



**College Governance Council
November 14, 2018
Minutes**

Present

Celia Esposito-Noy, Ed.D., Gregory Brown, Robert Diamond, David Williams, Ph.D., LaNae Jaimez, Ph.D., Erin Farmer, Michael Wyly, Kevin Anderson, J.D., John Siefert, Elisha Blue, Daniom Ghebremichael, Dwayne Hunt, Ed.D.

Absent

Damany Fisher, Ph.D., Shirley Lewis, J.D., Danielle Gonzalez, Jeff Lehfeldt, Irene Camins, Sal Abbate

Call to Order

The meeting was called to order at 3:00 p.m. by Robert Diamond, Vice President of Finance and Administration.

Approval of Agenda

There were no additions to the agenda.

The agenda was approved by consensus.

Approval of Minutes

It was moved by Michael Wyly and seconded by Dr. LaNae Jaimez to approve the Minutes of October 24, 2018.

The motion passed unanimously.

Public Comments

There were no public comments.

AP 4480, Travel Expense (Follow-Up)

Robert Diamond, Vice President of Finance and Administration, announced that modes of transportation to and from conferences or business trips will be optional, however, the District will only reimburse at the lowest reasonable rate of driving or flying. Vice President Diamond also shared a mileage chart for travel between the Fairfield Campus, Vacaville Center, Vallejo

Center, and Travis Air Force Base with College Governance Council members. Mileage between campuses will be based on the mileage chart, with no need for further documentation. Payments for meals and incidentals will be reimbursed at the IRS base per diem rate, with no receipts required, for all employees. IRS updates the per diem rates annually.

AP 5415, Student Health Fee (Follow-Up)

Robert Diamond, Vice President of Finance and Administration, reviewed proposed procedures for Governing Board Policy/Procedures 5415, Student Health Fee:

- *All students enrolling in one or more classes (including, credit, noncredit, full-time, part-time, audited courses, etc.), except those that qualify for an exemption, are required to pay a Student Health Fee.*
- *No student shall be denied a service supported by student health fees on account of participation in athletic programs.*
- *The following students will also be exempt from paying the required fee: Incarcerated students and Students admitted as K-12 special part-time students.*
- *Students exempted from the health fee are not eligible to receive services of the Health Center unless they opt to pay the fee.*
- *The California Community Colleges Chancellor's Office (CCCCO) publishes the maximum student health fee permissible under Education Code Section 76355, as adjusted for inflation. The Board may adopt any fee deemed appropriate to support the Health Center, in compliance with Education Code Section 76355 and guidance from the CCCC.*

Free Speech Legal Update

Dr. Celia Esposito-Noy, Superintendent-President, shared a summary of legal opinion regarding free speech on campus with Council members:

Following the arrival of an anti-abortion group on the Fairfield campus earlier in the fall semester, several faculty and staff asked about our ability to regulate the location in which community members may demonstrate, protest, or speak. The off-campus group complied with the current Board Policy 5580 and Procedure that states, "Non-student, community groups wishing to engage in speech or expressive activities on campus, in the areas designated as public forums must provide notification to the District through the Student Development Office three business days in advance of the activities and must describe the nature of the planned activities." The Student Development Office alerted campus police and the S-P Office of the request and posted warning signs near the protest area indicating that the material may be offensive and did not represent the views of the College.

Some staff were concerned to find the protestors at two locations: In front of Bldg. 1400 and near Bldg. 700 and believed that the College should restrict the protestors to the front of Bldg. 1400 as this area, referred to as Hyde Park, had been designated the free speech area. The Board Policy and Procedure regarding free speech on campus reflect an understanding that

public colleges could restrict free speech to designated areas on campus and during specific times. Since the development of this policy and procedure, a number of legal experts have advised colleges that these policies and procedures limit free speech and would not survive legal challenge. The following provides excerpts from a legal opinion provided by the District's legal counsel regarding free speech.

Reasonable Time, Place, and Manner Restrictions

While Board Policy 5580 and Board Procedure 5580 indicate that the entirety of the campus, with the exception of the "Hyde Park" area, is a "non-public forum," it is unlikely that this designation would survive scrutiny. A non-public forum is a government property that can be closed to all expressive activities. Among the types of government facilities that have been found to be non-public forums are the areas immediately outside prisons and jails (Adderly v. Florida (1966) 385 U.S. 39), military bases (Greer v. Spock (1976) 424 U.S. 828), sidewalks on Post Office property (United States v. Kokinda (1990) 497 U.S. 720), and airports (Krishna Consciousness v. Lee (1992) 505 U.S. 672).

Speechmaking may be curtailed in a defined area that is specifically and narrowly described -- such as classrooms, libraries, faculty and administration offices, and corridors adjoining those facilities -- where the resulting noise is incompatible with the essential functioning of the campus, and so long as other places on the campus provide reasonable alternative forums for the proselytization of dissident views.

The requirement that regulations be "narrowly tailored" requires the District to choose a less restrictive option over one that is more restrictive. The requirement that the District implement regulations that are "narrowly tailored" means that the District must select a reasonable regulation that is the least burden on the free speech rights of the campus community. For example, if the District seeks to prevent noise from disturbing college activities, a restriction against sound amplification devices would likely be considered "narrowly tailored" because persons may still be physically present, may still hold signs or distribute materials expressing their opinions, and may still yell or chant with their unamplified voice. Similarly, if the District wants to ensure that expressive activities do not impede the flow of foot traffic around campus, or that the individuals distributing literature do not physically harass passersby, then reasonable regulations may be enforced. Those who feel harassed by those distributing literature should contact campus police who will respond to the situation. However, accomplishing this same goal by enacting a provision that closes off a vast majority of the campus and relegates expressive activities to a tiny area likely would not be considered narrowly tailored.

The availability of alternative avenues of expression is critical. As with the example above, an individual denied the use of an amplified device is left with many alternatives. However, when expressive speech is restricted to a small "free speech area," such as "Hyde Park," alternative avenues of expression quickly drop to one -- refrain from engaging in expressive activity at the time and place of one's choosing.

Guided Pathways Update

Michael Wyly, Guided Pathways Coordinator, shared the following:

- AB 705 compliant for initial placement in Mathematics
- The following ADTs course sequencing will be completed by discipline faculty by December 1, 2018:
 - Math
 - Economics
 - Social Justice
 - Music (unknown at this time)
- Next steps include vetting by Counseling and possible additional vetting by discipline faculty
- On-going Development of Local Indicators to focus on CTE, in addition to CO/KPI (Key Performance Indicators)
- Campus-Wide Survey: 11.19.2018-12.19.2018
- January Flex:
 - Joint Senate and Administrators Guided Pathways Workshop 1/10/19 at 1:00 p.m.
 - Guest Speaker, Dr. Rob Johnstone 1/11/19 at 9:00 a.m.
 - Student Panel to Respond to Solicited Questions from Campus Community 1/11/19 at 10 a.m.
 - Concurrent Afternoon Breakouts with Dr. Johnstone and Student Panel 1/11/19 at 1:00 p.m.

Adjournment

There being no further business, the meeting was adjourned at 4:00 p.m.

Respectfully submitted by Khadijah Adjabeng, Executive Coordinator, Student Services

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