



Welcome to the Academic Senate of Solano Community College

AND...

Thank you for your willingness to serve!

Presented by Michael J. Wyly, Academic Senate President (2016-2018)



Senate and Subcommittee Chair Orientation Outcomes

1. Ability to explain and implement Senate Authority at Solano Community College, per CA Ed Code and Title 5 (including the 10+1);
2. To adhere to relevant articles of Brown Act where they apply to the Academic Senate and its subcommittees;
3. To exercise effectively senate purview as it relates to Board of Governors' approval for CCCC Curriculum streamlining, with emphasis on the Senate's role on Local Certification;
4. Improved sense of Senate purview to empower its senators and the faculty we represent, including standing senate subcommittees.



Understanding of Senate Authority per CA Ed Code and Title 5, including the 10+1

**(Where/Why/When to Insist on
Process)**



CA Education Code

What is Ed. Code?

- The Laws resulting from legislation pertaining to education;
- Changes are made through legislation (or budget action);
- Always supersedes Title 5 regulation;
- Governance was amended by AB 1725 in 1988;
- <http://www.leginfo.ca.gov/calaw.html>



Ed. Code & Academic Senate Purview

- Title 3, Division 7: California Community Colleges
 - 70900 General Provisions
 - **70902 Academic Senate has primary responsibility for recommendations regarding curriculum**
 - 72000 Districts and Governing Boards
 - 76200 Student Records, including privacy
 - 84000 Finance and Budget
 - 84750 Apportionment and Funding

INCLUDES ITS DESIGNEES/SUBCOMMITTEES, eg Curriculum and Basic Skills/LCs



What is Title 5?

- California Code of Regulations
- Derived and approved by the Board of Governors from the California Education Code
- Division 6 - applies to California Community Colleges
- Regulation with the force of law



Important Sections of Title 5

Title 5 and the Academic Senate:

- Section 53200 (b)
 - Defines and empowers academic senates
- Section 53200 (c)
 - Lists the “10+1”
- Section 53200 (d)
 - Defines “consult collegially,” “primarily rely,” and “mutually agree”



The "Ten Plus One" Academic Senate

Commonly known as the "Ten Plus One," (as articulated in [Title 5 of the Administrative Code of California, Sections 53200](#)) the following define "Academic and Professional matters."

- 1. Curriculum including establishing prerequisites and places courses within disciplines**
- 2. Degree and certificate requirements**
- 3. Grading policies**
- 4. Educational program development**
- 5. Standards or policies regarding student preparation and success**
- 6. District and college governance structures, as related to faculty roles**
- 7. Faculty roles and involvement in accreditation processes, including self-study and annual reports**
- 8. Policies for faculty professional development activities**
- 9. Processes for program review**
- 10. Processes for institutional planning and budget development**
- 11. Other academic and professional matters as mutually agreed upon between the governing board and the academic senate**



BP 2005 @ Solano Community College

- The Board recognizes the Academic Senate as the body which represents the faculty in shared governance relating to academic and professional matters as set forth in Title 5, Section 53200 (c) (1-11). The Board acknowledges the role of the Academic Senate in consulting collegially on the above matters as set forth in Title 5, Section 53203 (a-f). The Board recognizes and endorses the rights and responsibilities assigned to the Academic Senate as delineated by state statutes regarding matters to include affirmative action, hiring, minimum qualifications, equivalencies, peer review, tenure review, dismissal, faculty service areas, administrator evaluations and administrator retreat rights and the specific rights assigned to the administration, staff, and students as delineated by the statute, notwithstanding Section 53204 of Title 5:
 - Nothing in this subchapter shall be construed to impinge upon the due process rights of SOLANO COMMUNITY COLLEGE DISTRICT faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.



Senate Approved Proposed Changes to BP 2005 (S 2017)-1

To: Celia Esposito-Noy, Superintendent-President, Solano Community College District
From: Michael Wyly, Academic Senate President
CC: LaNae Jaimez, Academic Senate Vice-President
Erin Duane, Academic Senate Treasurer-Secretary
Re: Senate action taken and direction given, on February 6, 2017, concerning proposed changes to BP 2005 regarding “rely primarily” and “mutually agree” for items 1-11 as set forth in Title 5 Section 53200(c).
Date: 8 February 2017

~

At its meeting on February 6, 2017, the Academic Senate of Solano Community College took unanimous action to direct its president to represent the following proposed changes to Board Policy 2005: The Governing Board of Solano Community College District will rely primarily on the Academic Senate for items 1-7:
Curriculum, including the establishing prerequisites and placing courses within disciplines; Degree and certificate requirements; Grading policies; Standards of policies regarding student preparation and success; Faculty roles and involvement in the accreditation process, including Self-Evaluation Reports and annual reports; Policies for faculty professional development activities; Processes for program review.
[...]



Senate Approved Proposed Changes to BP 2005 (S 2017)-2

Definitions (Ed. Code, § 70902; Title 5, § 53200):

- “Academic Senate” means the organization whose primary responsibility, as the representative of the faculty, is to make recommendations to the Solano Community College District Board of Trustees with respect to academic and professional matters. “Faculty” means those employees of the Solano Community College District who are employed in academic positions that are not designated as supervisory or management and for which minimum qualifications for hire are specified by the California Community Colleges Board of Governors.
- “Academic and professional matters” means the following policy development and implementation matters:
 1. Curriculum, including establishing prerequisites and placing courses within disciplines;
 2. Degree and certificate requirements;
 3. Grading policies;
 4. Educational program development;
 5. Standards or policies regarding student preparation and success;
 6. District/College(s) governance structures, as related to faculty roles;
 7. Faculty roles and involvement in accreditation processes, including self-study and annual reports;
 8. Policies for faculty professional development activities;
 9. Processes for program review;
 10. Processes for institutional planning and budget development; and
 11. Other academic and professional matters as are mutually agreed upon between the Board of Trustees and the District Academic Senate.
- “Consult collegially” means the Board of Trustees shall adopt policies on academic and professional matters through either or both of the following methods, according to its own discretion:
 - Relying primarily upon the advice and judgment of the Academic Senate; or,
 - Agreeing that the Board of Trustees, or designee, and the representatives of the Academic Senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the Board of Trustees effectuating such recommendations.



Senate Approved Proposed Changes to BP 2005 (S 2017)-3

Recognition (Ed. Code § 70902, Title 5, § 53203, Policy 2005)

The Board of Trustees notes and confirms the legislative intent to recognize the role of the Academic Senates in participatory governance to establish formal and effective procedures for participation in making recommendations on policies on academic and professional matters, including the purpose of making recommendations on developing educational policies and procedures in accordance with this Policy. The primary responsibility of the Academic Senate is to make recommendations to the Board of Trustees, or designee, with respect to academic and professional matters.

The Board of Trustees, or designee, shall consult collegially with the Academic Senate when adopting policies and procedures on academic and professional matters. Formal recommendations from the Academic Senate shall be presented in writing to the Superintendent-President or in regular meeting reports to the Board of Trustees. In instances where the Board of Trustees elects to rely primarily upon the advice and judgment of the Academic Senate, the recommendations of the Academic Senate shall normally be accepted, and only in exceptional circumstances and for compelling reasons shall the recommendations not be accepted. If a recommendation is not accepted, the Board of Trustees, or designee, upon written request of the Academic Senate, shall promptly communicate its reasons in writing to the Academic Senate.

In instances where the Board of Trustees elects to provide for mutual agreement with the Academic Senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the District to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the Board of Trustees may act, after a good faith effort to reach agreement, but only for compelling legal, fiscal, or organizational reasons.



Senate Approved Proposed Changes to BP 2005 (S 2017)-4

On the following academic and professional matters, the Board of Trustees agrees to “rely primarily” on the District Academic Senate:

1. Curriculum, including establishing prerequisites and placing courses within disciplines;
2. Degree and certificate requirements;
3. Grading policies;
4. Standards or policies regarding student preparation and success;
5. Faculty roles and involvement in the accreditation process, including Self Study Reports and annual reports;
6. Policies for faculty professional development activities; and,
7. Processes for program review.

On the following academic and professional matters, the Board of Trustees agrees to “reach mutual agreement:”

8. Educational program development;
9. District/College(s) governance structures, as related to faculty roles;
10. Processes for institutional planning and budget development; and,
11. Other academic and professional matters as mutually agreed on by the Board of Trustees and the Academic Senate.

The President of the Academic Senate shall have a recognized chair at all formal meetings of the Board of Trustees. To facilitate the consultation process, there shall be regularly scheduled meetings between representatives of the District Academic Senate and the designee of the Board of Trustees.



The Senate & Its Subcommittees

- Senate builds the highway
- Subcommittees direct and control the traffic



Senate Subcommittees: What Are They?

- Academic Program Review
- Assessment
- Basic Skills
- Curriculum
- Distance Education
- Faculty Development/Flex-Cal



The Role/Responsibilities of the Senator:

- Attend and vote at all regular and special meetings of the Academic Senate.
- Inform the faculty in your **school/area** (not just your department) on senate issues, including providing a senate report soon after each senate meeting. The senate will also provide for faculty its Hot Topics newsletter. (Please note: relying on only approved senate minutes as a report often slows down processes and in many cases does not provide timely notice to faculty to provide feedback regarding academic and professional matters.)
- Represent the faculty in your **school/area** at senate meetings, including reporting to the senate comments from faculty in your school/area regarding agenda items, as well as casting your vote to reflect the will of the faculty in your school/area.
- Serve on senate subcommittees and taskforces as needed.



Understanding of Brown Act, including legal requirements of the Academic Senate & its Subcommittees



Brown Act— We Are Open & Public



Ralph M. Brown 1959 Photo courtesy *The Modesto Bee*

“The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.”

**California Government Code
§54950**



Brown Act: To Whom Does It Apply?

Applies to meetings of all local legislative bodies (GC 54952).
For any community college, local legislative bodies include:

- The Board of Trustees;
- Any subcommittee or task force created by the Board with a majority of Board members serving on the group;
- Any subcommittee or task force created by the Board which has a definite ongoing charge (either decision-making or advisory) OR has a regularly-scheduled meeting set by the Board, regardless of Board membership.



Committees & Subcommittees

The Brown Act also applies to meetings of the following committees:

- Standing committees – a committee that has continuing jurisdiction over a particular topic §54952(b) For example: Budgets, personnel, etc.;
- Advisory committees that include a majority of the body and are not standing committees;
- Advisory committees that are standing committees (regardless of the size and membership).

Exception: The Brown Act does not apply to a subcommittee that is made up of less than a majority of the body, is an advisory committee AND is not a standing committee.



Does Brown Act Apply to Local Academic Senates (& Subcommittees)?



- A. Board of Trustees
- B. Academic Senate (as Subcommittee of the BoT)
- C. Subcommittees of the Board of Trustees
- D. Senate committees, all subcommittees, including the Curriculum Committee



Then, What Is a Meeting?

A meeting of a local legislative body (GC 54952.2) occurs whenever a majority of members gather to discuss business within their charge. A majority can meet for the following items provided they do not discuss any business within their charge among themselves:

- Attendance at a conference;
- An open meeting of some other group to address local issues (even a Board-recognized group under the definition of “legislative bodies”);
- Social gatherings.



Serial Meetings Are Explicitly Not Allowed

Serial meetings occur when a majority of the members have communicated about an issue and have developed a collective concurrence.

A collective concurrence is developed when “Members have either directly or indirectly heard each other’s opinion on a topic enough to collectively develop or begin to develop an agreement on an issue.”



Types of Serial Meetings

Daisy-Chain Meeting: when members communicate one-on-one in sequence to arrive at consensus. For example, Senator Bob calls Senator Martha to talk about a resolution, then Bill calls Senator Gertrude who finally calls Senator Fred, etc., until a majority of senators have been contacted, have talked about the topic and a collective concurrence has been established.

Hub & Spoke Meeting: when one person contrives consensus through one-on-one outreach. For example, VPI Terri calls Senator John and discusses a senate issue to get his opinion, then she calls Senator Robert, then calls Senator Bill, and then calls Senator Tim telling each what the other has said, eventually a majority of the senate may have indirectly discussed the topic without public notice and is therefore in violation of the Brown Act.

Any electronic communication, including email, which seeks consensus. Limits for Email are expressly outlined in Title 5, §5492.2(b): “Except as authorized pursuant to §54953, any use of direct communication, personal intermediaries, or **technological devices** that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.” (*The attorney general has issued an opinion stating that this section of the act applies to email, included in the following slide.*)



CA Attorney General Opinion Regarding E-mail

In 2001 the CA Attorney General issued an opinion regarding the use of email. (Opinion #00-906, 2001). The opinion concluded:

1. A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act;
2. Even if the emails are made public they would still be a violation of the Act because the board would be depriving the public of the deliberative process;
3. The opinion also states, “The term ‘deliberation’ has been broadly construed to connote ‘not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision.’”

See: *Rowen v. Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234; see also *Roberts v. City of Palmdale, supra*, 5 Cal.4th at p. 376.

You can find the full opinion at <http://ag.ca.gov/opinions/published/00-906.pdf>.



Implications of Brown: Agendas

1. Must include meeting time and location, including address;
2. Post agenda in a 24/7 publicly accessible area 72 hours before meeting (physically and virtually);
3. Special meetings require 24 hours notice and are limited to agenda items;
4. Senates do not call emergency meetings (which do not require 24 hour notice) as public safety is not under senate jurisdiction;
5. Allow for public comments before or during discussion of agenda items;
6. Include all action items on the agenda, with a brief description;
7. Can change order of agenda



Action is Limited to Items on the Agenda, Except Where...

1. That the need for immediate action was discovered after the agenda was posted, and
2. If approved by the body with a vote of 2/3 of members present if more than 2/3 of the total membership are present, or a unanimous vote if less than 2/3 of the total members are present.



Meetings and Votes are Open

1. Meetings must be held within your senate's jurisdiction
2. Closed sessions are for
 - litigation (for instance, the senate is or will be sued)
 - personnel matters (such as, the senate has responsibility for evaluating a senate employee)
 - negotiating with a bargaining agent (which the senate does not do).
3. All votes are open!
 - No secret ballots...even for elections (if they are conducted during senate meetings).
 - It is required that all ayes, nays and abstentions on motions be attributed to member casting a vote!
4. Members may respond to public comments but not take action
5. All items distributed by the Senate before or during meetings must be available to the public at the meeting (reasonable fees may be charged for duplication).



Be Prepared!

1. Bring extra copies of documents
2. If other items are brought for distribution, offer to send copies later to those requesting them in writing
3. Be careful what is distributed at meetings – it becomes public document
4. Set time limits for discussion, particularly for public comments
5. Keep discussion within the scope of the agenda item



Teleconferences

54953(b)(1) permits the use of teleconferencing.

Requirements for teleconferences include:

- Teleconferences must comply with the rest of the Act
- All votes taken during a teleconference must be taken by roll call.
- Agendas must be posted at all teleconference locations.
- Each teleconference location must be identified in the agenda.
- Each teleconference location must be accessible to the public.
- At least a quorum of the board must participate from locations within the district boundaries.
- The agenda must provide for public comment at each teleconference location.



Enforcement

1. Demand to cure or correct
2. Threat to sue
3. Lawsuit (Civil)



Brown Act: the Bottom Line

Shared Commitment to--

- Openness
- Transparency
- Public access to information



**Curriculum Streamlining and
Local Curriculum Approval
Process:
Understanding the Implications
for the Academic Senate**



Changes in Process and Authority, CCs, CCCCCO, BoG

AUTHORITY

As the curriculum approval processes change, local colleges have greater authority and greater responsibility for certification



Local Approval



Regional Recommendation



CIO / Curriculum Chair Certification



Chancellor's Office Chaptering



First Actions: Credit Course Certification

Annual Credit Courses Certification

1. Initial document was due December 16, 2016
 - 112 of 113 colleges have now signed the certification
2. CIO and Curriculum Chair signature
3. Will be due annually on 1 October beginning in 2017
4. Adding CEO and Senate President signature
5. New courses to new programs

This certification applies to the following:

1. New course proposals to existing approved credit programs
Substantial change proposals for credit courses
2. Stand-alone proposals
3. Nonsubstantial change proposals for credit courses



Certification Timeline

- Credit Course Certification
 - New proposals to new programs
 - New proposals to existing approved credit programs
 - Substantial change proposals
 - Stand-alone proposals
 - Nonsubstantial change proposals
- Credit Program Certification
 - Timeline?
 - Nonsubstantial change proposals
- Non Credit Courses and Programs
 - Timeline?

Credit Courses Need to Demonstrate that the Documents Below Were Used



PCAH

- Education Code
- title 5
- Submission Guidelines



CCCCO Course Calculations

- Know the calculation
- Memo from CCCCCO
- Local Policy

In Closing—Our Mutual Commitment Is...



Board of Trustees Approval

- Honoring of 10+1
- Compliance with PCAH
- Integration with Planning Documents



Training

- Partner with Academic Senate
- PCAH / Submission Guidelines
- Role of Curriculum Committees
- Support for Curriculum Technicians



Additional Resources and Works Cited



Resources Available

ASCCC Local Senates Handbook: <http://www.asccc.org/communities/local-senates/handbook>

Resources for Robert's Rules:

- Robert's Rules Website: <http://www.robertsrules.com/default.html>
- Robert's Rules Online: <http://www.rulesonline.com/index.html>
- The Parliamentary Procedure Instructional Materials Center:
http://pzen.northwest.net/index.php?main_page=index

CA Attorney General Guide (2003):

<http://oag.ca.gov/sites/all/files/agweb/pdfs/publications/brownAct2003.pdf?>

League of California Cities Brown Act Guide:

<http://www.cacities.org/UploadedFiles/LeagueInternet/86/86f75625-b7df-4fc8-ab60-de577631ef1e.pdf>

2017 Program and Course Approval Handbook (PCAH): http://www.ccccurriculum.net/wp-content/uploads/2011/05/PCAH_6thEdition_July_FINAL.pdf

2017 Minimum Qualifications for Faculty and Administrators in California Community Colleges (Disciplines List):
<http://californiacommunitycolleges.cccco.edu/Portals/0/Reports/2017-Minimum-Qualifications-Handbook-r1-ADA.pdf>



Resources: Finding Ed. Code and Title 5

Ed. Code: <http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml>

- Not searchable
- Table of Contents is detailed

Title 5:

[https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=\(sc.Default](https://govt.westlaw.com/calregs/Index?transitionType=Default&contextData=(sc.Default)

- This is the California Code of Regulations.
- Click on Title 5. Education
- Then click on Division 6. Community Colleges



Works Cited

- Beach, Randy and Michelle Grimes-Hillman. “Keeping It Legal: Brown Act.” 2015 ASCCC Faculty Leadership Institute. 12 June 2015.
- Davison, Dolores and Ginni May. “Where Is It Written: Ed. Code, Title 5 and Local Senates.” 2015 ASCCC Faculty Leadership Institute. 11 June 2015.
- Davison, Dolores (ASCCC 2016-2017 Curriculum Chair; 5C Co-Chair), Jackie Escajeda (Dean, Chancellor’s Office), Virginia Guleff (CIO, Butte College; 5C Co-chair), Pam Walker (Vice-Chancellor, Chancellor’s Office). “Training on Chancellor’s Office Certification.” 2017 ASCCC Curriculum Institute. 15 July 2017.