to assure effective participation of students, faculty, and staff. The academic senate still retains its right to place issues on the board agenda and to present its views to the board (Title 5 §53203), with the understanding that reasonable, accepted procedures will be followed.

21. QUESTION: What features characterize an effective collegial consultation process?

Collegial consultation requires mutual understanding among the faculty, the administration, and the governing board. Such understanding requires an awareness of interdependence, a commitment to

communication, and the exchange of ideas as well as a commitment to joint action in the interests of solving educational problems or setting educational policy.

No one best method applies in all cases for implementing collegial consultation. Each college tends to develop a culture of its own within which collegial consultation takes place. Nevertheless, a few features seem to be common among those colleges with effective processes.

One such feature is a clearly defined governance structure that includes an organizational chart, charges of all councils or committees, and defined memberships and processes. A regular orientation program should be established for old and new members of the governing board, administration, and faculty to acquaint them with the principles and practices of the collegial consultation structure. When everyone understands how the process works and the structure is used consistently, success is far more likely.

Communication is also a hallmark of a good collegial consultation process. Venues are created for key leaders to discuss matters in formal settings, such as a coordinating council. See Question 18 on the role of councils. Informal meetings can be held among key leaders between formal meetings to further understanding, but official conclusions should be a part of the formal process. All participants must make a conscientious effort to keep one another informed.

The need for trust will often be raised in the context of shared decision making. Trust is fostered when well established principles and practices of collegiality are adhered to by all. In addition, trust can be built by creating opportunities for individuals to establish professional relationships in a variety of venues.

Collegial consultation works best in well-run districts where expertise and delegation of authority is respected and where representatives of all constituencies are open and honest and are committed to working together for the benefit of the students.

22. QUESTION: Can a CEO make faculty appointments to committees, task forces, or other groups dealing with academic and professional matters?

No. Title 5 §53203(f) requires that appointments of faculty to groups dealing with academic and professional matters be made by the academic senate after consultation with the CEO or the CEO's designee. Furthermore, consultation is required in establishing committees if the purpose of the committee is to develop policy or procedures related to an academic and professional matter or as part of the basic governance structures set forth in the board's policy on collegial consultation. See Chancellor's Office Legal Opinion M 97-20, October 23, 1997.

23. QUESTION: What do the law and regulations say about participation in collegial consultation of college and district senates in multi-campus districts?

Delegation of authority and responsibility by a governing board under Title 5 §53203(a) can be to its college senate, district senate, or both. In districts with a district academic senate established pursuant to Title 5 §53202(b), governing boards may establish policies delineating collegial consultation with college senates only, district senates only, or to both.

When collegial consultation involves both college and district academic senates, distinction should be made between recommendations that involve college matters only and those that have district scope. This matter should be determined locally among the senates and the board or its designees.

On district matters, the board would normally specify the chancellor as its designee, and on college matters the designee would normally be the college president.

24. QUESTION: How can the timelines of collegial consultation be respected while addressing opportunities and requirements to which a college must respond quickly?

Development of effective policies and procedures takes time. Issues requiring the development or revision of policies and procedures should be identified as early as possible and the consultation process initiated immediately, with all appropriate constituencies involved from the beginning. Development in isolation of proposals that are then brought into consultation is not a productive methodology, and such a practice is likely to slow the process rather than accelerate it as concerns over the process will overshadow the consideration of the proposal in question. Prolonged debate without constructive recommendations needlessly extends resolution of the issue. All parties should agree to reasonable timelines at the beginning of the consultation process.

Particularly stressful is the need to make a decision in a short timeframe imposed by external considerations. Districts that seem to handle these situations best are those that have a comprehensive planning process. If the institution has foresight and agreed-upon goals and objectives, new challenges can be more quickly integrated into the district's plans. An atmosphere of trust in the leadership is critical as well, considering that recommendations on items with short deadlines often necessitate the academic senate president and college president collaborating without opportunity to obtain full input from the various constituents. Even in such circumstances, the actions of both presidents are expected to be consistent with the established positions of their respective groups.

Difficulties often arise when decisions must be made outside of primary academic terms, such as in summer, when fewer faculty are on campus and academic senates and other constituent leadership groups may not be meeting regularly. Colleges cannot cease to operate during such periods, but requirements for collegial consultation and effective participation still exist. Planning for decisions as far in advance as possible can help to avoid this situation, but issues that need immediate resolution may sometimes arise unexpectedly. Districts and colleges should avoid making major decisions outside of primary terms to the greatest degree possible and must allow for appropriate consultation and participation in all situations. Academic senates and other leadership groups must also develop processes and provisions that allow them to participate in college governance and exercise their voices when necessary outside of primary academic terms.

PART V. ROLES OF THE ACADEMIC SENATE AND EXCLUSIVE BARGAINING AGENT

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

The answer to both questions is no. The governing board may not legally delegate to the academic senate any responsibilities or functions that belong to the exclusive bargaining representative. Education Code and Title 5 do not change collective bargaining law—i.e., the Educational

Employment Relations Act, Government Code §3540 et sec.—nor the legal scope of bargaining. Title 5 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” (Title 5 §53204).

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

Yes. Matters appropriately within the scope of collective bargaining may be negotiated between collective bargaining representatives and district governing boards regardless of previous policies. According to the Educational Employment Relations Act in Government Code §3543.2(a), “The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment.” These terms and conditions are then enumerated in the act. Furthermore, exclusive bargaining agents have the right to “consult on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks. . . .” However, the EERA does not supercede Education Code provisions and, as stated in Government Code §3540, “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 functions does not conflict with lawful collective agreements.”

27. QUESTION: May the collective bargaining agent delegate matters within the scope of bargaining to the local senate, and may the senate delegate matters within the scope of the eleven defined areas of academic and professional matters to the collective bargaining agent?

Yes, to the extent permitted by collective bargaining laws. The regulations state that the intent is to “respect agreements between academic senates and collective bargaining representatives” (Title 5 §53204).

PART VI. STUDENTS AND STAFF

28. QUESTION: Does the phrase “rely primarily upon the advice and judgment of the academic senate” mean that the governing board should not receive and consider the advice and judgment of others on issues of academic and professional matters?

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

Title 5 §51023.7 requires the governing board to “adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance.” Students are to participate in “formulation and development” of policies and procedures that have a “significant effect” on them. The regulation lists ten areas of such significant effect, most of which are quite similar to the academic senate’s academic and professional matters. Boards are not to act unless students have had the opportunity to participate, with the exception of “unforeseeable, emergency situations,” and must give positions of the students “reasonable consideration.” The regulation states the intent that boards are to respect the agreements with senates and unions while working with students.

Title 5 §51023.5 requires the governing board to “adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance.” However, areas that affect staff are not defined in the regulation but remain matters “that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.”

The role of exclusive bargaining agents is explicitly protected in Title 5 and is cited in the Educational Employment Relations Act (See Government Code §3543.2.) The public is granted access to the governing board through the open meeting provisions of the Ralph M. Brown Act (See Government Code §54950-54962.)

29. QUESTION: What are good practices to assure the effective participation of students and staff in the process of formulating recommendations that affect them?

Student participation can be strengthened in several ways. Student leaders can work with the college leadership to identify committees whose charges incorporate the ten areas of significant effect on students as delineated in Title 5 §51023.7. Student membership can be specified on those committees. The names of the students who will participate on committees can be identified early in the year by the college’s student government organization. Committees should meet at regularly scheduled times convenient to students interested in being members. Student members can benefit from orientation and training and from having an assigned mentor to assist in getting to know the work of the committee. An effective strategy to strengthen leadership skills is to have a student government course as part of the curriculum. Finally, student views must be encouraged and given fair consideration in meetings; if student perspectives are not welcomed or are met with dismissive reactions, students will not see their participation as meaningful and may, understandably, stop attending.

Communication between the student government, the academic senate, and other groups can be improved by having liaisons attend one another’s board meetings.

Administrative staff have a role beyond that of the chief executive officer functioning as the board’s designee. Committees dealing with specific topics should have the participation of mid-level administrators in whose areas of responsibility those topics fall. That participation may be as a resource, as a member, or as chair, depending on the local college decision-making process and the specific committee and issue.

Classified staff should participate in the formation and development of policies and procedures on matters that significantly affect staff. Committees and task forces on campus that deal with those issues should have classified staff as members. As with all committee members, classified staff can benefit from orientation and training and from a mentor relationship with a seasoned committee member. Administrators should also work to accommodate classified staff members they supervise so that staff members are released from normal duties to participate in college governance meetings.

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

Yes. Subject to Questions 25, 26, and 27 regarding bargaining units, the intent of the regulations

is to ensure that, while all relevant constituencies should have the opportunity to participate, boards must accord the greater weight to academic senates in academic and professional matters by consulting collegially with the senates, as described in these guidelines.

31. QUESTION: What are the responsibilities of the academic senate to obtain input from staff and students on academic and professional matters that have a significant effect on these groups?

In the creation of college governance structures, procedures, and committees for collegial consultation (see Question 16), provisions must be included for the effective participation of students and staff on matters that affect them. Proposals that come from committees that deal with academic and professional matters should be available for review by all college constituencies and considered in open deliberations at academic senate meetings. When such proposals are heard by the academic senate, every effort should be made to engage affected parties in the deliberations. In this manner, the academic senate will have considered the input of students and staff before making recommendations to the governing board or its designee on matters that affect students and staff. Of course, all parties may directly address the board as it deliberates on its ultimate decision.

32. QUESTION: What can be done to educate all members of the college community participating in the collegial processes concerning the law, regulations, best practices of decision making and the issues under discussion?

Good practices might include the following: All participants in the governance process should be provided copies of the relevant laws, regulations, and district policies and procedures. Each standing governance committee might be provided with a handbook of such information as well as reports and minutes generated in previous years. The first annual organizational meeting of each committee should be devoted to orientation and training on the committee charge and procedures. The leadership of constituency groups might convene in a retreat format at the beginning of each academic year to review the governance process, consider priorities for the coming year, and build personal relationships. Finally, colleges might consider a periodic presentation—perhaps every few years—from the ASCCC/CCLC Collegiality in Action program (see appendix) as a refresher for all members of the college community on their legal and regulatory roles, rights, and responsibilities in college and district governance.

PART VII. KEEPING PARTICIPATORY GOVERNANCE STRONG

33. QUESTION: Are effective participation and collegial consultation policies and practices subject to regular evaluation and revision as necessary by the governing board?

While no requirement exists that such policies be regularly reviewed, doing so is very much good practice. The review process should be mutually agreed upon, and, further, the board policy should specify that recommendations for change should be made through collegial consultation with the academic senate on board policies affecting the academic senate and by effective participation of staff and students on policies affecting them.

Any of the concerned parties should be able to initiate the process for review of these policies. For example, a change in leadership might bring new perspectives to the decision-making process that might engender a desire for certain improvements. However, districts should take care that the collegial consultation process is not built on individual strengths that may be idiosyncratic to

particular leaders.

34. QUESTION: How can the academic senate and other constituent groups and the local governing board engage in mutually productive dialogue?

Mutually productive dialogue is based on respect, trust, and willingness to seek information. Such dialogue may take place at regular business meetings of the board, at open college and community forums and board study sessions and retreats, and by sharing written information.

Under the provisions of the Brown Act, governing board meetings are open to everyone. All constituent members have the right to address the board on items on its agenda and matters under the board's purview.

Beyond legal requirements, boards should recognize the special role that academic senates and student and staff organizations play in developing recommendations for board action. The following are some suggestions to strengthen that role: Organizational representatives may be seated prominently to facilitate discourse with the board. Reports from each organization may be regularly agendaized. Items on the board agenda that were developed through significant senate, student, or staff involvement can be jointly presented by the appropriate organizational representatives. Commentary on board agenda items can be solicited from the senate, student, and staff representatives without restrictions such as filling out speaker cards and being subject to short time limitations.

In addition to regular business meetings of the board, other opportunities can be structured for mutually productive dialogue and education. Study sessions, workshops, and college and community forums often provide a more open environment for board members, key community groups, and college leaders to engage in discussion about external trends and broad policy direction and for the board to share its vision and to hear about activities in the district related to achieving the vision and mission. Sessions such as these enable constituent groups to identify and address areas of agreement and concern early in policy discussions.

PART VIII. COMPLIANCE

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

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

36. QUESTION: What powers do the Board of Governors have to enforce Title 5 Regulations such as the ones on ensuring the right of academic senates to assume primary responsibility for making recommendations in the areas of academic and professional matters?

Education Code §70901 mandates that the Board of Governors establish minimum conditions entitling districts to receive state aid. The Board of Governors can withhold funding from any district that does not meet established minimum conditions. Included in these minimum conditions is adoption of procedures consistent with sections §§53200-53204 of the California Code of Regulations and procedures to “ensure faculty, staff, and students the right to participate effectively in district and college governance.” Thus, among the minimum conditions that districts

must substantially meet in order to receive state aid are to assure the effective participation of local academic senates and other constituencies as per the regulations.

37. QUESTION: What are the responsibilities of the governing board and chief executive officer to implement the regulations to ensure the effective participation of faculty, staff and students in district and college governance? What obligations does a governing board have to ensure that recommendations regarding academic and professional matters have gone through the collegial consultation process?

The board must uphold the requirements of Education Code §70902(b)(7) and Title 5 §53200-204 on academic senates, §52023.7 on students, and §51023.5 on staff. As the designee of the board, the chief executive officer is likewise bound to carry out these regulations. When considering action on an academic and professional matter, the local governing board must first ascertain that the collegial consultation process has been followed. If not, action on the item must then be delayed until such consultation has been obtained.

38. QUESTION: If the regulations are violated, will the state Chancellor's Office intervene or investigate the case for possible noncompliance?

Violations of Title 5 Regulations may be reported by filing a written complaint with the Legal Affairs Division of the Chancellor's Office. The Chancellor's Office General Counsel will investigate credible complaints and determine needed corrective action to assure compliance with the regulations.

39. QUESTION: If a local academic senate or CEO and governing board feel that they have exhausted all sincere internal efforts to work cooperatively and believe the regulations continue to be ignored, what remedies can be sought?

CCLC and the ASCCC recommend the following steps: First, the state-level representative group—the ASCCC or the Community College League—should be contacted for useful advice and direct support. Second, the local academic senate and governing board may mutually request technical assistance through the Collegiality in Action process established jointly by the Academic Senate and the League (see appendix). Third, if the local academic senate believes that the board is in clear noncompliance, it may file a complaint with the Legal Affairs Division of the Chancellor's Office. Finally, the local senate may pursue remedies with the state attorney general or in court.

Appendix

Collegiality in Action

ASSISTANCE TO ASSURE EFFECTIVE PARTICIPATION IN DISTRICT AND COLLEGE GOVERNANCE

(A Joint Program of the Academic Senate and Community College League)

The Academic Senate of the California Community Colleges and the Community College League of California have joined together to offer a program of assistance for local colleges and districts. The purpose of the program is to help districts and colleges successfully implement state law and regulations that call for effective participation by faculty, staff and students in district and college governance. The services offered will be most effective if used before major conflicts arise and prior to a heightened level of local unilateral action by any parties involved in the local decision-making process.

The jointly-sponsored program does not replace the individual services offered by the League to trustees and chief executive officers and by the Academic Senate to local faculty. Yet it is recognized that challenges to improve local decision making processes can be aided by the mutual support of the statewide organizations. Because the services are carried out by volunteers of the League and Academic Senate, the services will not always be available on short notice and scheduled assistance should be arranged well in advance.

The program includes four distinct services that are available. Local college and district CEOs and faculty leaders who are interested in assistance should meet together to consider the services and to agree mutually on what assistance would be most beneficial. Although the program is intended to be flexible so that a mix of the four services or optional services may be available, the League and Academic Senate may not be able to help with some requests which vary too much from the four defined services or from the goal of improving the effectiveness of participation in governance.

The president of the Academic Senate and executive director of the League are available at this early stage to answer questions and to help in identifying the best approach. These two persons will reach agreement as to whether the mutual request for assistance can be carried out. No joint service will be provided unless there is a written request for assistance signed by the college president or district chancellor and local academic senate president.

This joint program is coordinated and implemented by the President/CEO of the League and President of the Academic Senate under policies established by their respective boards.

Each district or college using the service is expected to reimburse the travel expenses for the assistance team members.

The following provides a summary of the four services available within the assistance program: 1) informational presentation, 2) advisory assistance, 3) issue resolution and 4) special workshops and presentations.

COLLEGIALITY IN ACTION: EFFECTIVE PARTICIPATION FUNDAMENTALS

The informational presentation service is intended to provide a basic overview of the state law, state regulations and guidelines concerning shared governance. The presentation is done by representatives of the League and Academic Senate and takes approximately two hours. Handouts are provided, good

practices highlighted, and questions answered. This service is best used at a college or district where there are no significant issues of conflict but a recognition that many participants in local shared governance roles are new and need an orientation or refresher on the required processes.

COLLEGIALITY IN ACTION: EFFECTIVE PARTICIPATION FOCUSED STUDY

The advisory assistance service is intended to provide a facilitated and structured opportunity to identify possible areas of conflict or different interpretations of the law and regulations and to develop ways to resolve the differences. The service is conducted by representatives of the Academic Senate and League over four to six hours. The time includes a basic overview presentation for all interested parties and separate meetings with the faculty and with the trustees and administration. A written advisory report is provided by the assistance team to the district or college within six weeks of the visit. The advisory report seeks to clarify the key issues identified by the team in its visit, makes recommendations for addressing the issues, and suggests who might be responsible for embarking on the solutions.

ISSUE RESOLUTION

The purpose of the issue resolution service is to provide mediation assistance to a college or district when the parties have reached a stalemate and are unable to resolve their differences on a major issue. This service will not be provided unless the local board, chief executive officer, and academic senate agree in advance and are committed and open to address seriously the recommendations of the assistance team. Prior to the six to eight hour visit of representatives from the League and Academic Senate, focused discussions and investigation occur to clearly delineate in writing the issue or issues to be resolved and the approach to be used.

During the visit, there will be focused interviews with individuals and groups. A written advisory report is provided by the assistance team within eight weeks of the visit. Prior to the formal presentation of the written report, the local parties involved will be given an opportunity to clarify, correct, or refine the recommendations or statements in the report. The assistance team will return to the college or district to present the report and to answer questions publicly. In addition, a follow-up training session to provide guidance on implementing the recommendations will be provided if requested.

SPECIAL WORKSHOPS AND PRESENTATIONS

The fourth service involves special workshops and presentations on topics that help local personnel better understand particular issues and various aspects of effective decision-making processes. These jointly presented workshops are designed under the direction of the President of the Academic Senate and the President/CEO of the League working with local college representatives.

COSTS

In an effort to offset travel costs associated with the participation of the CCLC President/CEO and ASCCC President in these events, colleges will be charged a small fee of \$1,000 per visit.

REQUEST FOR SERVICE

Collegiality in Action services may be requested at <https://www.asccc.org/contact/request-services>

Source: <https://www.asccc.org/services/technical-assistance>